
SPONSOR SUPPORT AGREEMENT

BY AND BETWEEN

RANA NASIM AHMED

(as Principal Sponsor)

WINDFORCE (PRIVATE) LIMITED

MOHAMMAD KHAQAN BABAR CHEEMA

(as Strategic Sponsors)

HARAPPA SOLAR (PRIVATE) LIMITED

(as Project Company)

THE BANK OF PUNJAB

(as Intercreditor Agent)

ASKARI BANK LIMITED

(as Security Trustee)

AND

THE BANK OF PUNJAB

(as Monitoring Bank)

Executed at [•]

Dated as of [•]

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SPONSOR SUPPORT AGREEMENT¹²

This SPONSOR SUPPORT AGREEMENT (this “**Agreement**”) is made at [•] as of [•] 2016,

BY AND BETWEEN³:

1. **MR. RANA NASIM AHMED**, son of Fakir Muhammad Khan, carrying CNIC 35202-0464547-7 and being a permanent resident of [•] (the “**Principal Sponsor**”);
2. **MR. MOHAMMAD KHAQAN BABAR CHEEMA**, son of Mohammad Afzal Cheema, CNIC no. 35202-4430803-7 and being a permanent resident of [•] (the “**Strategic Sponsor No. 1**”);
3. **WINDFORCE (PRIVATE) LIMITED**, a private limited company incorporated under the laws of Sri Lanka having its registered office at No. 334, T.B Jaya Mawatha, Colombo 10, Sri Lanka (the “**Strategic Sponsor No. 2**”);

(The Strategic Sponsor No. 1 and Strategic Sponsor No. 2 are hereinafter collectively referred to as the Strategic Sponsors and individually as a Strategic Sponsor. The Principal Sponsor and the Strategic Sponsors are hereinafter collectively referred to as the “**Sponsors**” and individually as a “**Sponsor**”),

4. **HARAPPA SOLAR (PRIVATE) LIMITED**, a private limited company incorporated under the laws of Pakistan having its registered office at 1485/C-2A, Asad Jan Road, Lahore Cantt. (the “**Project Company**”);
5. **THE BANK OF PUNJAB**, a banking company incorporated under the laws of Pakistan having its registered office at BOP Tower, 10-B, Block E-II, Main Boulevard, Gulberg 3, Lahore (the “**Intercreditor Agent**”);
6. **ASKARI BANK LIMITED**, a banking company incorporated under the laws of Pakistan having its registered office at AWT Plaza, The Mall, Rawalpindi (the “**Security Trustee**”);

AND

7. **THE BANK OF PUNJAB**, a banking company incorporated under the laws of Pakistan having its registered office at BOP Tower, 10-B, Block E-II, Main Boulevard, Gulberg 3, Lahore (the “**Monitoring Bank**”);

(The Sponsors, the Project Company, the Intercreditor Agent, the Security Trustee and the Monitoring Bank are hereinafter referred to collectively as the “**Parties**” and individually as a “**Party**”).

¹ Please note that the obligations under this SSA are structured on the basis that Mr. Rana Nasim Ahmed (75%), Mr. Muhammad Khaqan Babar Cheema (13%) and Windforce (Pvt.) Ltd. (12%) will be the shareholders of the Company (excluding directors’ qualification shares held by other persons).

² The possibility of all SBLCs to be provided through one instrument instead of separate SBLCs is to be discussed.

³ HSPL to please provide details of all sponsors and company.

WHEREAS:

- A. The Project Company requires finance to the extent of PKR [•]/- (Pakistani Rupees [•]) for the purposes of the Project (the “**Purpose**”);
- B. The Project Company has entered into the Finance Documents with the Finance Parties for the provision to the Project Company of Facilities for the financing of, *inter alia*, the design, engineering, procurement, construction, installation, testing, completion and commissioning of the Project.
- C. The Finance Parties have requested the Security Trustee to act as their security trustee for the purposes of this Agreement and the Security Trustee has agreed to act as the Security Trustee, on the terms and conditions set out below.
- D. The Finance Parties have requested the Intercreditor Agent to act as their Intercreditor Agent for the purposes of this Agreement and the Intercreditor Agent has agreed to act as the Intercreditor Agent, on the terms and conditions set out below.
- E. The Project Company is a special purpose vehicle of the Sponsors to undertake the Project.
- F. The Sponsors are entering into this Agreement in order to give certain undertakings, representations and warranties to the Finance Parties by way of support for the obligations of the Project Company in respect of the Project and under the Finance Documents.

NOW THIS AGREEMENT WITNESSES in view of the foregoing and in consideration of the mutual benefits to be derived and the representations and warranties, covenants and agreements contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged and intending to be legally bound, it is hereby agreed and declared by the Parties hereto as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

Unless otherwise defined herein, all capitalized terms shall have the meanings assigned to them under the agreement entitled “COMMON TERMS AGREEMENT” dated on or about the date hereof and executed between, *inter alios*, the PROJECT COMPANY; the BANK OF PUNJAB (*as Intercreditor Agent/Monitoring Bank*); and ASKARI BANK LIMITED (*as Security Trustee*); and certain financial institutions (*as LC Issuing Bank/LC Participants/Commercial Financiers*) (the **Common Terms Agreement**). In addition, the following words and expressions shall have the following meaning:

“**Applicable Criteria**” means, in respect of a proposed acquirer of the Shares, such acquirer of Shares, or where such acquirer is a company which is a member of a group of companies (as defined in the Prudential Regulations), such group: (i) with respect to whom each Finance Party has completed its “know your customer” review to its satisfaction; [(ii) has no existing over dues or defaults in respect of any facilities obtained from any bank or other financial institution as per the SBP’s CIB report /data; and (iii) has no underlying conflict of interest with the Project in the opinion of any of the Finance Parties *provided however*, the Applicable Criteria would deemed to be not met if the proposed acquisition of the Shares by such proposed acquirer will result in a breach of Prudential Regulation by any of the Finance Parties.

“**Base Equity Amount**” has the meaning given to it in Section 3.1.1.

“Base Equity Certificate” has the meaning given to the term ‘Equity Certificate’ in the Common Terms Agreement.

“Balance Equity Amount” has the meaning given to it in Section 3.3.1.

“Call Notice” has the meaning given to it in Section 3.3.3.

“Completion Cost Overruns” mean any amounts required for the Project Company to achieve Project Completion, including:

- (i) the amount of Project Costs that will become payable to achieve the Project Completion Date that exceeds or is projected to exceed the Estimated Project Cost (without double counting), as detailed in the initial Project Development Budget delivered to the Intercreditor Agent pursuant to Schedule 2 (*Conditions Precedent*) of the Common Terms Agreement;
- (ii) the amount of Operating and Maintenance Costs, for any period, that will become payable prior to the Project Completion Date that exceed such Operating and Maintenance Costs as budgeted in the Initial Operating Budget for such period;
- (iii) any amounts of Financing Service and Financiers Costs, for any period, which have not been paid by the Project Company and/or will become payable prior to the Project Completion Date, in each case, to the extent exceeding or projected to exceed the amounts allocated for the same in the initial Project Development Budget.

[**“Control”**]⁴ (including with correlative meanings, the terms **“controlling”**, **“controlled by”** and **“under common control with”**), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or by contract or otherwise. **“Control”** shall be deemed to exist where a person owns or holds, directly or indirectly, more than 51% (fifty one percent) of the equity interest in another person.

“Cost Overrun” means a Completion Cost Overrun.

“Cost Overrun Demand Notice” has the meaning given to it in Section 4.1.5.

“Deed of Accession” means a deed of accession substantially in the form of Schedule 2 (*Form of Deed of Accession*).

“Default Notice” means the notice issued under Section 28.1 of the Common Terms Agreement upon the occurrence of a Default.

“Director” means a member of the board of Directors of the Project Company.

“Directors’ Shares” means Shares held by each Director.

⁴ To be aligned with the definition of ‘Control’ in the Common Terms Agreement.

“Equity Acceleration Amount” means the amount to be paid by the Sponsors in terms of the Equity Acceleration Notice which amount shall not exceed the un-subscribed portion of the Balance Equity Amount.

“Equity Acceleration Notice” means a notice served by the Intercreditor Agent pursuant to Section 3.5 of this Agreement.

“Equity Funding Cycle” has the meaning given to it in Section 3.3.2.

“Equity Contribution Determination” has the meaning given to it in Section 3.3.2.

“Estimated Project Cost” means the PKR [•]/- (Pakistani Rupees [•] only).

“Excess Finance Amount” means the aggregate amount of the Sale Price disbursed under the Finance Documents, which, as determined by the Intercreditor Agent is in excess of the Permitted Debt.

“Excess Finance Amount Demand Notice” has the meaning given to it in Section 4.3.5.

“Initial Equity Amount” has the meaning given to it in Section 3.2.1.

“Material Documents” shall mean the Energy Purchase Agreement and the EPC Contracts.

“New Equity Party” means any Person who is the transferee (or the prospective transferee) of any Shares in accordance with Section 2 of this Agreement.

“Minimum Credit Rating” means [•].

“Payment Shortfall” has the meaning given to it in Section 4.2.1.

“Payment Shortfall Notice” has the meaning given to it in Section 4.2.1.

“Permitted Debt” means the principal debt component of the Tariff True-up (including the pass-through items / amounts allowed by NEPRA), as determined by the NEPRA or if Section 4.3.2 is applicable, then the principal debt component as determined by the Intercreditor Agent, provided however that the permitted debt shall also include the following head provided for in the initial Project Development Budget (attached as schedule 9 of the CTA):

- i) MEPCO Transmission line cost;

“Project” has the meaning given to it in the Common Terms Agreement.

“Project Development Budget” has the meaning given to it in the Common Terms Agreement.

“Required Finance Payment Balance” means, for the purposes of this Agreement, the amounts of Financing Service, scheduled to fall due on the next scheduled Repayment Date.

“Required FSRA Balance” means, for the purposes of this Agreement, the amounts of Financing Service, scheduled to fall due on the next two (2) succeeding scheduled Repayment Dates, at the given time.

“Shares” means the ordinary shares in the capital of the Project Company, having a par value of PKR 10/- each.

“Sponsor Demand Notice” has the meaning given to it in Section **Error! Reference source not found.**

“Sponsors’ Costs” means all costs and expenses incurred by the Sponsors as development costs which may be capitalised in the Project Company and which have been incurred towards the development of the Project, prior to the first Disbursement, as confirmed by the Auditor.

“Sponsor SBLC” has the meaning given to it in Section 4.4.1.

“Sponsor SBLC Issuing Bank” means the financial institution who has issued the Sponsor SBLC.

“Sponsor SBLC Minimum Balance Amount” means the sum of:

- (a) the next two (2) Financing Service (including Mark-up) payments which would fall due on the succeeding two (2) Repayment Dates after the Commitment Termination Date; *and*
- (b) [•].

“Subscription Cut-off Date” has the meaning given to it Section 3.3.3.

“Tariff True-up Petition” has the meaning given to it in Section 4.3.1.

“True-up Adjustment” has the meaning given to it in Section 4.3.1.

1.2 Interpretation

1.2.1 The rules of interpretation set out in in Section 1.2 through Section 1.5 of the Common Terms Agreement shall be applied in the interpretation of the terms and provisions of this Agreement. Reference to Sections in this Agreement shall be a reference to a Section herein, unless the context requires otherwise.

1.2.2 Unless the context otherwise requires, any reference to this Agreement or to any other Instrument is a reference to this Agreement or that Instrument as amended, supplemented or novated from time to time and includes a reference to any Instrument which amends, waives, is supplemental to, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Agreement or any such other Instrument.

2. PROJECT COMPANY MANAGEMENT & CAPITALISATION STRUCTURE

2.1 Project Company Share Undertakings

2.1.1 The Project Company shall not (and each of the Sponsors agrees to procure that the Project Company shall not):

- (a) issue any Shares, prior to the Commercial Operations Date, to any person other than to the Sponsors in accordance with this Agreement save as permitted under this Agreement and the Finance Documents; and
- (b) receive the proceeds of any loan or other facility made available to the Project Company save as permitted under the terms of the Finance Documents.

2.2 Restrictions on Transfer of Shares

2.2.1 Each of the Sponsors undertakes and agrees that:

- (a) Until the Project Completion Date, the Sponsors shall not transfer any interest (in whole or in part) in the shareholding of the Project Company except as permitted in this Agreement;
- (b) Until the Project Completion Date, the Sponsors shall pledge⁵ their Shares, to ensure (at all times) that Shares equivalent to eighty five percent (85%), of the total issued and paid-up share capital of the Project Company, are pledged to the Security Trustee as security for the Secured Obligations, pursuant to the Letter of Pledge and after the Project Completion Date, the Sponsors shall continue to pledge Shares equivalent to fifty one percent (51%), of the total issued and paid-up share capital of the Project Company (the “**Pledged Shares**”);⁶
- (c) The Sponsors shall procure and ensure that signed and undated letters of resignation of the nominee Directors of the Sponsors shall be provided to the Intercreditor Agent⁷;
- (d) Each of the Sponsors hereby undertakes and agrees that it shall not, until the Termination Date, sell, transfer or otherwise dispose of any right or interest, legal or beneficial, in or grant, create or permit to arise or subsist any Encumbrance (other than the Security) on or affecting, any of the Pledged Shares except as permitted in this Agreement;
- (e) up to (and including) the Project Completion Date, each of the Sponsors undertake to maintain legal and beneficial ownership of one hundred percent (100%) of the Shares in the issued and paid up capital of the Project Company (on a fully diluted basis) in each case subject only to the Encumbrances in favour of the Security Trustee as security for the Secured Obligations, pursuant to the Letter of Pledge, provided that the Principal Sponsor must at all times, till the Termination Date, directly maintain legal and beneficial ownership of at least fifty one percent (51%) of the Shares in the issued and paid up capital of the Project Company (on a fully diluted basis) and not relinquish any aspect of Control of the Project Company;

2.2.2 In this Section 2, “**transfer**” shall mean to sell, assign, give, hypothecate, pledge, encumber or otherwise dispose or transfer (including the right to subscribe for or otherwise acquire shares) other than to, or in favour of, the Finance Parties (or their nominees) pursuant to any Security Document.

⁵ *The proportion/allocation of the pledge as from different Sponsors is to be finalised and reflected in this after discussions with HSPL sponsors.*

⁶ *Same as above, but as applicable for the period post-PCD.*

⁷ *To be added as CP in Schedule 2 of CTA.*

2.3 Other Restrictions

2.3.1 At any time after the Project Completion Date, subject to the restrictions set out in Sections 2.1 and 2.2 and compliance with the procedure for transfers set out in Section 2.4, any of the Sponsors may transfer their Shares to a New Equity Partner provided that:

- (a) The Principal Sponsor shall till the Termination Date maintain all aspects of Control of the Project Company and directly maintain legal and beneficial ownership of at least fifty one percent (51%) of the Shares in the issued and paid up capital of the Project Company (on a fully diluted basis);
- (b) the proposed transfer of Shares must be permitted under Applicable Law and any applicable Consents;
- (c) The GoP has provided its approval to the New Equity Partner and the proposed transfer of Shares in terms of the Implementation Agreement;
- (d) the New Equity Party meets the Applicable Criteria;
- (e) each Finance Party based on the information/documentation received, as required under Section 2.4, has confirmed that it has completed its “know your customer” review to its satisfaction (acting reasonably and without unreasonable delay) and satisfies the Applicable Criteria;
- (f) no Default is continuing or will or would result from the New Equity Party becoming a party to this Agreement;
- (g) the New Equity Party shall be required to pledge its Shares in accordance with the terms of this Agreement and the Letter of Pledge in favour of the Security Trustee, to secure the Secured Obligations;
- (h) the concerned Sponsor and New Equity Partner have delivered certificates to the Intercreditor Agent certifying, as applicable, that each of the foregoing conditions has been satisfied; and
- (i) the Intercreditor Agent confirms that it has received consent from each Financier (which is not to be unreasonably withheld) to the proposed transfer of Shares in favour of the New Equity Partner.

2.3.2 Each Sponsors shall cause the Project Company to, and the Project Company shall, refuse to recognise any purported transfer of Shares in violation of Section 2.3, or record or register any such transfer of Shares. Any transfer made in breach of Section 2.3 shall be null and void.

2.3.3 Subject to Section 2.4 notwithstanding any transfer of Shares pursuant to this Section 2.3 or otherwise, each remaining Sponsors shall remain fully liable for all its obligations under this Agreement.

2.4 Procedure for Transfers

2.4.1 Subject to Section 2.4.4, prior to the effective date of any transfer of any interest in the Shares (subject to the restrictions set out in Sections 2.1, 2.2 and 2.3) the transferring Sponsors shall procure that the New Equity Party shall become a party to this Agreement (which accession shall

be effective simultaneously with the effectiveness of the transfer of an interest in the Shares), and be bound as if it were a Sponsor, by entering into a Deed of Accession which must be duly executed and delivered by the New Equity Party together with copies, certified by (in the case of a New Equity Party that is not an individual) a duly authorised officer of such New Equity Party or (in the case of a New Equity Party that is an individual) such New Equity Party, of:

- (a) (in the case of a New Equity Party that is not an individual) the New Equity Party's Constitutional Documents or (in the case of a New Equity Party that is an individual) his/her passport and other personal identification as required by the Intercreditor Agent, if relevant;
- (b) (in the case of a New Equity Party that is not an individual) a board resolution or other appropriate authorisation, authorising the New Equity Party's execution of the Deed of Accession (if applicable);
- (c) A certificate signed by the New Equity Party or chief executive officer/partner or equivalent of the New Equity Party (where the New Equity Party is not individual) (in form and substance satisfactory to the Intercreditor Agent) in respect of the laws of the jurisdiction of (in the case of a New Equity Party that is not an individual) incorporation or (in the case of a New Equity Party that is an individual) domicile of the New Equity Party as to (i) to (iv) below (as applicable) representing and warranting (as to the New Equity Party) that:
 - (i) the New Equity Party has the capacity to enter into the Deed of Accession (if applicable) in the case where the New Equity Party is acquiring Shares prior to the Commercial Operations Date (and any other documentation required to be signed by the New Equity Party in connection with such transfer);
 - (i) the New Equity Party's signatory (or signatories), if any, have been duly authorised;
 - (ii) (in the case of a New Equity Party that is not an individual) such documentation required to be entered into by the New Equity Party has been duly executed in accordance with the New Equity Party's Constitutional Documents;
 - (iii) such documentation required to be entered into by the New Equity Party has been duly executed in accordance with all applicable laws in its jurisdiction of (in the case of a New Equity Party that is not an individual) incorporation or (in the case of a New Equity Party that is an individual) domicile;
- (d) in the case of a New Equity Party that is not an individual) the latest accounts of the New Equity Party, audited (if audited accounts have been prepared) or unaudited (if audited accounts have not been prepared) prepared in accordance with the Accounting Standards or with generally accepted accounting principles in the jurisdiction of its incorporation; and
- (e) in the case of a New Equity Party that is an individual a net worth statement for such New Equity Party for the most recent tax year in the jurisdiction of his/her domicile prepared in accordance with the Accounting Principles or with generally accepted accounting principles in the jurisdiction of his/her domicile audited by the Auditor (or

such other firm of independent accountants of recognized international standing approved by the Intercreditor Agent);

- (f) A legal opinion, in form and substance acceptable to the Intercreditor Agent, issued by a counsel qualified to opine on the laws of the jurisdiction in which the New Equity Party is domiciled and which counsel is acceptable to the Intercreditor Agent, confirming the aspects identified in (i) through (iv) of (c) above.

2.4.2 If the conditions in Sections 2.1, 2.2 and 2.3 have been satisfied, the Project Company, the Sponsors, the New Equity Party and the Intercreditor Agent shall enter into a Deed of Accession and deliver the documents referred to in Section 2.4.1

2.4.3 Upon any transfer permitted by this Section 2 the transferring Sponsors shall not be released from its unfulfilled and outstanding obligations under this Agreement.

2.4.4 Notwithstanding anything contained in Sections 2.3 and 2.4 above:

- (a) the New Equity Party shall be also required to pledge its Shares in accordance with the terms of this Agreement and in terms of an Instrument, similar to the Letter of Pledge, in favour of the Security Trustee to secure the Secured Obligations; and
- (b) the New Equity Parties acquiring Unpledged Shares shall not be required to pledge its Shares in accordance with the terms of this Agreement and the Letter of Pledge in favour of the Security Trustee to secure the Secured Obligations.

2.5 **Sponsors Obligations Unaffected**

2.5.1 Notwithstanding Section 2.1, the Sponsors' obligations under this Agreement (including the commitments towards the Cost Overruns and the Excess Finance Amount, (as applicable) shall not be affected, impaired or prejudiced in any manner, unless otherwise explicitly approved by the Intercreditor Agent in writing.

2.6 **Shares' Classes**

2.6.1 The Sponsors undertake that they shall not permit or procure and shall ensure that the Project Company's shareholding structure shall consist only of the Shares and the Sponsors shall ensure that the Project Company does not alter the rights attached to the Shares or issue any other class of shares or share capital till the Termination Date.

3. **EQUITY FUNDING POSITION AND OBLIGATION**

3.1 **Total Equity Requirement**

3.1.1 The equity component of the Estimated Project Cost to be invested by the Sponsors in the capital of the Project Company, is projected to equal PKR [●]/- (Pakistani Rupees [[●]]) (the "**Base Equity Amount**"). Such amount does not include any additional equity which may be injected by the Sponsors on account of Cost Overruns and other funding obligations in terms of this Agreement.

3.2 Present Position

3.2.1 Each of the Project Company and each of the Sponsors hereby represent and warrant that as of [●], the Sponsors have contributed towards the Base Equity Amount in the following manner an amount equal to PKR [●] (the “Initial Equity Amount”):

Sponsor	Against Issued Shares (PKR)	Advance against Issuance of Shares (PKR)	Total (PKR)
Principal Sponsor	[●]	[●]	[●]
Strategic Sponsor No. 1	[●]	[●]	[●]
Strategic Sponsor No. 2	[●]	[●]	[●]
TOTAL			[●]

3.2.2 Each of the Project Company and the Sponsors hereby represent and warrant that the Initial Equity Amount has solely been utilised for the development of the Project.

3.2.3 The Initial Equity Amount shall be updated on or before the first Disbursement to take into account the Sponsor’s Costs reflected in the Base Equity Certificate of the Sponsor’s Costs provided to the Intercreditor Agent pursuant to Schedule 2 (*Conditions Precedent and Conditions Subsequent*) of the Common Terms Agreement.

3.3 Balance Equity

3.3.1 Each of the Sponsors undertakes and agrees, in accordance with the provisions of this Section 3, to take up and pay for in cash in Pakistan Rupees its respective portion (set out below) of the balance amount of the Base Equity Amount, that is to say an amount equal to PKR [●] (the “Balance Equity Amount”) by way of subscription of Shares towards the ordinary share capital of the Project Company:

Sponsor	Balance Equity Amount to be funded and subscribed (PKR)	Percentage to be funded and subscribed (%)	Total (PKR)
Principal Sponsor	[●]	[●]	[●]
Strategic Sponsor No. 1	[●]	[●]	[●]
Strategic Sponsor No. 2	[●]	[●]	[●]
TOTAL			[●]

- 3.3.2 The Sponsors shall procure the board of directors of the Project Company to approve such amount of Balance Equity Amount required for each two (2) month period commencing from the first Disbursement]⁸ (“**Equity Funding Cycle**”), in terms of the instructions / determinations received from the Intercreditor Agent (“**Equity Contribution Determination**”), which instructions / determinations shall be based on the Intercreditor Agent’s estimate for equity requirements in the next Equity Funding Cycle taking into account:
- (a) the obligation of the Project Company and Sponsors’ obligation to ensure PF Financing to Equity Ratio does not exceed 75:25 and Total Financing to Equity Ratio does not exceed 80:20;
 - (b) The Project Development Budget, which the Project Company undertakes to deliver to the Intercreditor Agent at least thirty (30)⁹ Business Days prior to each Equity Funding Cycle;
 - (c) Any other relevant information reasonably required by the Intercreditor Agent, which the Project Company undertakes to provide;
 - (d) The Financiers’ Technical Advisor’s opinion, advice or views, if sought by the Intercreditor Agent.
- 3.3.3 Each subscription and payment under this Section 3 by the Sponsors shall be made at such times as instructed by the Intercreditor Agent to the Project Company and the Project Company shall give to each Sponsors notice (with a copy to the Intercreditor Agent) (“**Call Notice**”) of its obligation to subscribe and pay for Shares. The Call Notice shall specify the portion of the Balance Equity Amount required for the two (2) month period and the date by which all equity contributions by the Sponsors must be credited to the Equity Deposit Account (“**Subscription Cut-off Date**”).
- 3.3.4 The Project Company and the Sponsors acknowledge that in no circumstances shall the Intercreditor Agent be required to make a Disbursement under the Finance Documents until the Sponsors have subscribed to and paid for Shares in terms of the Call Notice and all conditions contained in Section 3.1 and Section 3.2 of the Common Terms Agreement have been satisfied or otherwise waived so as to always ensure that the PF Financing to Equity Ratio does not exceed 75:25 and the Total Financing to Equity Ratio does not exceed 80:20.
- 3.3.5 Nothing in this Section 3 shall prevent the Sponsors, on not less than five (5) days prior written notice to the Project Company and the Intercreditor Agent, from subscribing and paying for

⁸ Note for all: This is subject to the present equity position and the equity position likely to be in place before financial close. Please note that depending on the equity position, the sponsors may be required to subscribe to the initial equity as part of the CPs if the present capitalization is insignificant in the context of project costs.

⁹ Note for Intercreditor Agent: Please streamline the timing of all reports, forecasts, financial model, statements, certificates etc. in all documentation. The same is subject to your input. Presently, the PDB is being delivered on a quarterly basis – see CTA 19.1.

more than the Balance Equity Amount due at any given time and the Intercreditor Agent shall take into account any earlier over-subscription when issuing the notice in terms of Section 3.3.3.

3.3.6 The Parties agree that the Equity Contribution Determination shall be final and binding on all Parties.

3.3.7 The Balance Equity Amount shall be updated on or before the first Disbursement to take into account the Sponsor's Costs reflected in the Base Equity Certificate of the Sponsor's Costs provided to the Intercreditor Agent pursuant to Schedule 2 (*Conditions Precedent and Conditions Subsequent*) of the Common Terms Agreement.

3.4 Allotment and Issue

3.4.1 The Project Company agrees to provide to the Intercreditor Agent upon its request copies of all Shares certificates allotted and issued, from time to time, along with any endorsements, transfer deeds and extract of register of members.

3.4.2 The copies to be provided by the Project Company under Section 3.4.1 shall be certified as being true and complete in all respects by the company secretary or the chief executive officer of the Project Company.

3.5 Equity Acceleration

3.5.1 The Sponsors and the Project Company authorize the Intercreditor Agent to require the payment of the Equity Acceleration Amount pursuant to the Equity Acceleration Notice.

3.5.2 The Sponsors shall, upon receiving an Equity Acceleration Notice substantially in the form set forth in SCHEDULE 6 from the Intercreditor Bank, pay the Equity Acceleration Amount by crediting the Equity Account.

3.5.3 The Intercreditor Agent may serve an Equity Acceleration Notice on the Sponsors upon the occurrence of any Event of Default or at any time thereafter while the Event of Default is continuing, provided, that a failure to do so will not invalidate any Equity Acceleration Notice. All payments made pursuant to the Equity Acceleration Notice shall be utilized in terms of Post-Enforcement Payment Priorities under the Common Terms Agreement, unless the Event of Default has been cured within the cure period specified in the Common Terms Agreement, in which case, the amounts shall be utilised in accordance with Section 16 of the Common Terms Agreement.

3.5.4 An Equity Acceleration Notice shall:

- (i) Specify the Equity Acceleration Amount required to be paid by the Sponsor.
- (ii) Specify the date for such transfer of funds which date shall not be less than three (3) Business Days after the service of the Equity Acceleration Notice.

4. SPONSORS SUPPORT

4.1 Cost Overruns

4.1.1 The Sponsors shall ensure that Project Completion is achieved and shall fund all Cost Overruns until the Project Completion Date. It being clarified that the Sponsors may fund through their own sources or arrange the funding for Cost Overruns, without recourse to the assets of the

Project Company (unless otherwise consented to by the intercreditor Agent in writing) and subject to Sponsor Support Agreement. It is further clarified that the Finance Parties shall not be obligated to fund Cost Overruns. The Sponsors obligations to fund Cost Overruns are in addition to their other obligations set out in this Agreement.

- 4.1.2 The Project Company shall immediately, without delay, notify the Intercreditor Agent after it becomes aware that a Cost Overrun has or is projected to occur in the next succeeding month. Following such notification or if at any time, it is in the judgment of the Intercreditor Agent, that the Project Company will not have, available to it sufficient cash, for any reason whatsoever to fund, pay or incur a Cost Overrun or that a Cost Overrun has or is projected to occur in the next month, the Intercreditor Agent shall notify the Project Company.
- 4.1.3 Following any such notification, the Intercreditor Agent shall determine (in consultation with the Project Company and, for technical matters, the Financiers' Technical Advisor) the amount of the Cost Overrun. The Intercreditor Agent's determination and calculation as to the amount of the Cost Overrun shall be final and binding on all Parties.
- 4.1.4 Any omission by the Project Company or the Intercreditor Agent to notify the existence of a Cost Overrun or the determination by the Intercreditor Agent of the required amount of Cost Overrun shall not in any way whatsoever absolve, impair or prejudice any Sponsor's obligations to fund such and other Cost Overruns from time to time until the Project Completion Date
- 4.1.5 Upon determination of the amount of the Cost Overrun, the Intercreditor Agent may by notice in writing to the Sponsors and the Project Company at any time or from time to time thereafter but in any event prior to Project Completion Date demand that the Sponsors provide the funds to the Project Company in the amount of the Cost Overrun (the "**Cost Overrun Demand Notice**") each in the form and substance attached hereto as Schedule 3 hereto.
- 4.1.6 On receipt of the Cost Overrun Demand Notice, the Sponsors shall provide the requisite funds in the amount specified in the Cost Overrun Demand Notice within five (5) Business Days of issuance of the Cost Overrun Demand.

4.2 **Pre-Project Completion Financing Service Support**

- 4.2.1 Any time up until the Project Completion Date, in the event the amounts deposited in the Financing Payment Account pursuant to Section 16.5 of the Common Terms Agreement on the day falling five (5) Business Days prior to a Repayment Date, are less than the Required Finance Payment Balance (the shortfall amount referred to as "**Payment Shortfall**"), the Intercreditor Agent shall immediately inform the Sponsors and the Project Company of the occurrence of such Payment Shortfall (the "**Payment Shortfall Notice**") and the Project Company will provide the Payment Shortfall Notice to the Sponsors within 2 (two) days of receipt of the Payment Shortfall Notice. In no case later than 2 (two) Business Days prior to the end of the relevant period in which such Payment Shortfall occurs, the Sponsors agrees to deposit an amount equal to the Payment Shortfall into the Financing Payment Account. Failure to comply with the Payment Shortfall Notices during the term of the Finance Documents will constitute an Event of Default under the Common Terms Agreement. The failure of the Intercreditor Agent to issue the Payment Shortfall Notice will not invalidate any such notice.

4.3 **Excess Finance**

4.3.1 The Sponsors hereby undertake and agree to cause the Project Company to file the true-up application with NEPRA ("**True-up Petition**") for the Tariff True-Up within [thirty (30)] days of COD.

4.3.2 Each of the Sponsors, jointly and / or severally, and the Project Company hereby undertake and agree that in the event that:

(a) the True-up Petition is not filed within thirty (60) days of COD; or

(b) the Tariff True-Up is not determined by NEPRA within [12 (twelve)] months of the date of filing of the True-up Petition;

then the Intercreditor Agent shall independently determine the amount of the Permitted Debt and communicate the same to the Sponsors and the Project Company in writing, which determination shall be final and binding upon the Sponsors and the Project Company and the Sponsors shall inject funds equalling the Excess Finance Amount (as determined by the Intercreditor Agent on the basis of the Intercreditor Agent's determination of the Permitted Debt) in the Project Company, and the Project Company shall, within 30 (thirty) days of receipt of the Intercreditor Agent's determination prepay the Financiers the Excess Finance Amount through additional funds provided by the Sponsors ("**True-Up Adjustment**").

4.3.3 Each of the Sponsors, jointly and / or severally, and the Project Company hereby undertake and agree that, except as already provided for in Section 4.3.2 above, the Sponsors shall within 30 (thirty) days of the Tariff True-up, inject funds equalling the Excess Finance Amount in the Project Company and the Project Company shall upon receipt of the same prepay the Financiers the Excess Finance Amount.

4.3.4 The obligation to fund prepayment of Excess Finance Amount is in addition to the Sponsors other obligations under this Agreement.

4.3.5 For the purposes of funding the Excess Finance Amount in accordance with Section 4.3.1, the Sponsors hereby agrees and undertakes to fund the prepayment of Excess Finance Amount, on such date and in such amounts as determined by the Intercreditor Agent and notified to the Sponsors by the Project Company (acting on the instructions of the Intercreditor Agent) in writing by a notice, in the form and substance attached hereto as Schedule 4 (Form of Excess Finance Amount Demand Notice)(the "**Excess Finance Amount Demand Notice**") (with a copy to the Intercreditor Agent). The Sponsors hereby agree and undertake to fund the Excess Finance Amount in terms of the Excess Finance Amount Demand Notice within the time period specified therein.

4.4 Sponsor SBLC¹⁰

- 4.4.1 The Sponsors agree that, as part of the Conditions Precedent, they shall establish an irrevocable and unconditional standby letter of credit in favour of the Project Company (and the Security Trustee (for the benefit of the Finance Parties)) (the “**Sponsor SBLC**”) and which instrument (including its renewal or extension) shall be maintained till the Sponsor SBLC Release Date and in accordance with the following terms:
- (a) The Sponsor SBLC shall be issued in an amount equal to the Balance Equity Amount (as updated under Section 3.3.7) and shall stand proportionately and automatically reduced, from time to time, to the extent of amounts towards the Balance Equity Amount which are funded by the Sponsors in terms of the Call Notice and otherwise in accordance with Sections 3 and 4, provided that the available balance of the Sponsor SBLC shall not fall below the Sponsor SBLC Minimum Balance Amount before the Project Completion Date;
 - (b) The Sponsor SBLC shall be in the form set out in SCHEDULE 5 and shall be issued by a bank acceptable to the Intercreditor Agent;
 - (c) The initial term of the Sponsor SBLC shall be valid from the date of issuance till a period of at least [•] years;
 - (d) The Sponsor SBLC shall be issued on its behalf and shall be fully secured by the Sponsors as principal debtors and not as sureties, without any recourse to the Project Company, its assets or properties. All costs, expenses, fees and other charges related to the issuance, maintenance and encashment of the Sponsor SBLC shall be borne solely by the Sponsors.
- 4.4.2 The Sponsors undertake to renew/extend the Sponsor SBLC (on the same terms and conditions as the first (except for the issuance and expiry dates)), at least ninety (90) days prior to the expiry date of the Sponsor SBLC.
- 4.4.3 The Sponsors agree that the Sponsor SBLC may be encashed by the Project Company and/or the Security Trustee (in terms of Section 4.4.4), from time to time, in the following circumstances:
- (a) The Sponsor SBLC is due to expire within ninety (90) days, in which case the Sponsor SBLC may be encashed in full;
 - (b) Any event or circumstance described in Section 27.6 (*Insolvency*), any corporate action, legal proceedings or step described in Section 27.7 (*Insolvency proceedings*) or creditors' process described in Section 27.8 (*Creditors' process*), in each case, under the Common Terms Agreement, is taken in relation to the Sponsor SBLC Issuing Bank or the Sponsor SBLC Issuing Bank ceases to meet the Minimum Credit Rating, in which case Sponsor SBLC may be encashed in full;

¹⁰ This draft does not reflect the apportionment of the SBLC as between the sponsors or as to which Sponsor will be providing the SBLC. HSPL is requested to provide the relevant information so that the provisions can be revised accordingly.

- (c) The Sponsor(s) has or have failed to comply with its or their funding obligations under Section 3, in which case the Sponsor SBLC may be encashed up to the amount that has not been funded by the Sponsor(s);
 - (d) There occurs a Financing Payment Account Shortfall, in which case the Sponsor SBLC may be encashed up to the amount of such shortfall;
 - (e) The Sponsor(s) has or have failed to comply with its or their funding obligations under Section 4, in which case the Sponsor SBLC may be encashed up to the amount that has not been funded by the Sponsors.
- 4.4.4 The Project Company hereby undertakes and agrees to encash the Sponsor SBLC immediately upon the occurrence of either of the circumstances stipulated in Section 4.4.3 (with simultaneous notice to the Intercreditor Agent). In the event that the Project Company fails to encash the Sponsor SBLC immediately (but in any event no later than one (1) Business Day) upon the occurrence of the circumstances stated in Section 4.4.3 or otherwise if a Payment Notice has been issued, the Security Trustee shall have the right to encash the Sponsor SBLC.

5. **CORPORATE ACTIONS**

5.1 **Facilitation**

- 5.1.1 The Project Company and the Sponsors shall take all actions necessary or desirable, in a timely manner, including making all filings, registrations, notifications and applications required by law so as to ensure the fulfilment of the Sponsors' funding obligations under this Agreement (including but not limited to funding of Cost Overruns, the Balance Equity Amount and the Excess Finance Amount).

5.2 **No release**

- 5.2.1 Failure to obtain any required approvals or permissions from any Governmental Authority (including approvals or permissions from the SBP) shall not release the Project Company or the Sponsors from, or otherwise constitute a defence to the performance by any of them of their respective obligations under this Agreement.

6. **FORM OF FUNDING**

- 6.1.1 The Sponsors may comply with its respective obligations relating to funding or injecting monies in the Project Company in terms of this Agreement by either:
- (a) subscribing for the Shares in terms of the Cost Overrun Demand Notice/Sponsor Demand Notice/Excess Finance Amount Demand Notice/Equity Acceleration Notice;
 - (b) advancing a loan to the Project Company, which shall be subordinated to the Secured Obligations on the terms set out in SCHEDULE 1; or
 - (c) by way of such other cash payment arrangements as may be agreed with the Intercreditor Agent.

provided that the Base Equity shall be funded only through subscription of Shares or as advance against the issuance of Shares.

7. COMPENSATION

7.1.1 In case any amount is required to be paid by the Sponsor under this Agreement at a specified time on a specified date and is not so paid, the Sponsor shall be liable to pay the costs and expenses incurred by the Finance Parties or any of them or (as the case may be) in effecting recovery thereof.

8. INDEMNITY

8.1.1 The Sponsors shall on demand indemnify the Intercreditor Agent, Security Trustee and / or the Finance Parties and / or any one of them against all costs, losses, expenses and liabilities sustained or incurred by the Intercreditor Agent (not being the cost of funds), the Security Trustee and / or the Finance Parties and / or any one of them as a result of the failure by the Sponsors to pay any amount payable by it hereunder on its due date or otherwise fulfil any obligation under this Agreement.

9. REPRESENTATIONS AND WARRANTIES

9.1.1 Each of the Sponsors hereby represents and warrants for the benefit of the Finance Parties that:

- (a) it has the power to deliver and perform its obligations under this Agreement;
- (b) neither the execution and delivery of this Agreement or any other document in respect of the Facility to which they may be a party nor the performance of their obligations hereunder, nor the consummation of any of the transactions contemplated by this Agreement or any other related or ancillary document to which they are a party shall:
 - (i) contravene or constitute a default under any provision contained in any agreement, instrument, law, ordinance, decree, judgment, order, rule, regulation, licence, permit or consent by which it or any of its assets is bound or affected; or
 - (ii) cause any limitation on its powers to be exceeded, whether imposed by or contained in any agreement, instrument, law, ordinance, decree, judgment, order, rule, regulation, licence, permit, consent or otherwise; or
 - (iii) cause any contravention of, or default under, any agreement or instrument by which it or any of its assets is bound or affected;
- (c) no litigation, arbitration or administrative proceeding or claim before or of any court, tribunal, arbitrator or other relevant authority is presently in progress or pending or has been threatened in writing, which, by itself or together with any other such proceeding or claim, might reasonably be expected to adversely impair the Sponsor's ability to perform its obligations under this Agreement.
- (d) No legal proceedings (including references or any other civil, criminal or administrative proceedings) have been initiated by any Competent Authority (including the National Accountability Bureau or the Federal Investigation Agency in relation to the Project and filed against the Project Company or the Sponsors.
- (e) it has taken all necessary actions under Applicable Laws to:
 - (i) authorize the execution, delivery and performance of this Agreement; and

- (ii) validly exercise its rights and perform its obligations under this Agreement;
 - (f) this Agreement and all obligations contained herein constitutes its legal, valid and binding obligations, enforceable against it in accordance with the terms hereof;
 - (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of Applicable Laws or any covenant, contract, agreement, arrangement, 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;
 - (h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it under the Applicable Laws before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in a Material Adverse Effect;
 - (i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Authority which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its material obligations under this Agreement;
 - (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil liabilities which in the aggregate have or may have a Material Adverse Effect;
 - (k) it is subject to civil and commercial law with respect to this Agreement and it hereby expressly and irrevocably waives any sovereign immunity (if any) in any jurisdiction.
 - (l) agrees that the execution, delivery and performance by it of this Agreement and all other Sponsors Instruments, documents and writings relating to the same constitute private and commercial acts and not public or governmental acts;
 - (m) waives any such right of immunity, sovereign or otherwise, which Sponsors or its assets now has or may acquire in the future, in respect of proceedings under this Agreement.
- 9.1.2 The Sponsors confirms that the representations and warranties set out herein are deemed to be made by it by reference to the facts and circumstances existing on the date of this Agreement and are deemed to be made on the first Disbursement Date and repeated on each (i) date that it funds its obligations under Sections 3 and 4; (ii) Distribution Test Date; and (iii) Cash Sweep Date.

10. COVENANTS

10.1 Positive Covenants

10.1.1 The Sponsors undertakes that until the Termination Date it shall:

- (a) take all actions necessary or desirable to perform all of their respective obligations under this Agreement;

- (b) take all reasonable action and use reasonable endeavours to cause the Project to be constructed and operated in accordance with the best international practices;
- (c) obtain and/or maintain in full force and effect all authorizations, approvals, consents, licenses and exemptions necessary and applicable to itself in connection with this Agreement as and when such authorizations, approvals, consents, licenses and exemptions as are required to be obtained in accordance with the Applicable Law;
- (d) take all practicable steps to remedy or mitigate the effect of any Event of Default;
- (e) take all steps and perform all acts to ensure compliance by the Project Company of its obligations and responsibilities under the Transaction Documents (including but not limited to the compliance of all covenants related to financial ratios as contained in the Finance Documents).

10.2 **Negative Covenants**

10.2.1 The Sponsors undertake that until the Termination Date they shall not, to the extent applicable, transfer, relinquish or otherwise dispose of any of their obligations, rights and interests under this Agreement or make or agree to make any amendment, modification or variation to, or waive or grant any indulgence with respect to, any right under, or make or agree to any suspension, termination or cancellation of this Agreement, or make or agree to any claim that this Agreement has been frustrated.

10.3 **Information Covenants**

10.3.1 The Sponsors undertakes that, until the Termination Date they shall:

- (a) send to the Intercreditor Agent within four (4) months of the end of each financial year, in respect of the Sponsor(s) which are incorporated, audited and updated financial statements (and translated into English), and in respect of the other Sponsors, who are individuals, personal audited net worth financial statements;
- (b) within 15 (fifteen) Days provide the Intercreditor Agent with such reasonable financial and other information relating to itself, the Project Company and/or the Project as the Intercreditor Agent may from time to time reasonably request in writing; and
- (c) notify the Intercreditor Agent, immediately upon becoming aware of any Default in relation to the Sponsors and any pending or threatened investigation of which it is aware.

11. **MISCELLANEOUS**

11.1 **Time of essence**

11.1.1 The Sponsors undertakes duly to perform their obligations under this Agreement, in respect of which time shall be of the essence and agree that such obligations shall be specifically enforceable at the instance of the Intercreditor Agent.

12. **EXPENSES**

12.1 **Enforcement Expenses**

12.1.1 The Project Company shall pay, within 5 (five) Business Days of demand, all reasonable costs and expenses at actuals (including taxes thereon and reasonable legal fees incurred by the Intercreditor Agent and / or Finance Parties and/or any of them in protecting or enforcing any of their rights under this Agreement.

12.2 **Stamp Duties**

12.2.1 The Project Company shall pay promptly, and in any event before any penalty becomes payable, any stamp, documentary, registration or similar tax or duty payable in connection with their entry into, registration, performance, enforcement or admissibility in evidence of this Agreement and shall indemnify the Intercreditor Agent and / or the Finance Parties and / or any of them against any liability with respect to or resulting from any delay in paying or omitting to pay any such tax.

13. **SPONSORS' OBLIGATIONS**

13.1 **Sponsors as Principal Debtor**

13.1.1 The Sponsors shall be liable for all amounts committed, promised or guaranteed by it under this Agreement as principal debtors, to the extent applicable, and not merely as sureties. Accordingly, they shall not be discharged, nor shall their liability be affected, by anything which would not discharge it or affect its liability if each were the principal debtor, including:

- (a) any time, indulgence, waiver or consent at any time given to the Project Company or any other person;
- (b) any amendment to any provision of the Finance Documents or to any Security, guarantee or indemnity;
- (c) the making or absence of any demand on the Project Company or any other person for payment;
- (d) the enforcement or absence of enforcement of any of the Finance Documents, Security Documents or any other document executed with respect to the Facilities;
- (e) the release of any such Security, guarantee or indemnity;
- (f) the dissolution, amalgamation, reconstruction or reorganization of the Project Company or any other person; or
- (g) the illegality, invalidity or unenforceability of or any defect in any provision of any of the Finance Documents or the Security Documents or any of the Project Company's obligations under the Finance Documents or the Security Documents.

13.2 **Obligations Continuing**

13.2.1 The obligations of the Sponsors under this Agreement are and shall remain in full force and effect by way of continuing security and shall remain in full force and effect till the Termination Date, except for the obligations of the Sponsor(s) under (A) Sections 3.3, 3.5, 4.1, 4.2 and 4.4 which shall expire/cease from and after the Project Completion Date and (B) Section 4.3 which

shall expire/cease from and after the date the Sponsors have paid in full the Excess Finance Amounts (if any) in accordance with the Excess Finance Amount Demand Notice under Section 4.3.. Furthermore, the obligations of the Sponsors are in addition to, and not instead of, any Security, guarantee or indemnity at any time existing in favour of any person, whether from the Sponsors or otherwise.

13.3 **Payments**

13.3.1 All sums payable by the Sponsors shall be paid:

- (a) free of any restriction or condition;
- (b) free and clear of and (except to the extent required by Applicable Law) without any deduction or withholding on account of any Tax; and
- (c) without deduction or withholding (except to the extent required by Applicable Law) on account of any other amount, whether by way of set-off or otherwise.

13.4 **Mandatory Tax deductions adjustment¹¹**

13.4.1 If (a) the Sponsors (or any other person) is required by Applicable Law to make any deduction or withholding on account of any Tax or other amount as is referred to in Section 13.3 from any sum paid or payable by any Sponsors under this Agreement; or (b) any other party to any of the Finance Documents (or any person on its behalf) is required by Applicable law to make any deduction or withholding from, or (except on account of Tax on the overall net income of that party) any payment on or calculated by reference to the amount of, any sum payable by the Sponsors under this Agreement: the sum payable by the Sponsors in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, that party receives on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what it would have received and so retained had no such deduction withholding or payment been required or made; provided, however no such increase of the sum payable by the Sponsors shall be required where the Sponsors have made the relevant deduction, withholding or payment at source and provides documentary evidence (to the satisfaction of the Intercreditor Agent) and in the event the Sponsors fails to do the same, it shall immediately reimburse such party the amount of the relevant deduction, payment or withholding.

14. **GOVERNING LAW & JURISDICTION**

14.1 **Governing Law**

14.1.1 This Agreement shall be governed by and construed in accordance with the laws of Pakistan.

¹¹ *To be aligned with the CTA understanding.*

14.2 **Jurisdiction**

14.2.1 Any court of competent jurisdiction in Lahore shall have non-exclusive jurisdiction to entertain all suits and or cases and other matters arising out of or under this Agreement.

15. **NOTICES**

15.1 **Method of Giving Notices**

15.1.1 A notice, consent, approval or other communication (each referred to as a “**Notice**”) under this Agreement shall be in writing, signed by or on behalf of the person giving it and shall be addressed to the person to whom it is to be given and:

- (a) delivered by messenger or Courier;
- (b) sent by registered mail; or
- (c) transmitted by facsimile,

to that person's address.

15.2 **Time of Receipt**

15.2.1 A Notice given to a person in accordance with this Section shall be treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered before 3:00 PM on a Business Day, otherwise on the next Business Day;
- (b) if sent by registered mail on the third day after the letter containing the Notice, duly stamped, is posted; or
- (c) if transmitted by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed before 3:00 PM on a Business Day, otherwise on the next Business Day.

15.3 **Address for Notices**

15.3.1 For the purposes of this Section, the sender may take the address and facsimile number of the recipient to be:

- (a) the address and number set out in SCHEDULE A; or
- (b) where the recipient notifies the Sender of another address or number, the last address or number so notified to it, provided however that, a notification for change of address or number shall be effective 14 (fourteen) calendar days after the date of receipt of notification of change.

16. **GENERAL**

16.1 **Joint and Several**

16.1.1 Each of the Sponsors hereby agree and undertake that it shall be jointly and severally liable and responsible to the Finance Parties for any claim, duty, responsibility, obligation damage or liability performed or to be performed by either one of them under this Agreement, including

without limitation any such liabilities arising out of or relating to the alleged or actual delay, fault, default, non-performance or inadequate performance of any of the Sponsor(s).

16.2 Statement of Intercreditor Agent Conclusive

16.2.1 Subject to the provisions of this Agreement a statement signed on behalf of the Intercreditor Agent as to any matter or amount (including without limitation amounts owing by the Sponsors to the Intercreditor Agent or to any Finance Party) at the date specified in such statement shall, in the absence of any manifest error, be conclusive and binding on the Sponsors.

16.3 Business Day

16.3.1 Any sum payable under this Agreement on a day which is not a Business Day shall be payable on the immediately preceding Business Day.

16.4 No Waiver

16.4.1 No failure or delay by the Intercreditor Agent or any Finance Party in exercising any right or remedy hereunder shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any right or remedy preclude its further exercise or the exercise of any other right or remedy.

16.5 Severability

16.5.1 Each provision of this Agreement is severable and distinct from the others. The invalidity, illegality or unenforceability of any one or more provisions of this Agreement at any time shall not in any way affect or impair the validity, legality and enforceability of the remaining provisions hereof.

16.6 Good-Faith

16.6.1 The parties hereto shall act in good faith in the performance of all their obligations and in exercise of all their rights, powers and privileges hereunder.

16.7 No prejudice

16.7.1 Nothing contained herein shall prejudice or otherwise affect the rights and remedies that may otherwise be available under law to the Intercreditor Agent or any Finance Party.

16.8 Successors and Assigns

16.8.1 This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors, permitted assigns and transferees, executors, legal heirs and administrators of the Parties hereto, provided that the Sponsors may not assign or transfer any of its rights, benefits, interests or obligations hereunder to any person or body without the prior written consent of the Finance Parties (acting through the Intercreditor Agent). The Intercreditor Agent and each of the Finance Parties shall, subject to any applicable provisions in the Finance Documents, be fully and unconditionally entitled to assign or otherwise transfer all its rights, benefits, interests or obligations under the Finance Documents and this Agreement.

16.9 Reconstruction

16.9.1 Any reconstruction, division, reorganization or change in the constitution of the Project Company, the Sponsors, the Intercreditor Agent or any of the Finance Parties or its absorption in

or amalgamation with any other person or body or the acquisition of all or part of its undertaking by any other person or body shall not in any way prejudice or affect its rights or obligations hereunder.

16.10 **Termination**

16.10.1 This Agreement shall automatically terminate on the Termination Date.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their respective attorneys/authorised representatives on the day, month and year first above written.

[Signature pages to be added at the time of finalisation]

SCHEDULE A - ADDRESSES FOR NOTICES

[To be added]

SCHEDULE 1 SUBORDINATION TERMS

1. All payments made by the Sponsors in terms of this Agreement (including any amounts that are encashed from any Equity SBLC or Cost Overruns SBLC) which are to be treated as a subordinated loan to the Project Company, shall be classified as a PKR unsecured loan, subordinated in all respects (including principal, mark-up/profit, fees, indemnity payments and other amounts) to the prior payment in full of the Secured Obligations (the “**Subordinated Loan**”).
2. Each of the Project Company and the Sponsors therefore undertake to the Finance Parties that until the Termination Date:
 - (a) no repayment shall be made of the Subordinated Loan unless the Intercreditor Agent confirms in writing to the Financiers that repayment is being made from funds that could otherwise be withdrawn by the Project Company from the Distribution Account or otherwise in accordance with the Common Terms Agreement;
 - (b) no Sponsor shall:
 - (i) exercise, enforce or seek to exercise or enforce any right or remedy which it may have against the Project Company or any other person in respect of any or all of the Subordinated Loan;
 - (ii) demand, accelerate, sue or prove for, receive or retain payment of, or demand any distribution in respect of or on account of, any Subordinated Loan in cash or in kind from the Project Company or any other person;
 - (iii) amend, vary or cancel (or agree to any amendment, variation or cancellation of) the terms of any of the Subordinated Loan;
 - (iv) petition or take any other step for the winding-up, liquidation or dissolution of the Project Company;
 - (v) exercise any right to be indemnified by the Project Company or claim any contribution from any other person in respect of any Subordinated Loan;
 - (vi) take the benefit (in whole or in part and whether by subrogation or otherwise) of any rights of the Finance Parties pursuant to, or in connection with, any Finance Document;
 - (vii) take, accept, demand or receive the benefit of any Encumbrance, guarantee, indemnity or other assurance against financial loss in respect of any of the Subordinated Loan;
 - (viii) assign, transfer, factor, create or permit to subsist any Encumbrance over, or otherwise dispose of, any of its rights in respect of any or all of the Subordinated Loan; or
 - (ix) take, or omit to take, any action whereby the subordination contemplated by this Agreement may be impaired;
 - (c) The Project Company shall not:
 - (i) pay, prepay, redeem, purchase or otherwise acquire any of the Subordinated Loan unless the Intercreditor Agent confirms in writing to the Financiers that

- repayment is being made from funds that could otherwise be withdrawn by the Project Company from the Distribution Account or otherwise in accordance with the Common Terms Agreement;
- (ii) create or permit to subsist any Encumbrance over any of its assets for, or any guarantee, indemnity or other assurance against financial loss in respect of, any of the Subordinated Loan;
 - (iii) amend, supplement, novate, assign or release any of the terms on which any of the Subordinated Loan is or continues to be or may become owing to any of the Sponsors; or
 - (iv) take, or omit to take, any action whereby the subordination contemplated by this Agreement may be impaired;
- (d) neither any Sponsor nor the Project Company shall at any time have or claim any right of set-off, deduction or counterclaim in respect of the Subordinated Loan or any part thereof, and each of the Sponsors and the Project Company agrees that none of them shall exercise any such right which it may otherwise have and hereby waives all such rights;
- (e) upon any distribution or application of assets of the Project Company in connection with any dissolution, winding up, liquidation or reorganization of the Project Company (whether in voluntary or involuntary bankruptcy, insolvency or receivership proceedings) or upon an assignment for the benefit of creditors of the Project Company:
- (i) all Secured Obligations shall be paid in full before any Subordinated Loan is paid; and
 - (ii) any payment or distribution of assets of the Project Company of any kind or character, whether in cash, property or securities, to which any Sponsor would be entitled in respect of the Subordinated Loan except for these provisions, shall instead be paid by the liquidator or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or other trustee or agent, directly to the Intercreditor Agent for the account of the Finance Parties to the extent required to repay the Security Obligations and each Sponsor irrevocably authorizes and empowers the Intercreditor Agent for the account of the Finance Parties to receive and collect on its behalf any and all such payments or distributions;
- (f) if for any reason whatsoever any Sponsor receives any payment or distribution in respect of the Subordinated Loan contrary to the provisions set out above, that Sponsor shall hold the same in trust for the Finance Parties, promptly notify the Finance Parties of the receipt of such payment or distribution and promptly pay the amount of such payment or distribution to the Intercreditor Agent for the account of the Finance Parties;
- (g) the validity and enforceability of the preceding terms of subordination shall not be impaired or affected by any of the following:
- (i) any extension, modification or renewal of, or indulgence with respect to, or substitutions for, all or any part of the Secured Obligations;

- (ii) any failure or omission to enforce any rights, power or remedy with respect to the Secured Obligations, any part thereof or any agreement relating thereto, or any Security;
 - (iii) any waiver of any right, power or remedy or of any default with respect to any the Secured Obligations or Security relating thereto;
 - (iv) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration of any Security, or any other obligation of any person or entity with respect to all or any part of any the Secured Obligations; or
 - (v) the genuineness, enforceability or validity of any agreement relating to any of the Secured Obligations;
- (h) all Subordinated Loans shall automatically, unconditionally and irrevocably be subordinated in accordance with the foregoing as of the date of the advance of such Subordinated Loan and such subordination shall not terminate until the Termination Date;
- (i) except as otherwise permitted above, in no event shall the Project Company make any payment to any of the Sponsors in relation to the Subordinated Loan until the Termination Date has occurred; and
3. Each of the Project Company and the Sponsors hereby agree that:
- (I) they will incorporate the subordination terms detailed herein, in the Agreed Form as a formal subordination agreement entered into with inter alia, the Project Company and such agreement shall comply with the subordinated debt provisions of the Prudential Regulations;
4. Security Trustee's authority:
- (i) Where a Sponsor has received payment or Distribution which is not permitted under the Finance Documents, the Security Trustee (acting on the instruction of the Intercreditor Agent) may, and is irrevocably empowered and authorised on behalf of each of the Sponsors to (in each case at the sole cost of the Project Company):
 - (I) claim, sue and prove for, collect and receive every payment or distribution of any kind or character which is payable or deliverable upon or with respect to, any of the Subordinated Loan;
 - (II) file claims and proofs and take all such proceedings and do all such things in the Security Trustee's own name (or in the name of the relevant Sponsor) as the Security Trustee reasonably sees fit to recover the Subordinated Loan or any payment or distribution in respect thereof; and
 - (III) receive all distributions made in respect of the Sponsor; and
 - (ii) if and to the extent that the Security Trustee is not entitled to take any action referred to in paragraph (I) above, the relevant Sponsor will (at the sole cost of the Project Company) do so in good time as reasonably requested by the Security Trustee.

5. Distributions

Except in respect of the Subordinated Loans which are permitted to be repaid in accordance with the Common Terms Agreement:

- (a) the relevant Sponsor will hold in trust for, and forthwith pay to, the Security Trustee all distributions in cash or in kind received by it in respect of the Subordinated Loan;
- (b) after the issuance of a Payment Notice, the relevant Sponsor will direct the insolvency official, assignee or other person distributing the assets of the Project Company or any proceeds to pay distributions in respect of the Subordinated Loan directly to the Security Trustee;
- (c) each Sponsors will, at its own expense, give all such notices and do all such things as the Security Trustee may reasonably request to give effect to this Section 5 (*Distributions*) and the Project Company shall indemnify each of them in respect of all costs and expenses properly incurred by any of them in connection with any such action; and
- (d) after the issuance of a Payment Notice, the Security Trustee may, and is irrevocably empowered and authorised in its capacity as Security Trustee, to (at the sole cost of the Project Company) receive all distributions made in respect of the Subordinated Loan.

SCHEDULE 2 FORM OF DEED OF ACCESSION

This Deed of Accession (the “**Deed**”) dated [] is supplemental to the Sponsor Support Agreement dated [•] (the “**Sponsor Support Agreement**”) between the Sponsors, the Project Company, the Intercreditor Agent, Monitoring Bank and the Security Trustee.

1. DEFINITIONS

Words and expressions defined in the Sponsor Support Agreement have the same meaning when used in this Deed.

2. ACCESSION OF NEW EQUITY PARTY

[•] (the “**New Equity Party**”) agrees for the benefit of each person named in the Annexure to this Deed that with effect on and from the date hereof it will be bound to comply with:

- a. [the terms of the Sponsor Support Agreement in the same manner and to the same extent as the [insert details];
- b. [the share transfer restrictions provided in Section 2 and Section 6 and of the Sponsor Support Agreement];
- c. [•].

For the avoidance of doubt it is clarified that the New Equity Party shall not be obligated to provide any funds to the Project Company on any account including payment of Cost Overruns or to payment of Secured Obligations of the Finance Parties.

[Note: This clause must be revised/prepared/finalized at the time of signing depending on the shareholders agreement/commercial terms of the Sponsors’ transaction.]

3. SUBORDINATED LOAN TERMS, REPRESENTATIONS AND WARRANTIES

In case the New Equity Party has provided any subordinated loans to the Project Company, the New Equity Party agrees to the terms of set out in Schedule [•] (*Subordination Terms*) of the Sponsor Support Agreement.

The New Equity Party makes the representations and warranties set out in the attached certificate delivered in pursuance of Section 2.4 of the Sponsor Support Agreement.

4. ADDRESS DETAILS

The address, fax number (and department or officer, if any, for whose attention the communication is to be made) for notices of the New Equity Party for the purposes of Section [•] of the Sponsor Support Agreement is:

Address: []

Fax Number: []

Attention: []

5. GOVERNING LAW

This Deed shall be governed by and construed in accordance with the laws of Pakistan and the courts of law at Karachi, Pakistan with competent jurisdiction shall entertain all disputes arising hereunder.

[To be executed as a Deed by the New Equity Party, the Sponsors, the Project Company and the Intercreditor Agent, the Security Trustee and the Monitoring Bank].

ANNEXURE

[List of parties to the Sponsor Support Agreement, including those who have executed earlier Deeds of Accession.]



SCHEDULE 3 FORM OF COST OVERRUN DEMAND NOTICE

To,

[EACH SPONSOR]

cc: HARAPPA SOLAR (PRIVATE) LIMITED

HARAPPA SOLAR (PRIVATE) LIMITED -COST OVERRUN DEMAND NOTICE

1. We, the Bank of Punjab, refer to the Sponsor Support Agreement dated [•] (“**Agreement**”). This is a Cost Overrun Demand Notice. Terms defined in the Agreement have the same meaning in this Cost Overrun Demand Notice.
2. Pursuant to the Agreement, we demand that you make available the amount of the Cost Overruns in the manner and amount specified below.
3. We confirm that:
 - (a) we require you to pay the following amount:
[]
 - (b) payment of the amount specified in paragraph (a) above must be made to the [];
]; and
 - (c) payment of the amount specified in paragraph (a) is to be made by [].

Yours faithfully,

[INTERCREDITOR AGENT]

SCHEDULE 5 FORM OF SPONSOR SBLC

[•]

SCHEDULE 6 FORM OF EQUITY ACCELERATION NOTICE

[•]