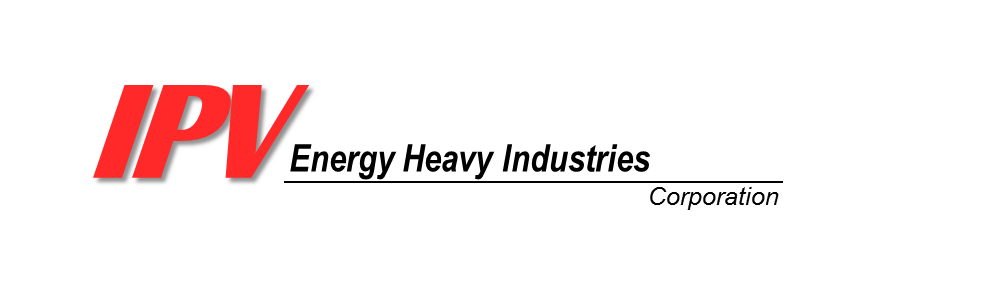
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**MASTER POWER PURCHASE AGREEMENT**

**WITH**

**MASTER INTERIM LEASE PROVISIONS**

|  |  |
| --- | --- |
| **Seller/Lessor** | **Purcahser/Lessee**  [Logo of PHILIPPINE NATIONAL POLICE LOGO](http://www.brandsoftheworld.com/logo/philippine-national-police-logo?original=1) |

LEGAL DISCLOSURES & NOTICES

The annexed document titled “Master Power **Purchase Agreement with Master Interim Lease Provisions”** is submitted subject to the following Disclosures and Notices:

1. The order in which the Master Interim Lease provisions appear in relationship to the terms of the Master Power Purchase Agreement is in no way a qualifying or mitigating factor as to enforceability of either document.
2. The order of documents is solely for the benefit of the drafter in utilizing tried and tested provisions from the National Renewable Energy Laboratory (NREL) library of forms, while at the same time customizing the presentation of terms to the application specific purpose to which these documents are being formatted.
3. Various provisions of these document and its various parts call for initials to be placed by the parties indicating that that provisions require special attention in the opinion of the drafter; and that in order for clarity in all matters related to interpretation and enforcement to be maintained, the Parties to these documents agree to initial where called for as well as signing where appropriate.
4. The intention of the drafter as well as the signatories to this document and its various provisions, attachments and exhibits are that the document in all its parts are intended to comply with the laws and regulations of the country where the execution and performance will take place. Any failure to comply is some part shall in no way relieve the Parties from other provisions that when taken alone are in fact compliant. As to the provisions found to be out of compliance, for whatever reason, the Parties agree to find provisions that will come the closest to what was originally drafted, while complying to the law and regulations of the country in question.
5. Notwithstanding any understandings to the contrary or suggestions that may be deemed to have manifested themselves in various discussions and external written exchanges, signed or unsigned by the party sought to be charged with said suggestion or understanding, it should be clear to all Parties that the capital facilities being installed are the property of IPV Energy Heavy Industries Corporation, a corporation formed under the laws of the State of Nevada in the United States. The equipment has been provided to an affiliated company, IPV Energy Power Generation Group – Philippines Corporation.
6. The undertaking that follows, whether as a Master Power Purchase Agreement or Master Interim Lease, is pursued as a “Master” Agreement. The rates and other charges are to be based on a 21-30% reduction in the overall cost of the power, which in-turn is based on the rates through the local electric utility where the specific facility is being metered. All 2,700+ facilities of the PNP are known by the parties to be metered in locations serviced by various electric utilities with different rates.
7. The “Term” of the Power Purchase Agreement, Lease or any combination thereof shall be 25-years with the time for that period commencing one year after the signing of this Agreement, which shall allow IPV Energy Power Generation Group – Philippines Corporation adequate time to complete a significant portion of the installs nationwide.

|  |  |
| --- | --- |
| *The signatories to this Agreement must initial below indicating they have read the foregoing, understand and acknowledge the same without reservation and also enter the date of initialing.* | |
|  |  |

**Master Power** Purchase Agreement

**with**

**Master Interim Lease Provisions**

This Master Power Purchase Agreement (MPPA) and Master Interim Lease (MIL) (collectively this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

|  |  |  |  |
| --- | --- | --- | --- |
| **Purchaser/Lessee:** |  | **Seller/Lessor:** |  |
| **Name and Address** | Philippine National Police  PNP National Headquarters Camp General Crame, Quezon City, Metro Manila. Philippines 1100  Attention: | **Name and Address** | IPV Energy Power Generation Group, Philippines Corporation  111 Street Name  Manila, State 00000-0000  Attention: Ronald A. Bernal |
| **Phone** | (\_\_\_) \_\_\_-\_\_\_\_\_\_\_ | **Phone** | (\_\_\_) \_\_\_-\_\_\_\_\_\_\_ |
| **Fax** | None | **Fax** | (\_\_\_) \_\_\_-\_\_\_\_\_\_\_ |
| **E-mail** | \_\_\_\_\_\_\_@\_\_\_\_\_\_\_\_\_\_\_\_\_ | **E-mail** | \_\_\_\_\_\_\_@\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Additional**  **Seller Information** |  | **Additional Seller Information** | IPV Energy Heavy Industries Corporation – United States  T. Craig Eschrich, Chairman  [craig.eschrich@ipvenergy.com](mailto:craig.eschrich@ipvenergy.com)  Skype: craigeschrich-ipv  Global Direct: +1 702-577-3873 |

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the “**System**”) and installed at the Purchaser’s facility described in **Exhibit 2** (the “**Facility”).**

The exhibits listed below are incorporated by reference and made part of this Agreement.

**Exhibit 1** Basic Terms and Conditions  
**Exhibit 2** Basic System Description  
**Exhibit 3** Credit Information

**Exhibit 4** General Terms and Conditions

**Exhibit 5** Form of Memorandum of License

**Exhibit 6** Form of Easement Agreement

|  |  |
| --- | --- |
| **Purchaser: Philippine National Police**  Signature:  Printed Name:  Title:  Date: | **Seller:**  **IPV Energy Power Generation Group,**  **Philippines Corporation**  Signature:  Printed Name: Ronald A. Bernal  Title:  Date: |

Exhibit 1  
Basic Terms and Conditions

1. **Term:** Twenty-five (25) years, beginning One (1) year after the signing of this Agreement.
2. **Additional Terms:**  Renewable for an additional like term upon One (1) Years advance notice in writing.
3. **Environmental Incentives and Environment Attributes:** Accrue to Seller.
4. **Tax and Other Financial Incentives:** Accrue to Seller
5. **Contract Price:** The billing of electrical services shall be based on an average monthly amount from the the year previous with the grid tied electricity provider. This amount shall be reduced by 21-30% from what the grid tied electric company was charging. This amount shall be referred to as the “take-or-pay” amount to be paid monthly. At the end of each quarter, the billing shall be adjusted up or down by way of IPV either issuing a refund check to the PNP or submitting a supplemental billing based on actual metering at the site of the electric service for said previous quarter.

This process shall remain in affect throughout the term of IPV’s debt service obligation to bondholders and other lenders that provided the funds to develop the facilities. The “take-or-pay” provision is a purely underwriting guideline lenders require to insure that their monthly payments are based on the same income figure every month during debt service on the debt. Consistent with that guideline, IPV’s issuance of a check back to the PNP in lieu of a simple accounting credit is designed to keep the actual revenue flow intact and take the “credit”, such as it is, from the profits of IPV rather than the income stream. This is also an underwriting issue and represents a simple administrative function for the sake of said underwriting guidelines. The particulars are subject to discussion with the PNP before executiong of the final Agreement for service and will at all times be in compliance with any Philippine laws and regulations found to to be applicable to this matter.

1. **Rate Increases:** The rate increases shall be based on rates then recognized by the grid tied electric company utilizing the the same 21-30% discount rate off said public grid tied provider. Rate increases by the seller may be imposed in the same time they are authorized by regulatory authorities governing public grid tied electricity providers.
2. **Anticipated Commercial Operation Date:** Commercial operation to commence incrementally after the date of signing this Agreement, subject to the following terms: Notwithstanding anything to the contrary set forth in this agreement (1) the PNP shall commence paying the set forth monthly aggregate capacity payment on the earlier of (A) the Commercial Operation Date or (B) [Outside Completion Date] (the earlier of such dates is herein referred to as the “Commencement Date”) and (2) the PNP’s obligation to commence paying and to continue to pay full fixed capacity payments shall not be conditioned upon or subject to the commencement, the status or the completion of the Acceptance Conditions and the shall have no right to exercise any remedies under this agreement for the failure to commence or complete all or any of the Acceptance Conditions; provided, however, that if the Producer has not satisfied all of the Acceptance Conditions by [Outside Completion Date], the PNP shall have the right to seek reimbursement from Producer equal to the principal amount of any and all capacity payments made by Utility beyond the Outside Completion Date should the facility by un-operational on Outside Completion Date.

**The PNP is hereby notified by the Seller/Lessor that insurance will be in place at the commencement of of the commercial operation and the PNP shall be the designated beneficiary of that coverage in that it shall provide adequate sums to meet their obligations to the Seller/Lessor and that the Seller/Lessor in-turn has with the lender for these facilities.**

1. **Outside Commercial Operation Date:** The last installations are estimated to be complete from 30 months after signing this Agreement.
2. **Purchaser Options to Purchase System**. [\_] None [\_] or as set forth in Section 16(b).
3. **System** **Installation**:

|  |  |
| --- | --- |
| Includes: | Design, engineering, permitting, installation, monitoring, paperwork processing of the System, inventorying the entire PNP System as it is designed and installed. Includes all metering, billing system software and hardware, supporting communications network both domestic and international. |
| Excludes: | Unforeseen structural enhancements, groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to the Facility or utility electrical infrastructure, tree removal, or tree trimming. |

Exhibit 2

System Description

1. **System Location:** At various PNP sites totaling an estimated 2,700+ throughout the Republic of the Philippines. The Seller shall index the sites and provide both a hard copy and electronic copy of all sites where installations are undertaken. Some sites may not be serviceable by the seller for a variety of technical/legal reasons and those shall likewise be part of the index being prepared and will provide a detailed explanation as a part of the index.
2. **System Size (DC kW):** To be determined and documented as part of the index being prepared by the Seller as noted above.
3. **Energy Production (kWh):** To be part of the electronic indexing and billing system along with comparative data provided by the Public Utility previously servicing the Buyer/Lessee
4. **Expected Structure:** Varying structural installations to be documented by the seller as part of the indexing noted above.
5. **Equipment:** Varying types of equipment to be utilized at the discretion of the Seller, subject to be indexed by seller as noted above.
6. **Facility and System Layout:** See **Exhibit 2**, **Attachment A .** This will vary facility to facility, but the “best practices” system of Seller will reflect Attachment A example(s) as closely as practicable. The data noted in the example(s) will be part of the comprehensive indexing noted above by the Seller.
7. **Public Utility:** The grid tied public utility shall be noted in the index along with any rate information this Agreement’s pricing is based upon.

Exhibit 2

Attachment A:

Facility and System Layout

1. **An Aerial Photograph of the Facility:** (See example below). Each facility will be photographed and indexed where practicable.



**EXAMPLE**

1. **Engineering Drawings of the System:** To be undertaken as a part of the “Indexing” herein noted.

Exhibit 3

**Credit Information**

Promptly following the execution of this Agreement, Purchaser shall supply Seller with all necessary credit information and instruct all local and regional commands to co-operate in the credit and billing process when requested by Seller. A copy of any instructions to local and regional commanders is attached hereto and incorporated herein by reference as if fully re-written.

|  |  |  |
| --- | --- | --- |
| **Signature:** | **Title:** | **Date:** |

**Exhibit 4**

Master Power Purchase Agreement

General Terms and Conditions

# **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

# **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the “**Term**”). Electric energy generated by the System will be delivered to Purchaser at various delivery points throughout the Republic of the Philippines where the Buyer/Lessee has facilities. Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facilityexceed the output of the System. Any purchase, sale and/or delivery of electric energy generated by the System prior to the Commercial Operation Date shall be treated as purchase, sale and/or delivery of limited amounts of test energy only and shall not indicate that the System has been put in commercial operation by the purchase, sale and/or delivery of such test energy.

# **Term and Termination**.

## **Initial Term.** The initial term (“**Initial Term**”) of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1,** unless earlier terminated as provided for in this Agreement. The “**Commercial Operation Date**” is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Such notice shall be deemed effective unless Purchaser reasonably objects within five (5) days of the date of such notice. Upon Purchaser’s request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller’s contractor. This Agreement is effective as of the Effective Date and Purchaser’s failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser’s obligations to make payments that otherwise would have been due under this Agreement.

## **Additional Terms.** Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, if Purchaser has not exercised its option to purchase the System, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each such additional period, an “**Additional Term**”). Such notice shall be given at least One (1) year prior to the expiration of the first initial term being concluded under this Agreement.

# **Billing and Payment**.

## **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Buyer/Lessee at any specified location at the $/kWh rate shown in **Exhibit 1** (the “**Contract Price**”). The monthly payment for such energy will be equal to the applicable $/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter and then discounted as provided for under this Agreement.

## **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Buyer/Lessee at a specified location, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser. The Contract Price includes ACH invoicing. There will be no manual invoicing unless specifically agreed to by the Parties in writing.

## **Taxes.** Purchaser shall provide Seller with any documentation that legally exempts it from paying taxes on the electricity it purchases.

## **Payment Terms.** All amounts due under this Agreement shall be due and payable net twenty (20) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the twenty (20) day period shall accrue interest at the maximum annual rate permitted by law. Disputes with regard to billing must be raised within ten (10) business days of the billing being received. All billings will be transmitted by electronic means (e-mail) only and posted to an account to be specified by the local PNP authorities responsible for processing said billings for facilities within their command structure.

## **Environmental Attributes and Environmental Incentives**.

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser’s purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, shall submit to Seller for approval any press releases regarding Purchaser’s use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller’s review and approval shall be made in a timely manner to permit Purchaser’s timely publication.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (c) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state/provincial law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags tradable renewable credits and Green-e® products.

“**Environmental Incentives**” means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.

“**Governmental Authority**” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission of the Philippines), or any arbitrator with authority to bind a party at law.

“**Tax Credits**” means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

# **Conditions to Obligations**.

## **Conditions to Seller’s Obligations**. Seller’s obligations under this Agreement are conditioned on the completion of the following conditions to Seller’s reasonable satisfaction on or before the Condition Satisfaction Date:

### Completion of a physical inspection of the Facility and the property upon which the Facility is located (the “**Premises**”) including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;

### Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller’s Financing Parties. “**Construction Agreement**” as used in this subsection means an agreement between Seller and any contractor or subcontractor to install the System;

### Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;

### Receipt of all necessary zoning, land use and building permits; and

## **Failure of Conditions.** If any of the conditions listed in subsection (a) are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the Parties are unable to negotiate new dates then Seller may ask for mediation or arbitration at its sole discretion as shall be authorized under Philippine Law.

## **Commencement of Construction**. Seller’s obligation to commence construction and installation of the System is conditioned on Seller’s receipt of (A) proof of insurance for all insurance required to be maintained by Purchaser under this Agreement, (B) written confirmation from any person holding a mortgage, lien or other encumbrance over the Premises or the Facility, as applicable, that such person will recognize Seller’s rights under this Agreement for as long Seller is not in default hereunder and (C), a signed and notarized original copy of the easement agreement suitable for recording, substantially in the form attached hereto as **Exhibit 6** (the “**Easement Agreement**”). The provisions herein noted are routine provisions quoted and to the extent the particulars are not relevant to this agreement or this Seller, said terms shall simply be inapplicable without having to be stricken.

## **Conditions to Purchaser’s Obligations**. Purchaser’s obligations under Section 4(a) are conditioned on the occurrence of the Commercial Operation Date for the System being announced by the Seller and the Purchaser accepting said facilities as operational before disconnecting from the grid tied utility company.

# **Seller’s Rights and Obligations**.

## **Permits and Approvals**. Seller, with Purchaser’s reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

### any zoning, land use and building permits required to construct, install and operate the System; and

### any agreements and approvals from the Utility necessary in order to interconnect the System to the Facility electrical system and/or the Utility’s electric distribution system, should this be required. It is the express intention of the Seller to have no interface with the grid tied utilities facilities whenever technically feasible.

Purchaser shall cooperate with Seller’s reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

## **Standard System Repair and Maintenance.** Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser’s negligence, willful misconduct or breach of this Agreement. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller’s contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller’s contractors’ then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.

## **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to conditions at the Facility or due to the inaccuracy of any information provided by Purchaser and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.

## **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller’s discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller’s repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.

## **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.

## **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided however, that such contractors and subcontractors shall be duly licensed and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. [If a list of pre-approved contractors and subcontractors to be used for construction of the System is desired, such list shall be scheduled on an appendix to this Exhibit. All contractors and subcontractors to be used for the construction of the System, other than those that may be scheduled on an appendix to this Exhibit, shall be subject to Purchaser’s prior written consent, not to be unreasonably withheld.]

## **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

## **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Purchaser’s sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise. [The Limited Warranty will provide Purchaser with a separate contract from this Agreement. No rights provided to Purchaser by the Limited Warranty may be asserted under this Agreement. No warranty is made in this Agreement. Therefore, any warranty claim must be made independently of this Agreement and will not affect Purchaser’s obligations under this Agreement.]

# **Purchaser’s Rights and Obligations**.

## **License to the Premises; Facility Access Rights.** Purchaser grants to Seller and to Seller’s agents, employees, contractors and assignees an irrevocable non-exclusive license running with the Premises (the “**License**”) for access to, on, over, under and across the Premises for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (ii) performing all of Seller’s obligations and enforcing all of Seller’s rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Purchaser’s electric system at the Facility, to the Utility’s electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the “**License Term**”). During the License Term, Purchaser shall ensure that Seller’s rights under the License and Seller’s access to the Premises and the Facility are preserved and protected. Purchaser shall not interfere with nor shall permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this Agreement by either Party. At request of Seller, Purchaser shall execute a memorandum of License, and which shall be in form and substance set forth **Exhibit 5**, or other form agreed to by the parties. Seller may, at its sole cost and expense, record such memorandum of License with the appropriate governmental office.

## **OSHA Compliance.** Both parties shall ensure that all occupational safety and health requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

## **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the Utility’s electric distribution system at all times if the Purchaser so wishes and will not cause cessation of electric service to the Facility from the Utility by way of some form of “stand-by” capacity as provided for by law in the Philippines. Purchaser is fully responsible for the maintenance and repair of the Facility’s electrical system and of all of Purchaser’s equipment that utilizes the System’s outputs. Purchaser shall properly maintain in full working order all of Purchaser’s electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

## **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Seller’s Facility which could adversely affect the operation and maintenance of the System without Seller’s prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser’s alterations and repairs, shall be done by Seller or its contractors at Purchaser’s cost. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during such disconnection or removal; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during such disconnection or removal; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during such disconnection or removal; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller’s owners) would have received with respect to electric energy that would have been produced by the System during such disconnection or removal. Determination of the amount of energy that would have been produced during any disconnection or removal shall be in accordance with the procedures in Section 10(b). All of Purchaser’s alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

## **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) daylight hours (each, a “**Scheduled Outage**”) per calendar year during the Term, during which hours Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) daylight hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the outage; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the outage; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the outage; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller’s owners) would have received with respect to electric energy that would have been produced by the System during the outage. Determination of the amount of energy that would have been produced during the removal or disconnection shall be in accordance with the procedures in Section 10(b).

## **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys’ fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim. Notwithstanding anything else herein to the contrary, pursuant to Section 19(a), Seller may grant a lien on the System and may assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party.

## **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility and the System against known risks and risks that should have been known by Purchaser. Purchaser will not conduct activities on, in or about the the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.

## **Insolation.** Purchaser understands that unobstructed access to sunlight (“**Insolation**”) is essential to Seller’s performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System’s Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System’s existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 8(h) against Purchaser.

## **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.

## **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (i) any material malfunction in the operation of the System; or (ii) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (i) an interruption in the supply of electrical energy from the System; or (ii) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller’s repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

# **Change in Law**.

“**Change in Law**” means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller’s obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

# **Relocation of System**.

## System Relocation. If Purchaser ceases to conduct business operations at the Facility, or otherwise vacates the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same utility district as the terminated System or in a location with similar utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be equal to the remainder of the Term of this Agreement calculated starting at the shutdown of the System pursuant to such relocation, and shall toll until the relocated System achieves commercial operation of such new location. Such amended agreement shall be deemed to be a continuation of this Agreement without termination. In addition, Purchaser shall be obligated to provide a new executed and notarized easement agreement covering the substitute premises in form and content substantially similar to the Easement Agreement. Purchaser shall also provide any new consents, estoppels, or acknowledgments reasonably required by Financing Parties in connection with the substitute premises.

## Costs of Relocation. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller’s Financing Parties in the System. In addition, Purchaser shall pay Seller an amount equal to the sum of (i) payments that Purchaser would have made to Seller hereunder for electric energy that would have been produced by the System during the relocation; (ii) revenues that Seller would have received with respect to the System under the any rebate program and any other assistance program with respect to electric energy that would have been produced during the relocation; ; (iii) revenues from Environmental Attributes that Seller would have received with respect to electric energy that would have been produced by the System during the relocation; and (iv) Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller’s owners) would have received with respect to electric energy that would have been produced by the System during the relocation. Determination of the amount of energy that would have been produced during the relocation shall be based, during the first Contract Year, on the estimated levels of production and, after the first Contract Year, based on actual operation of the System in the same period in the previous Contract Year, unless Seller and Purchaser mutually agree to an alternative methodology. “**Contract Year**” means the twelve (12) month period beginning at 12:00 AM on the Commercial Operation Date or on any anniversary of the Commercial Operation Date and ending at 11:59 PM on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Contract Year shall begin on the Commercial Operation Date.

## Adjustment for Insolation; Termination. Seller shall remove the System from the vacated Facility prior to the termination of Purchaser’s ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to **Exhibit 1** such that Purchaser’s payments to Seller are the same as if the System were located at the original Facility, increased to the extent necessary to compensate Seller for reduced revenues from Environmental Attributes and reduced Tax Credits that Seller (or, if Seller is a pass-through entity for tax purposes, Seller’s owners) receive as a result of the relocation. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

# **Removal of System at Expiration**.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than a date to be agreed to in writing between the Parties after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition including the removal of System mounting pads or other support structures. In no case shall Seller’s removal of the System affect the integrity of Purchaser’s roof, which shall be as leak proof as it was prior to removal of the System and shall be flashed and/or patched to existing roof specifications. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller’s cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

# **Measurement**.

Seller shall install one or more meter(s), as Seller deems appropriate, at or immediately before the Delivery Point to measure the output of the System. Such meter shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility. Seller shall maintain the meter(s) in accordance with industry standards.

# **Default, Remedies and Damages**.

## **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed to be the “**Defaulting Party**”, the other Party shall be deemed to be the “**Non-Defaulting Party**”, and each event of default shall be a “**Default Event**”:

### failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay (“**Payment Default**”);

### failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

### if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

### Purchaser loses its rights to occupy and enjoy the Premises;

### a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect, and, if any such bankruptcy or other proceedings were initiated by a third party, if such proceedings have not been dismissed within sixty (60) days following receipt of a written notice from the Non-Defaulting Party demanding such cure; or

### Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser’s obligations to make payments that otherwise would have been due under this Agreement.

## **Remedies**.

### Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement upon five (5) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages.

### Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may (A) at any time during the continuation of the Default Event, terminate this Agreement or suspend its performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party, and (B) pursue any remedy under this Agreement, at law or in equity, including an action for damages. Nothing herein shall limit either Party’s right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to commencement of System installation a \_\_\_\_\_\_\_\_ PhP ($\_\_\_\_\_\_\_) design cancellation fee shall also apply in addition to any other remedy available to Seller.

### Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the “**Termination Payment**”):

##### Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to [for any given Contract Year, the amount set forth on **Exhibit 4, Attachment A** attached hereto] [the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty five percent (35%), for the loss or recapture of (a) the investment tax credit equal to thirty percent (30%) of the System value; (b) MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, (c) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (d) other financing and associated costs not included in (a), (b) and (c), (2) the net present value, had the Term remained effective for the full Initial Term, (3) removal costs as provided in Section 13(b)(iii)(C) and (4) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller.]**[**The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement.]  The Termination Payment shall not be less than zero.

##### Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (1) the net present value of the reasonably expected cost of electric energy from the Utility over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (2) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (3) any removal costs incurred by Purchaser, and (4) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero[[1]](#footnote-1).

##### Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

# **Representations, Warranties and Covenants**.

## **General Representations and Warranties.** Each Party represents and warrants to the other the following as of the Effective Date:

### Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors’ rights generally).

### Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

## **Purchaser’s Representations, Warranties and Covenants.** Purchaser represents and warrants to Seller the following as of the Effective Date and covenants that throughout the Term:

### License. Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.

### Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.

### Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility’s physical configuration, Purchaser’s planned use of the Facility, and Purchaser’s estimated electricity requirements, is accurate in all material respects.

### Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

### Hazardous Substances. There are no Hazardous Substances at, on, above, below or near the Premises.

# **System and Facility Damage and Insurance**.

## **System and Facility Damage**.

### Seller’s Obligations. If the **System** is damaged or destroyed other than by Purchaser’s gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement as to that particular Facility, unless Purchaser agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System “AS-IS” at the greater of (1) the Fair Market Value of the System and (2) [the sum of the amounts described in Section 13(b)(iii)(A)(1) and Section 13.b(iii)(A)(3)] [for any given Contract Year, the amount set forth on **Exhibit 4, Attachment A** attached hereto].

### Purchaser’s Obligations. If the **Facility** is damaged or destroyed by casualty of any kind or any other occurrence other than Seller’s gross negligence or willful misconduct, such that the operation of the System and/or Purchaser’s ability to accept the electric energy produced by the System are materially impaired or prevented, Purchaser shall promptly repair and restore the Facility to its pre-existing condition; provided, however, that if more than 50% of the Facility is destroyed during the last five years of the Initial Term or during any Additional Term, Purchaser may elect either (A) to restore the Facility or (B) to pay the Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

## **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

### Seller’s Insurance. Seller shall maintain (A) property insurance on the System for the replacement cost thereof, (B) commercial general liability insurance with coverage of at least $1,000,000 USD per occurrence and $2,000,000 USD annual aggregate, (C) employer’s liability insurance with coverage of at least $1,000,000 USD and (iv) workers’ compensation insurance as required by law.

### Purchaser’s Insurance. Purchaser shall maintain some form of general liability insurance with coverage similar to that of the Seller and all as shall be found to be customary and usual for governmental entities similarly situated.

### **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (A) not less than ten (10) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (B) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder’s Rating in the current edition of A.M. Best’s Insurance Guide or otherwise reasonably acceptable to the other party.

## **Certificates.** Upon the other Party’s request each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party’s receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

## **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

# **Ownership**.

## **Ownership of System**. Ownership shall vest in the Seller with such other lienholders holding a security interest as a direct result of financing being able to be the successor in interest should circumstances dictate according to law.

## **Option to Purchase**. There is no Option to Purchase unless agreed to in a separate writing negotiated by the Parties.

# **Indemnification and Limitations of Liability**.

## **General**. Each Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the “**Indemnified Parties**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c).

## **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.

## **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all of Purchaser’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Purchaser shall indemnify, defend and hold harmless all of Seller’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance.

### “**Hazardous Substance**” means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

## **Limitations on Liability**.

### No Consequential Damages. Except with respect to indemnification for third party claims pursuant to this Section 17 and damages that result from the willful misconduct of a Party, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The Parties agree that (1) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Purchaser, such recaptured amount shall be deemed to be direct and not indirect or consequential damages, and (ii) in the event that Seller is retaining the Environmental Attributes produced by the System, and a breach of this Agreement by Purchaser causes Seller to lose the benefit of sales of such Environmental Attributes to third parties, the amount of such lost sales shall be direct and not indirect or consequential damages.

### Actual Damages. Except with respect to indemnification for third party claims pursuant to Section 26 and damages that result from the willful misconduct of Seller, Seller’s aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section (17)(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within one (1) year after the cause of action accrues.

# **Force Majeure**.

## “**Force Majeure**” means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

## Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

## Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Purchaser’s ability to make payment.

## If a Force Majeure event continues for a period of thirty (30) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder as to any individual Facility, then at any time during the continuation of the Force Majeure event, the Party not claiming the Force Majeure shall have the right to terminate this Agreement as to that Facility without fault or further liability to either Party (except for amounts accrued, but unpaid). The same rights shall exist where the Force Majeure provisions are invoked as to the whole of the Agreement involving all or substantially all of said Facilities.

# **Assignment and Financing**.

## **Assignment**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party, (ii) directly or indirectly assign this Agreement and the System to an affiliate or subsidiary of Seller, (iii) assign this Agreement and the System to any entity through which Seller is obtaining financing or capital for the System and (iv) assign this Agreement and the System to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller’s obligations hereunder by the assignee). In the event of any such assignment, the Seller shall be released from all its liabilities and other obligations under this Agreement.  However, any assignment of Seller’s right and/or obligations under this Agreement, shall not result in any change to Purchaser’s rights and obligations under this Agreement. Purchaser’s consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

## **Financing**. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from one or more Financing Parties. “**Financing Parties**” means person or persons providing construction or permanent financing to Seller in connection with construction, ownership, operation and maintenance of the System, or if applicable, means, if applicable, any person to whom Seller has transferred the ownership interest in the System, subject to a leaseback of the System from such person. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. In connection with an assignment pursuant to Section 19(a)(i)-(iv), Purchaser agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties.

## **Successor Servicing**. The Parties further acknowledge that in connection with any construction or long term financing or other credit support provided to Seller or its affiliates by Financing Parties, that such Financing Parties may require that Seller or its affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the System and/or administrative services with respect to this Agreement (the “**Successor Provider**”). Purchaser agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement.

# **Confidentiality and Publicity**.

## **Confidentiality**. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser’s business (“**Confidential** **Information**”) to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement, including but not limited to obtaining financing for the System. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, “**Representatives**”), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information). Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 20(a), except as set forth in Section 20(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party’s need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 20(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 20(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 20(a), but shall be in addition to all other remedies available at law or in equity.

## **Permitted Disclosures**. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

# **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

# **Miscellaneous Provisions**

## **Choice of Law**. The law of the Philippines where the System is located shall govern this Agreement without giving effect to conflict of laws principles.

## **Arbitration and Attorneys’ Fees**. Any dispute arising from or relating to this Agreement shall be arbitrated in the Philippines. The arbitration shall be administered by a Philippine arbitration body to be agreed to within ten (10) days of a dispute being formally noticed by the Parties in accordance with said authorities Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys’ fees and costs.

## **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

## **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(h) (No Warranty), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (Confidentiality and Publicity), Section 22(a) (Choice of Law), Section 22 (b) (Arbitration and Attorneys’ Fees), Section 22(c) (Notices), Section 22 (g) (Comparative Negligence), Section 22(h) (Non-Dedication of Facilities), Section 22(j) (Service Contract), Section 22(k) (No Partnership) Section 22(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(n) (No Third Party Beneficiaries).

## **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

## **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party’s exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

## **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

## **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party’s facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party’s performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.

## **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

## **Service Contract**. The Parties intend this Agreement to be a “service contract” within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

## **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

## **Full Agreement, Modification, Invalidity, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

## **Forward Contract**. Notwithstanding the applicability of Philippine law, the transaction contemplated under this Agreement constitutes a “forward contract” and if not adequately defined under Philippine law then it shall be addressed within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

## **No Third Party Beneficiaries**. Except for assignees, Financing Parties and any successor Parties permitted under Section 19, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

## **Bonding**.

### Performance bond liability. Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond one (1) year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.

### Payment bond liability. Any payment bond issued will cease at the termination of any time required by law.

### Performance Guarantee. Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

**Exhibit 4**

**Attachment A**

Termination Payment

*Termination payments for each Facility shall be part of the Facilities Index being provided by the Seller to the Purchaser*

***End of Exhibit 4***

**Exhibit 5**

**Form of Memorandum of License**

NOTICE OF GRANT OF INTEREST IN REALTY

In accordance with the provisions of [\_\_\_\_\_\_\_\_], notice is hereby given of that Master Power Purchase Agreement dated as of [\_\_\_\_\_\_\_\_\_] for purchase and sale of electrical energy (the “**Solar Agreement**”), such Solar Agreement includes the grant of License to Seller, pursuant to the terms of the Solar Agreement. This notice may be executed in counterparts by the Parties to the Solar Agreement.

Parties to the Agreement:

Seller: IPV Energy Power Generation Group – Philippines Corporation

Purchaser: Philippine National Police

Date of Execution of the Master Agreement: [\_\_\_\_\_\_\_]

Description of Premises: See **Exhibit 5, Attachment A**

TERM OF AGREEMENT:

The term of the Agreement shall be until the last day of the calendar month in which the twenty-fifth (25th) anniversary of the Commercial Operation Date (as that term is defined in the Agreement) occurs, subject to any Additional Terms or early termination pursuant to the terms of the Agreement.

[signature pages follow]**Exhibit 5**

**Attachment A**

Description of the Premises

*This shall be set forth in the Index to be provided by the Seller*

IN WITNESS WHEREOF, this Agreement has been executed and delivered under seal on this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ .

Seller:

IPV Energy Power Generation Group – Philippines Corporation

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: Ronald A. Bernal

Title:

Purchaser:

Philippine National Police

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]***

***End of Exhibit 5***

**Exhibit 6**

**Easement Agreement[[2]](#footnote-2)**

This EASEMENT AGREEMENT (this “**Agreement**”) is made and entered into this \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (the “**Effective Date**”), by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_(“Grantor”),and \_\_\_\_\_\_\_\_\_\_\_(“Grantee”).

**Recitals**

**A.** Grantor is the owner of those certain parcels or tracts of ground located in \_\_\_\_\_\_\_\_\_\_\_\_\_, known as Lot \_\_\_\_\_\_\_\_\_\_\_, Block\_\_\_\_\_\_\_\_\_\_\_\_\_, and more particularly described by metes and bounds on **Attachment A** attached hereto and incorporated herein (all of which parcels or tracts of ground are referred to herein as the “**Premises**”).

B. Grantor and Grantee entered into a certain Master Power Purchase Agreement (the “**Master Agreement**”) pursuant to which the Grantee has agreed to design, construct, install, operate and maintain a certain solar photovoltaic system on the Premises (the **“System**”) for the purpose of providing electric energy to portions of the facilities or facility (the “**Facility**”) located on the Premises.

C. Grantor desires to grant to Grantee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Property.

**Agreement**

**NOW, THEREFORE**, in consideration of the foregoing, the mutual covenants and agreements set forth below, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged and confirmed by Grantor, Grantor and Grantee hereby agree as follows:

1. **Grant of Easement.** Grantor hereby grants and conveys unto Grantee, its successors and assigns, a non-exclusive easement for the period of time set forth herein, across, over, under and above the Facility in order to construct, install, alter, protect, repair, maintain, replace, operate, maintain and remove the System, including any related interconnection equipment and any facilities or equipment appurtenant thereto as Grantee may from time to time require. Grantor also hereby grants and conveys unto Grantee all other easements across, over, under and above the Property as reasonably necessary to provide access to and services reasonably required for Grantee’s performance under the Solar Agreement. The easements granted hereunder shall run with and burden the Property for the term of this Agreement.
2. **Term.**  This Agreement shall be for a period commencing on the Effective Date and expiring on the date that is the earlier of (a) the thirtieth (30th) anniversary of the Effective Date, and (b): one hundred twenty (120) days following expiration of the term of the Solar Agreement, and (c) earlier termination of the Solar Agreement due to default by Grantee thereunder. No delay or interruption by Grantee in the use or enjoyment of any right or easement hereby granted shall result in the loss, limitation or abandonment of any of the right, title, interest, easement or estate granted hereby.
3. **Obstructions.** In addition to the rights afforded Grantee under the Solar Agreement, Grantee may from time to time remove structures, trees, bushes, or other obstructions within such portions of the Facility, and may level and grade such portions of the Property, to the extent reasonably necessary to carry out the purposes set forth herein; provided that Grantor gives its prior written consent to such removal, leveling or grading, such consent not to be unreasonably withheld, delayed or conditioned. Grantor covenants for itself, its heirs, successors and assigns that:
   1. Grantor will not build or place, or allow to be built or placed, any structure or obstruction of any kind within such portions of the Facility on which is located any portion of the System, including any related interconnection equipment; and
   2. if such a structure or obstruction is built or placed within any portion of the Facility on which is located any portion of the System, including any related interconnection equipment, Grantor will remove the same at the request of the Grantee at no cost to the Grantee. Grantee may erect a fence on such portions of the Property or the Facility on which any portion of the System, are located in order to exclude Grantor and others from accessing such areas provided that Grantor gives its prior written consent, such consent not to be unreasonably withheld, delayed or conditioned.
4. **Reservation of Rights**. Grantor reserves the right to use or authorize others to use the Property and the Facility in any manner not inconsistent with or which will not unreasonably interfere with the rights granted herein, provided, however, that Grantor shall not, nor shall permit others to, disturb the System, including any related interconnection equipment, , in any way without prior written approval of the Grantee.
5. **Title.** Grantor represents and warrants to Grantee that (a) Grantor holds fee simple title to the Premises, free and clear of all liens and any other encumbrances, and (b) no lien or other encumbrance to which the Premises is subject would reasonably be expected to adversely impact Grantee’s rights hereunder or under the Solar Agreement. Grantor further represents and warrants to Grantee that Grantor has the right to execute and deliver this Agreement and to grant to Grantee the easements and other rights hereunder, and that such grant does not, and will not, violate or breach Grantor’s organizational documents, any law, rule or regulation, or any contract, agreement or arrangement to which Grantor is a party or by or to which any of Grantor’s assets or properties, including the Premises or the Facility, is bound or subject. In the event that, after the date of this Agreement, Grantor duly grants a mortgage for additional value (the “**Subsequent Mortgage**”), Grantor shall, prior to and as a condition to the effectiveness of such grant of a mortgage, cause the mortgagee under the Subsequent Mortgage to execute and deliver to the Grantee an agreement, in customary form and in form and substance reasonably acceptable to Grantee, acknowledging the subordination of the Subsequent Mortgage to the grant of the easement pursuant to this Agreement (the “**Subordination Agreement**”).
6. **Recordation; Possession.** This Agreement may be recorded against the Property by Grantee at Grantee’s sole cost and expense. Grantor covenants and agrees, for itself and its assigns and successors, that the Grantee shall be entitled to exercise its rights under this Agreement upon execution and delivery of this Agreement by the Parties hereto, whether or not this Agreement is recorded.
7. **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the Philippines, without regard to conflicts of law principles.
8. **Severability**. All provisions of this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions.
9. **Binding Effect; Successors and Assigns**. Grantee shall have the right to assign, apportion, or otherwise transfer any or all of its rights, benefits, privileges, and interests arising in this Agreement in accordance with the terms of the Solar Agreement. Without limiting the generality of the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors and assigns. This Agreement may be amended, modified or terminated only by written instrument, executed and acknowledged by the Parties hereto.
10. **Headings.** The headings used herein are for convenience only and are not to be used in interpreting this Agreement.
11. **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereto and supersedes any prior written or oral agreements with respect to the matters described herein.
12. **Amendments; Acknowledgments**. Grantor shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee’s lender, any assignee of rights under this Agreement, or the lender of any assignee hereunder.
13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

[signature pages follow]

**Exhibit 6**

**Attachment A**

Description of the Premises and Facility

*To be addressed in the Index of Facilities to be provided by the Seller*

**IN WITNESS WHEREOF**, this Easement Agreement has been executed and delivered under seal on this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

GRANTOR:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

GRANTEE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]***

**MASTER INTERIM EQUIPMENT LEASE**

**INTEGRATED WITH THE FOREGOING**

**MASTER POWER PURCHASE AGREEMENT**

**AS A CONTINGENCY**

THIS EQUIPMENT LEASE (Lease) is entered into as a “Master” document with its applicability being based entirely on the need to provide an interim agreement format in the event the “Seller/Lessor” is unable to timely secure its Independent Power Producer’s (IPP) License from the Philippine Department of Energy allowing for the generation and resale of electricity.

WHEREAS the Seller/Lessor would prefer to sell to the Purchaser/Lessee and the Purchaser/Lessee would prefer to purchase power directly from the Seller/Lessor; and

WHEREAS the Parties recognize that the logistics and ministerial nature of securing an IPP License can be time consuming and somewhat unpredictable from a timing perspective, therefore the Parties have agreed that an alternative process that will allow the overall program to move forward is required; and

WHEREAS the Parties also agree that as an interim alternative, a Master Interim Lease is structured from a cost perspective in a similar fashion as the PPA would operate and provides an viable interim alternative.

NOW, THEREFORE, in consideration of the mutual covenants and promises previously set forth and supplemented here as required, the parties hereto agree as follows:

**Lease.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the following described equipment (Equipment):

1. Solar power generating equipment
2. Racking system for the solar panels
3. Batteries of various types and descriptions
4. Portable and fixed site diesel generating equipment
5. Metering equipment
6. Cabling and other various support equipment customary and usual in the operation of a solar micro-grid

**Term.** The term of this Lease shall begin on the date equipment is first installed and commissioned for service and where the Seller/Lessee is not in possession of an IPP License as noted above. That being the case, the default shall be the cause for the Lease to commence as an interim alternative form of agreement to the PPA. When the IPP License is issued, the lease shall be held to terminate at the end of that billing cycle and the terms of the PPA shall take effect for the next billing cycle and thereafter.

**Rent and Deposit.** The monthly rent for the Equipment shall be paid in monthly installments equal to the monthly amount of the billing for the previous year from the grid tied utility previously servicing the Purchaser/Lessee. If the Lease is to be the basis for billing at the time of commissioning the Facility, the lease shall run month to month with the billing to follow each month’s use of the equipment to generate electricity for the Purchaser/Lessee. Lessee shall not be obligated to pay any deposit beyond the monthly payment on a take-or-pay basis specified above for actual or calculated use, whichever shall be the greater of the two.

The PNP recognizes that in order for Lessor to finance the construction of Project(s) to provide capacity contracted hereunder, Lessor will be assigning the Minimum Capacity Contract Payment receipts for contracted capacity payments to a third party lender. Therefore, the PNP may not terminate this Agreement with Producer for a period not less than twenty-five (25) years. In addition to the Business Interruption Insurance to cover any losses of PNP for delays in capacity delivery or reduced capacity delivery, PNP shall have the right to purchase any deficient capacity from a third party at a commercially reasonable rate with the right for reimbursement of the difference between the fair third party market price for deficient capacity and the price paid to Producer’s lender under assignment of receipts. The need for PNP to cover capacity and recover from Lessor shall not be permitted through any deductions from Minimum Capacity Contract Payments, and any recovery of damages or costs of PNP from Lessor must be from other revenue or resources of Lessor, to include insurance coverage provided by the lessor at Lessor’s expense, which insurance shall be provided without interruption throughout the term of this Lease.

**The PNP is hereby notified by the Seller/Lessor that insurance will be in place at the commencement of the commercial operation and the PNP shall be the designated beneficiary of that coverage in that it shall provide adequate sums to meet their obligations to the Seller/Lessor and that the Seller/Lessor in-turn has with the lender for these facilities.**

**Use.** Lessee shall use the Equipment in a safe and appropriate manner and shall comply with and conform to all national, state, municipal, and other laws, ordinances and regulations in any way relating to the possession, use or maintenance of the Equipment.

LESSOR DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Repairs.** Lessor, at its own cost and expense, shall keep the Equipment in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the Equipment in good mechanical working order.

**Loss and Damage.** Lessee hereby assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. No loss or damage to the Equipment or any part thereof shall impair any obligation of Lessee under this Lease.

In the event of loss or damage of any kind whatever to the Equipment, Lessee shall, at Lessor's option:

Place the same in good repair, condition and working order; or

Replace the same with like equipment in good repair, condition and working order; or

Pay to Lessor the replacement cost of the Equipment.

**Surrender.** Upon the expiration or earlier termination of this Lease, Lessee shall return the Equipment to Lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof excepted, by delivering the Equipment at Lessee's cost and expense to such place as Lessor shall specify within the city or county in which the same was delivered to Lessee.

**Insurance.** Lessee shall procure and continuously maintain and pay for all risk insurance against loss of and damage to the Equipment for not less than the full replacement value of the Equipment, naming Lessor as loss payee, and liability and property damage insurance with limits as approved by Lessor, naming Lessor as additionally named insured and a loss payee. The insurance shall be in such form and with such company or companies as shall be reasonably acceptable to Lessor. Lessee shall provide Lessor with an original policy or certificate evidencing such insurance.

**Taxes.** Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances. Lessee, or Lessor at Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts, taxes arising out of receipts from use or operation of the Equipment, together with any penalties or interest thereon, imposed by any state, federal or local government or any agency, or department thereof, whether or not the same shall be assessed against or in the name of Lessor or Lessee.

**Indemnity.** Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including reasonable attorney's fees and costs, arising out of, connected with, or resulting from Lessee's use of the Equipment, including without limitation the manufacture, selection, delivery, possession, use, operation, or return of the Equipment.

**Default.** If Lessee fails to pay any rent or other amount herein provided within ten (10) days after the same is due and payable, or if Lessee fails to observe, keep or perform any other provision of this Lease required to be observed, kept or performed by Lessee, Lessor shall have the right to exercise any one or more of the following remedies:

To declare the entire amount of rent hereunder immediately due and payable without notice or demand to Lessee.

To sue for and recover all rents, and other payments, then accrued or thereafter accruing.

To take possession of the Equipment, without demand or notice, wherever same may be located, without any court order or other process of law. Lessee hereby waives any and all damages occasioned by such taking of possession.

To terminate this Lease.

To pursue any other remedy at law or in equity.

Notwithstanding any repossession or any other action which Lessor may take, Lessee shall be and remain liable for the full performance of all obligations on the part of the Lessee to be performed under this Lease. All of Lessor's remedies are cumulative, and may be exercised concurrently or separately.

**Bankruptcy.** Neither this Lease nor any interest therein is assignable or transferable by operation of law. If any proceeding under the Bankruptcy Act, as amended, is commenced by or against the Lessee, or if the Lessee is adjudged insolvent, or if Lessee makes any assignment for the benefit of his creditors, or if a writ of attachment or execution is levied on the Equipment and is not released or satisfied within ten (10) days thereafter, or if a receiver is appointed in any proceeding or action to which the Lessee is a party with authority to take possession or control of the Equipment, Lessor shall have and may exercise the option to, without notice, immediately terminate the Lease. The Lease shall not be treated as an asset of Lessee after the exercise of said option.

**Ownership.** The Equipment is, and shall at all times be and remain, the sole and exclusive property of Lessor; and the Lessee shall have no right, title or interest therein or thereto except as expressly set forth in this Lease.

**Additional Documents.** If Lessor shall so request, Lessee shall execute and deliver to Lessor such documents as Lessor shall deem necessary or desirable for purposes of recording or filing to protect the interest of Lessor in the Equipment including, but not limited to a financing statement as is customary in secured transactions of this type and description.

**Entire Agreement.** This instrument constitutes an interim alternative Master Lease Agreement and is part of the entire agreement between the parties on the subject matter of the lease as well as the PPA previously set forth and it shall not be amended, altered or changed except by a further writing signed by the parties hereto.

**Notices.** Service of all notices under this Master Lease Agreement shall be sufficient if it complies with the Notice Provisions previously set forth in the PPA portion of the document as earlier noted.

**Assignment.** Lessee shall not assign this Lease or its interest in the Equipment without the prior written consent of Lessor.

**Governing Law.** This Lease shall be construed and enforced according to laws of the Philippines.

**Headings.** Headings used in this Lease are provided for convenience only and shall not be used to construe meaning or intent.

IN WITNESS WHEREOF, the parties hereto have executed this Master Lease as an interim alternative part of the Master Power Purchase Agreement. There signatures appear below as a confirming formality.

|  |  |
| --- | --- |
| **Lessor**  **IPV Energy Power Generation Group – Philippines Corporation**  Signature:  Printed Name: **Ronald A. Bernal**  Title:  Date: | **Lessee**  **Philippine National Police**  Signature:  Printed Name:  Title:  Date: |

***Notes***

1. If Purchaser is also taking the Environmental Attributes, the cost of replacement Environmental Attributes will also have to be taken into account. [↑](#footnote-ref-1)
2. If Grantor and Purchaser are not the same Person, a three-party agreement will be necessary between the Purchaser, the Grantor and the Grantee. [↑](#footnote-ref-2)