

OPERATION & MAINTENANCE AGREEMENT

This Operation & Maintenance Agreement (“Agreement”) is made this [_____] day of [_____] 2017 at _____ by and between:

Electric Supply Company Limited, (hereinafter referred to as “**Distribution Company**”) of the one part,

And

Housing Society/Scheme/Industrial Estate/SPV of Housing Society/Scheme/Industrial Estate (hereinafter referred to as “**O&M Operator**”) of the other part,

(Distribution Company and O&M Operator are hereinafter individually also referred to as a “**Party**” and collectively as the “**Parties**”).

Recitals:

Whereas: -

1. Distribution Company is engaged in distribution of electricity in the service territory as per terms of its distribution license No. _____ dated _____, issued by NEPRA under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997;
2. O&M Operator is a body corporate established under ----- and is responsible for carrying out development/management of housing scheme/colony/industrial estate----- situated on _____ (hereinafter referred to as **the “Service Area”**) as described in Schedule “A” to this Agreement;
3. The Service Area of O&M Operator is located in the service territory of the Distribution Company;
4. O&M Operator seeks to provide or arrange for the provision of efficient electric power services to the residents/occupants within the Service Area;
5. O&M Operator has developed the distribution facilities within the Service Area that include HT/LT lines (11KV, 220/440 V distribution lines), transformers, energy meters, service cables and all ancillary equipment as detailed in Schedule “B” to this Agreement;
6. The Parties have agreed to collaborate to provide electrical connection and electric power supply/services to the residents/occupants within the Service Area and regulate the rights

and obligations *inter se* the Parties under the O&M Arrangement in accordance with the NEPRA (Supply of Electric Power) Regulations, 2015;

7. **Now, Therefore**, in view of foregoing premises and in consideration of mutual representations, this Agreement witnesses as follows:

Article -1 Definitions

1. In this Agreement, capitalized terms and expressions, unless the context requires otherwise, shall have the following meaning:-

“Act” means Regulations of Generation, Transmission and Distribution of Electric Power Act, 1997;

“Agreement” means this O&M Agreement, together with all schedules annexed hereto;

“AMR or Automated Meter Reading” means an electrical energy meter that can be read remotely by the Parties, which are located at a grid station to determine the energy provided;

“Applicable Documents” means the Act, the rules, regulations, codes, guidelines, manuals, Distribution License, any order, documents or instruments, approvals, directions, authorizations issued or determinations made by NEPRA in exercise of its powers under the Act;

“Consumer Service Manual” means the Consumer Service Manual of the Distribution Company as approved by NEPRA including any amendments or modifications whether in whole or in part thereto which may be approved by NEPRA from time to time;

“Consumer” has the meaning ascribed to it in the NEPRA Act but with reference only to such persons who reside/occupy within the Service Area;

“Force Majeure” has the meaning ascribed to it in Article 21 of this Agreement;

“O&M Operator Grid Station” means the 132/11 KV or any other voltage grid station and allied transmission line installed, operated and maintained by the O&M Operator;

“Load-shedding” has the meaning ascribed to it in the NEPRA Performance Standard (Distribution) Rules, 2005;

“NEPRA” means National Electric Power Regulatory Authority;

“O&M Operator Distribution System” means the distribution facilities for distribution of electric power in the Service Area including, without limitation, electric lines or circuits, meters, interconnection facilities or other facilities operating at the distribution voltage, and shall also include any other electric lines, circuits, transformers, sub-stations, electric plant, and works or

other facilities installed, operated and maintained by the O&M Operator;

“**Services**” bears the meaning ascribed to it in Article 3 of this Agreement;

“**Service Area**” means the area/location within the boundary of the housing society/scheme/industrial estate as more fully set out in Schedule-A to this Agreement in respect of which O&M Operator will perform operation and maintenance services in accordance with NEPRA (Supply of Electric Power) Regulations, 2015;

“**Smart Meter**” means energy meter including prepaid meter or any other meter that records electricity consumption of Consumers on real time basis and digitally sends reading to O&M Operator for monitoring and accurate energy bills;

“**Term**” shall have the meaning ascribed thereto in Article 2 of this Agreement.

Article – II: Purpose, Appointment, Effective Date and Term

2.1 Purpose

2.1.1 This Agreement shall govern and regulate the operation and maintenance arrangement between the Distribution Company and O&M operator, provision of electric power by the Distribution Company to O&M Operator, connection of O&M Operator Distribution System and Grid Station with distribution system of the Distribution Company in accordance with the NEPRA (Supply of Electric Power) Regulations, Distribution Code and other Applicable Documents.

2.2 Appointment

2.2.1 Distribution Company hereby appoints ----- as its O&M Operator to provide the Services to the Consumers within the Service Area during the Term of the Agreement.

2.2.2 The Parties hereby agree that the arrangement envisaged in this Agreement is of an exclusive nature between the Parties for the Service Area, and during the Term of this Agreement, they shall not enter into any agreement/arrangement with any third party inconsistent with the terms of this Agreement.

2.3 Effective Date and Term

2.3.1 This Agreement shall become effective upon its execution after approval of the terms and conditions hereof by NEPRA (the ‘**Effective Date**’).

2.3.2 Subject to the terms of this Agreement, Distribution Company hereby appoints O&M Operator as its service provider for the Service Area from the Effective Date for a period of three (3) years. Thereafter this Agreement shall be deemed to be automatically extended for a similar period(s) of 3 years duration subject to consent of the Parties in writing and approval of NEPRA.

Article – III: Scope of Services

- 3.1 The Parties envisage that within the Service Area, O&M Operator shall provide following Services on behalf of the Distribution Company in accordance with the terms of this Agreement, Applicable Documents and prudent utility and best international practices:
- (a) Sanction electricity connections of the Consumers by providing and installing smart electricity meters and other allied material;
 - (b) Taking accurate meter-reading of Consumer meters, printing of bills according to the meter reading and applicable tariff;
 - (c) Delivery of bills to Consumers in a timely manner;
 - (d) Inspect meters for their health and correctness and reasonably ensuring that such Consumer meters are working satisfactorily, are accurate in material respects and not tampered with or otherwise interfered with from the Customer end;
 - (e) In case any meter is found to be dishonestly tampered with by the Consumer or any other person is illegally abstracting electricity contrary to the CSM, inform immediately the Distribution company for necessary action to be taken by the Distribution Company against such person(s) which may include registration of First Information Report (FIR) and other action in accordance with the CSM;
 - (f) Replace faulty meters with new and healthy meters or take such other reasonable action as may be required by the circumstances;
 - (g) Disconnection of Consumer's electricity connection for non-payment of dues and reconnection of Consumer connections on payment of such dues;
 - (h) Establish and run the consumer service and call centre to receive and redress the Consumer complaints;
 - (i) Accurately recording reading of AMR meters;
 - (j) Preparing monthly reports regarding feeder-wise losses;
- 3.3 The Parties may add/alter the scope of the Services by incorporating changes in this Agreement through mutual written agreement, subject to approval of NEPRA.

Article – IV: Connections

- 4.1 The existing individual connections installed by Distribution Company within Service Area shall be handed over to O&M Operator within thirty (30) days of Effective Date of this Agreement and O&M Operator shall allocate new consumer reference numbers to

these connections accordingly.

- 4.2 In relation to new connections, the O&M Operator will evaluate all applications received from potential Consumers within the Service Area and provide connection to eligible Consumers in accordance with CSM and other Applicable Documents. O&M Operator shall provide complete data with respect to new connections to Distribution Company.
- 4.3 For new connections O&M Operator shall install Smart Meters and also make necessary arrangements to replace existing meters with Smart Meters. O&M Operator shall procure and install such meters according to specifications approved by Distribution Company.
- 4.4 Any prescribed security deposit or other relevant fee in respect of Consumer connections including existing and new connections shall be obtained and deposited with the Distribution Company. Any Consumer who wish to disconnect may file an application to O&M Operation which will be forwarded to Distribution Company to seek refund of security deposit.
- 4.5 In case of non-payment of dues, O&M Operator shall disconnect Consumer's electricity connection in accordance with the Applicable Documents with the approval Distribution Company. Once the dues are cleared, O&M Operator shall reconnect the Consumer's electricity connection.

Article – V: Billing System and Issuance

- 5.1 All Consumer billing within the Service Area shall be made/issued by O&M Operator containing the pictorial evidence of meter reading. The bill shall also contain the logo of the Distribution Company as well as of O&M Operator.
- 5.2 Payment from Consumers shall be received by O&M Operator through its designated account by making payment arrangement through electronic means and banks having their respective branch(s) within the Service Area and other areas of the city for facilitation of the Consumers. No payments in cash or otherwise under this Agreement will be directly received by O&M Operator from the Consumers in the Service Area.

Article – VI: Tariff for Supply of Power to O&M Operator

6. The Distribution Company shall charge a tariff to O&M Operator for the purposes of supply of electric power to O&M Operator in accordance with the category of tariff along with terms and conditions incorporated in the Distribution Company's schedule of tariff in this regard.

Article – VII: Tariff for Consumers

- 7.1 Tariff, rates, charges and other terms and conditions for supply of electric power services

to Consumers in the Service Area shall be approved/determined by NEPRA on the petition to be filed by O&M Operator within ninety days after execution of this Agreement, in accordance with the Applicable Documents.

- 7.2 Pending such approval, the tariff, rates, charges and other terms and condition for supply of electric power services, as applicable in the Distribution Company tariff, shall be applied by O&M Operator to the Consumers within the Service Area.
- 7.3 Government subsidy given to a particular class of Distribution Company shall be applicable in the Service Area of O&M Operator for the occupants in villages/kachi abadis who are not allottees/members of O&M Operator

Article – VIII: Consumer Service Centre and Call Centre

- 8.1 Consumer Service Centers shall be established in such number as O&M Operator may consider appropriate to address the Consumer complaints and efficient performance of the Services under this Agreement. These Consumer Service Centers shall be manned by appropriately qualified and trained staff of O&M Operator.
- 8.2 O&M Operator shall establish a centralized call centre through which Consumer complaints with regard to the Service Area are first registered for timely resolution.
- 8.3 O&M Operator shall process the complaints of the Consumers strictly in accordance with the CSM, NEPRA Performance Standard (Distribution), Rules 2005 and other Applicable Documents and provide the record in this regard to Distribution Company. Distribution Company shall monitor the performance of O&M Operator with respect to complaints pending and resolved.

Article – IX: Infrastructure

- 9.1 Infrastructure installed, operated and maintained by O&M Operator including O&M Operator Grid Station and associated O&M Distribution System, within the Service Area shall be owned by the O&M Operator.
- 9.2 Any extension of Grid Station and upgradation/improvement of the O&M Distribution System shall be carried out by the O&M Operator at its own cost during the term of this Agreement, in consultation with the Distribution Company and in accordance with the Applicable Documents. Any material used for such extension/upgradation/improvement shall be in accordance with the specifications approved by the Distribution Company.
- 9.3 Before execution of such extension/upgradation/improvement of O&M Distribution System and Grid Station, O&M Operator shall prepare estimate of cost along with recovery mechanism and get approval of NEPRA.

Article – X: Sanctioned Load

- 10.1 Distribution Company shall make available at all times during the currency of this Agreement, the ultimate sanctioned load and the Distribution Company inter-connection facilities capable of handling the delivery of sanctioned load up till the inter-connection point of O&M Operator.
- 10.2 The Parties agree that if the demand of O&M Operator, for the purposes of this Agreement, increases beyond the sanctioned load due to increase in demand of the Consumers within the Service Area, Distribution Company will allow extension in the ultimate sanctioned load if requested by O&M Operator in terms of this Agreement and such permission/sanction/approval shall not be withheld or delayed unreasonably.

Article – XI: Metering System

11. Distribution Company shall install dedicated metering and recording equipment along with back-up system capable of continuous recordings of the energy delivered by the Distribution Company at the point where interconnection facilities of the O&M Operator are connected, at the cost and expense of the O&M Operator, after testing the same jointly with O&M Operator.
- 11.2 Such delivered energy shall be accurately measured and recorded and shall be used to compute payments in accordance with the tariff for supply of electric power to O&M Operator for the purposes of Distribution Company bill.

Article – XII: Load shedding Plans

12. O&M Operator shall follow the load shedding plans prepared by the Distribution Company on the instructions of National Transmission and Dispatch Company, in accordance with the load shedding principles and priorities prescribed in the NEPRA Performance Standards (Distribution) Rules, 2005.

Article – XIII: Performance Standards

13. O&M Operator shall ensure that the guaranteed and overall performance standards provided in the NEPRA Performance Standards (Distribution) Rules, 2005 are complied with at all times and Distribution Company shall monitor the performance of O&M Operator in this regard on regular basis.

Article – XIV: Supply of Electric Power on Discriminatory Basis

14. O&M Operator shall be responsible to supply electric power, provide Services and charge tariff within the Service Area on a non-discriminatory basis to the all the Consumers who meet the eligibility criteria laid by NEPRA.

Article – XV: Procurement of Electricity from a Generation Company

- 15.1 Without prejudice to Distribution Company's continuing obligation to provide uninterrupted power supply, O&M Operator shall at all times have the right, in accordance with applicable laws, to procure the electric power under an arrangement with a generation company for back-up or additional electric power for the purposes of meeting any gaps between the electric power supplied by Distribution Company and the demand of Consumers in the Service Area. In this regard, if required by O&M Operator, Distribution Company shall enter into suitable legal and commercial arrangements/agreements with O&M Operator and/or the entity supplying electricity for the Service Area.
- 15.2 O&M Operator may also install its own generators to produce electric power for back-up or additional electric power for the purposes of meeting any gaps between the electric power supplied by Distribution Company and the demand of Consumers in the Service Area. Cost of such electricity generated by O&M Operator shall be approved by NEPRA.

Article – XVI: Compliance with Applicable Documents

16. The Parties hereby agree to be bound by and to comply with the terms of this Agreement and the provisions of the Applicable Documents as they are applicable to the Parties in the same manner as if such provisions formed part of this Agreement.

Article – XVII: Obligations of O&M Operator

- 17.1 O&M Operator represents and warrants that it has full and adequate corporate power to execute and implement this Agreement, and the performance of this Agreement does not constitute any violation or breach of any agreement/arrangement O&M Operator is or may be bound. In addition, O&M Operator warrants that nothing contained in this Agreement contravenes the provisions of any law for provision of utilities to the Consumers and establishment of the infrastructure and Services to its Consumers in the Service Area.
- 17.2 O&M Operator has and will have the financial resources and technical expertise to design, develop, deploy, install, operate and maintain the O&M Operator Grid Station and Distribution System and provide the Services in accordance with this Agreement.
- 17.3 O&M Operator shall provide authentic data required for operational and planning purposes, performance characteristics and technical parameters of apparatus and equipment installed at the O&M Operator Distribution System, to the Distribution Company.
- 17.4 O&M Operator shall not alter, replace or change the apparatus and equipment of its inter-connection facilities regarding which data was provided to the Distribution Company in such a way as to cause the performance characteristics and technical parameters to change, unless the change has been notified to and agreed by Distribution Company before the change is implemented.
- 17.5 All apparatus or equipment installed at the O&M Operator inter-connection facilities shall,

at all time, be compliant with prevailing engineering standards/operating procedure of the Distribution Company and shall be in complete functional and operational state.

- 17.6 O&M Operator shall plan and execute outages on account of repair and maintenance of equipment at connection site where inter-connection facilities of the Parties are installed, subject to approval of Distribution Company.
- 17.7 All internal policies/operating procedures of the Distribution Company made in furtherance of the Applicable Documents shall apply to or be imposed on O&M Operator and the Service Area for provision of Services. Further, O&M Operator shall adopt prudent utility and best international practices to perform its obligations under this Agreement,
- 17.8 O&M Operator shall give free access to Distribution Company to the Service Area, as and when required/necessary for the purposes of this Agreement, by giving prior notice, except in cases of emergency.
- 17.9 O&M Operator shall provide any such information / data pertaining to this Agreement to Distribution Company as may be reasonably required for analysis or reporting purpose.
- 17.10 O&M Operator shall ensure compliance with Applicable Documents and other relevant laws at all times. In addition O&M Operator shall provide Distribution Company prompt input and assistance wherever necessary for satisfactory resolution of any regulatory queries/aspects relating to the Service Area to Distribution Company's satisfaction.

Article– XVIII: Obligations of Distribution Company

- 18.1 Distribution Company represents and warrants that it has full power to execute, deliver and perform its obligations under this Agreement hereby in good faith, and this Agreement constitutes a legal, valid and binding obligation, and is enforceable against it in accordance with the terms of the Agreement.
- 18.2 Distribution Company agrees to make available, plan, develop, operate and maintain the its distribution system and inter-connection facilities in accordance with its distribution license and the Distribution Code and while doing so it shall follow the performance standards set by NEPRA, and the prudent utility practices in a manner to enable O&M Operator to provide continuous Services within the Service Area in accordance with this Agreement.
- 18.3 Subject to this Agreement, Distribution Company agrees to provide uninterrupted power supply at the point where inter-connection facilities of the Parties are to be connected.
- 18.4 Distribution Company shall keep O&M Operator updated and informed on regulatory compliance as and when required by NEPRA.
- 18.5 Distribution Company shall provide the provision of support to O&M Operator including meter testing laboratory, workshop, training facilities regarding technical, commercial etc.

for O&M Operator staff and in emergent cases access to Distribution Company inventory in store subject to payment.

- 18.6 Distribution Company shall plan and execute outages on account of repair and maintenance of equipment at connection site where its inter-connection facilities of the Parties are installed, subject to prior notice and consent of O&M Operator.
- 18.7 Appointment of O&M Operator to provide Services on behalf of Distribution Company does not absolve the Distribution Company from its duties/obligations under the Applicable Documents. In this regard, Distribution company shall monitor the performance of O&M operator to ensure that O&M Operator performs functions under this Agreement in accordance with the requirements of the Applicable Documents.

Article – XIX: Events of Default, Breach and Termination

- 19.1 Subject to the terms of this Agreement, this Agreement may be terminated with mutual written consent of the Parties.
- 19.2 Distribution Company may terminate this Agreement by serving a termination notice in the following events of default by O&M Operator:
- (a) A compulsory winding up of O&M Operator has been ordered by a competent Court and such order is not set aside within 365 days;
 - (b) A special resolution for voluntary winding up of O&M Operator has been made by the shareholders and/or creditors of O&M Operator and the same has not been withdrawn/reversed within 365 days of the date of its passage;
 - (c) There is a material breach of O&M Operator's obligations which has arisen or caused due to violation of terms and conditions of this Agreement. In this regard, upon the occurrence of a material breach, Distribution Company shall serve a written notice on O&M Operator giving description of the material breach and requiring O&M Operator to remedy / rectify the particular material breach within a specified time. If breach is not rectified by the O&M Operator within the notice period, the Distribution Company shall have the right to terminate the Agreement;
 - (d) Any representation made by O& M Operator under this Agreement is or is found to be untrue or incorrect.
- 19.3 O&M Operator may terminate this Agreement by serving a termination notice in the following events of default by the Distribution Company:
- (a) Distribution License is suspended / revoked by NEPRA pursuant to any change in law, or otherwise;
 - (b) Any representation made by Distribution Company under this Agreement is or is found to be untrue or incorrect;
 - (c) This Agreement, or any part/component thereof, is declared illegal or ultra vires by NEPRA or any other competent forum.

Article XX: Amendments in the Act

20. During the Term of the Agreement if any amendment in the Act is introduced which provides for a new mode of supply of power instead of operation and maintenance arrangement or materially affects or prevents either Party from performing their obligations under this Agreement, the Parties shall approach NEPRA for guidance and further course of action.

Article – XXI: Force Majeure

- 21.1 A 'Force Majeure' event shall mean an act of God that is reasonably not foreseeable or a force or cause beyond the reasonable control of either Party and materially and adversely affects the performance by either Party of its obligations under or pursuant to this Agreement. Force Majeure events shall include an earthquake, explosion, riot, floods, hurricane that results in exceeding the design parameters of the equipment or other calamity of catastrophic nature whose timing, duration, and extent of the impact cannot be reasonably foreseen or quantified by the Distribution Company or O&M Operator;
- 21.2 If either Party because of a Force Majeure event is rendered wholly or partly unable to perform its obligations under this Agreement, then affected Party shall be excused from whatever performance is affected by the Force Majeure event to the extent so affected provided that:

Either Party within 72 hours of first occurrence of such event promptly informs the other Party that its performance has been affected by the occurrence of such Force Majeure event and demonstrates how its performance has been affected.

- 21.3 If any Force Majeure Event delays either Party's performance for a continuous time period greater than one hundred and eighty (180) days, then this Agreement shall automatically come to an end without any need for further notice to the other Party. Nevertheless, during the Force Majeure period, the Parties shall at least meet once in every month to try to resolve issues and resume normal operation of this O&M Agreement.

Article – XXII: Dispute Resolution

22. Any dispute or disagreement between the Parties relating to any matter arising out of, or in connection with, the operation and maintenance activities covered under this Agreement shall be submitted for decision to NEPRA under the NEPRA (Supply of Electric Power) Regulations, 2015.

Article – XXIII: Provision of Information to NEPRA

23. Either party shall promptly respond on any query raised by NEPRA regarding its operation and maintenance obligations and performance in the Service Area under this Agreement and submit information/document as required by NEPRA under the NEPRA Act, NEPRA

(Supply of Power) Regulations, 2015 or any other Applicable Document.

Article – XXIV: Complaints

- 24.1 The Parties hereby agree that any Consumer within the Service Area may file a complaint with NEPRA against Distribution Company and O&M Operator providing Services on behalf of Distribution Company for breach of any term of this Agreement and any Applicable Document by the O&M Operator.
- 24.2 Parties also agree that any amount of fine paid by Distribution Company which is imposed by NEPRA as a result of legal proceedings initiated against it for contravention of any Applicable Document arising from operation and maintenance activity under this Agreement shall be reimbursed by O&M Operator to Distribution Company.

Article – XXV: Amendment

- 25.1 An amendment or modification of this Agreement shall be effective or binding on a Party only if made in writing and signed by a duly authorized representative of each of the Parties and duly approved by NEPRA.
- 25.2 All notices and other communications required under this Agreement shall be given in writing, through personal delivery, courier mail or by facsimile transmission and shall be addressed to the following:
- Distribution Company:
Attention:
Address:
Facsimile:
- O&M Operator:
Attention:
Address:
Facsimile:
- 25.3. Any notices sent shall be deemed to be duly received where sent by facsimile during normal business hours on the date and time it was actually received and where sent by courier within two (2) business days of dispatch.

IN WITNESS WHEREOF the Parties hereto have made and executed this Agreement on the Signing Date first above written.

For and behalf of:
Distribution Company

For and behalf of:
O&M Operator

Signature: _____

Name:

Designation:

Signature: _____

Name:

Designation:

WITNESSES:

1._____

Name: _____

CNIC: _____

2._____

Name: _____

CNIC No: _____