



MODEL ESCO PERFORMANCE CONTRACT

Developed by AEEE with Support from Shakti
Sustainable Energy Foundation

Abstract

This model contract provides broad contours of the energy performance contract to help ESCOs and host companies to avoid pitfalls in working with outsourced energy efficiency improvement projects. It has been prepared after consultation with all stakeholders and is suitable for the financial and legal systems in India.

Koshy Cherail
Koshy@aeee.in

DISCLAIMER

AEEE has taken due care and caution in development of this model EPC based on study of existing contracts, interactions with various stakeholders involved in the promotion and implementation of ESCO projects. However, the user of this model EPC is advised to modify, add or delete clauses as applicable to the project, circumstances and viewpoints of the Parties involved in their particular case. The users should avail of services of qualified legal counsel to address issues that pertain to their individual circumstances. The model serves as a broad guide to address common issues encountered that result in disputes.

AEEE or Shakti Foundation do not take any responsibility for any loss suffered due to the adoption of this contract in any manner. The clauses and guidance represented in the model contract do not necessarily reflect that of Shakti Foundation. The organization accepts no liability for the content of this document, or for the consequences of any actions taken on the basis of the information provided.

Guide for use of the Model ESCO Performance Contract

The users of this Model EPC are advised to study the report prepared by AEEE while drafting it, available at aeee.in/reports or <http://shaktifoundation.in/wp-content/uploads/2014/02/Final-Report-ESCO-EPC1.pdf>. The model EPC can be used in its current form for executing most energy performance contract projects. However due to the unique nature of each project, the contract must be fully negotiated between the parties and that these negotiations may lead to modification of the contract. AEEE recommends that while negotiated changes are being made to the document, it is to be done with reference to the Schedules attached to the contract. Some common issues that might be the subject of negotiation include: Third party financing; Performance guarantee; Baseline adjustment; and Measurement and Verification (M&V). The model EPC offers suggestions for wording of clauses under different business models. However, the Parties should consider their individual circumstances as well as any conditions imposed by lender or external investors.

MODEL ENERGY PERFORMANCE CONTRACT

This Energy Performance Contract ("Contract") is made and entered into as of [date], by and between [Name of ESCO] ("ESCO"), having its principal offices at [ESCO address] and [Name of the Client] ("Client").

RECITALS

- Client owns and operates Facilities, and wishes to acquire equipment, and/or knowhow and services to reduce energy costs and related expenses in the facilities
- ESCO has experience and technical management capabilities to identify and evaluate energy cost saving opportunities, and provide for engineering, knowhow, packaging, procurement, installation, financing, operation, maintenance and measurement of cost effective energy conservation measures ("ECMs")
- The Client has selected ESCO to perform a technical energy audit and pursuant to the Technical Energy Audit and Project Development Plan Agreement, dated [date], ESCO has delivered Client a Technical Energy Audit Report and Project Development Plan ("Audit Report") which includes an assessment of the energy consumption characteristics of Client's facilities and the identification and evaluation of viable ECMs, as well as estimates of expected energy and operational savings and associated project costs for each recommended ECM.
- Client desires to contract with ESCO for the design, installation, financing, operation, maintenance and measurement of the ECMs all as set forth herein and described in Annexure A.

ESCO, and Client acknowledge and agree that the purpose of this Contract is to achieve the Energy Saving, leading to related Cost Savings contemplated by this Contract to the benefit of Client and agree to cooperate to achieve the purpose of this Contract.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the Client and ESCO agree to the terms and conditions set forth hereinafter.

Definitions

Base Year means the year for which the Baseline Energy Consumption and Demand is calculated.

Base Year Energy Consumption and Demand means the total annual energy consumption and monthly energy demand of Facilities before the Improvements have been made. The assessment of the total annual consumption prescribed in the Measurement and Verification protocol is described in Annexure C [to be added by EEIP project manager]

Commencement Date means the date as defined in Clause 2.

Contract means this document, the Appendices attached hereto, the Energy Feasibility Study and Concept Report, the Final Design Documents and the Working Documents.

Energy Efficiency Improvement project (EEIP)/ Energy Conservation Measure (ECM): Shall include installation of equipment to improve energy efficiency of the Client's facility and/or knowhow that will enable Client to operate their facility and achieve Energy Savings.

Energy Savings means the Energy Costs saved (calculated following the method set out in Feasibility study as a result of reduced energy consumption or demand of the Facilities over a period of time agreed upon by the Parties.

Facilities means plant, buildings located at [address of Client's facilities] at which the proposed EEIP shall be undertaken.

Improvements means energy efficiency measures detailed in the Energy Feasibility Study and Concept Report and consist of the equipment, materials and systems to be installed in Facilities and the services to be provided by the ESCO.

Maximum Contract Term means a reasonably long period in which, if the desired level of savings are not achieved the assets created on site under the EEIP shall be transferred to the Client.

Measurement and Verification Plan means a documented methodology specifying measurement instruments, procedure of measurement, recording energy consumption in the reporting period, specification of the baseline energy consumption and manner and frequency of recording and reporting energy savings.

Minimum Expected Guaranteed Energy Savings means the quantum of annual energy savings that the ESCO guarantees to achieve, based on the parameters such as Base Year Energy consumption, agreed ECM and level of production.

Subcontractor means any party to whom the ESCO has subcontracted the installation or provision of the whole or any part of the Improvements.

Total Project Costs means all eligible costs, overhead and profit as estimated in Annexure Y [to be prepared as per project].

Warranty Period means a period of _____ () months following the Commencement Date where the provided work and equipment are fully warranted by the ESCO. During this period, any equipment installed that prematurely fails will be replaced on site by the Energy Management Firm at no cost to the Client.

1. SCOPE OF WORK

- 1.1. ESCO has prepared the final Energy Audit Report, dated [date] which is set forth in Annexure B and incorporated by reference. The Energy Audit Report has been approved and accepted by Client. The Energy Audit Report includes all identified ECMs.
- 1.2. ESCO has prepared and Client have approved and accepted the Schedules and Exhibits of what, copies of which are available with ESCO and Client and are made a part of this Contract by reference.

2. FINANCING FOR THE PROJECT AND PAYMENT TERMS

- 2.1. The [ESCO] [Client] shall arrange finance for the ECM from [its own resources] and/or from [bank/investor/third party] (hereinafter referred to as "Financier"). The Parties agree to the requirements of the Financier, including, inter alia, opening of a Trust & Retention Account or ESCROW account to ensure timely repayment of principal and payment of interest due to the Financier.
- 2.2. [The ESCO shall install the equipment and/or provide knowhow as per the ECM agreed upon, operate and maintain it and demonstrate Energy Savings as agreed. Upon being satisfied the Client shall make payment of the share of the ESCO as stipulated in the Clause 9. In case the savings are less than the guaranteed level, the ESCO shall reimburse the Client to the extent of [under achievement] [shortfall] of the savings.] *Guaranteed saving*

[The ESCO shall install the equipment and/or provide knowhow as per the ECM agreed upon, operate and maintain it. It will demonstrate the Energy Savings as agreed and pay the amount of agreed share/proportion of the savings, notwithstanding the amount of actual savings.] *Shared savings*

[The ESCO shall install the equipment and/or knowhow as per the ECM agreed upon, operate and maintain it and demonstrate Energy Savings as agreed. The ESCO shall retain [90%] [95%] of the savings [100% in case of First-Out] till it recovers its entire on-site investment plus [x%] return on its investment. Subsequent to this the project assets shall be transferred to the Client and all subsequent savings shall be retained by the Client. Parties shall agree upon a Maximum Contract Term at the end of which the assets shall be transferred to the Client and Energy Savings thereafter shall accrue to the Client irrespective of the ESCO being able to recover its investment and return] *Variable Contract Term*

- 2.3. [The Parties shall install an elaborate M&V system based on suitable Option of the IPMVP as customized to the Project conditions to measure and determine savings in energy.] *For both Guaranteed and Shared savings*

[The Parties shall agree on the energy consumption prior to and after the installation of ECM agreed. The Client on their own or through a third Party validate installation of the agreed equipment and completion of performance guarantee trials. Upon issuance of Certificate by the Client the project will be Deemed to result in the agreed level of savings] *For Deemed savings*

3. COMMENCEMENT DATE FOR ENERGY SAVING CALCULATIONS AND TERMS

Commencement date shall be the day of the month in which ESCO shall have delivered a notice to the client that it has installed and commenced operating all Energy Saving Equipment specified in **Schedule A**; and the client has inspected the installation and operation and has given the Certificate of Acceptance as set forth in **Annexure D**

- 3.1. The term of this contract shall be *[In words] (In number)* years from the signing of this contract. This contract shall be effective and binding upon the parties after its execution (the Effective Date).
- 3.2. Payments due to ESCO for service and maintenance under this Contract as set forth in **Schedule D** shall begin after 30 days from the commencement date of acceptance of the first M&V report as specified in **Schedule H** by the Client, whichever is earlier, beginning from the commencement date as defined herein.

4. EQUIPMENT WARRANTIES AND COMPATABILITY

- 4.1. ESCO covenants that:

- (i) All equipment installed are new, in good and proper working condition and protected by appropriate written warranties covering all parts and equipment performance. The equipment warranty is to include replacement, repair, and any labour for the warranty period.

- 4.2. ESCO agrees to:

- (i) Deliver to the Client for inspection and approval all written warranties
- (ii) Transfer warranties to the Client;
- (iii) To pursue rights and remedies against the manufacturer of the equipment under the warranties in the event of equipment malfunction, and defects in parts, workmanship and performance;
- (iv) Notify the Client whenever defects in equipment parts or performance occur or when warranty rights and remedies are exercised by ESCO.

5. CONSTRUCTION SCHEDULE AND EQUIPMENT INSTALLATION: APPROVAL

- 5.1. Construction and equipment installation shall proceed in accordance with the construction schedule as specified in **Schedule F**.
- 5.2. ESCO shall conduct systematic performance test in accordance with the procedures specified in **Schedule H** and prior to acceptance by Client.

6. UPGRADING OR ALTERING THE EQUIPMENT

All replacements of and alterations or additions to the Energy Saving Equipment shall become part the Equipment described in **Schedule A**. The Client shall not withhold the approval unjustly.

7. BASE YEAR ENERGY ADJUSTMENTS

- 7.1. Customer to provide a quarterly report on changes affecting base year energy
Subject to the requirements of the Measurement and Verification Plan at the end of each quarter during the post retrofit period, the Client shall provide to the ESCO a report which details any significant change (and the date of any such change) in any equipment/process/system which may result in a change in energy consumption or the timing of energy consumption at the facility.
- 7.2. To the extent that the cause of any such change is beyond the ESCO's reasonable control and not a foreseeable change, the ESCO shall be entitled to adjust the base year energy and/or the estimated energy savings to account for the change.
- 7.3. ESCO to determine effect on base year energy and Minimum Expected Guaranteed Energy Savings
 - (i) The ESCO shall, acting in good faith and in accordance with this Contract determine the effect on the Base Year Energy or the estimated energy savings of:
 - (a) any change notified by the Client under Clause 7.1; or
 - (b) any change required as a result of an additional works specification requested by the Client; or
 - (c) any other similar matter coming to the attention of the ESCO and notified promptly in writing to the Client which may result in a variation in energy consumption or the timing of energy consumption at the premises
 - (ii) If the ESCO determines in accordance with 7.3(i) that the Base Year Energy or the estimated energy savings should be changed, it shall notify the Client in writing and provide to the Client the detailed reasons and calculations upon which it bases its determination. Any such change to the Base Year Energy shall be based on the Measurement & Verification Plan.
 - (iii) The Client may accept the changes to Base Year Energy or may suggest revisions or may disagree with the ESCO within a period of 30 (thirty) days.
 - (iv) The ESCO must obtain the Client's consent in writing to the change before it can take effect. If the Client does not provide its consent in writing within thirty (30) days of its receipt of the said calculations, then a dispute will be taken to exist for the purposes of section 17.
 - (v) If the resolution of the dispute requires an adjustment to the Base Year Energy or the Minimum Expected Guaranteed energy savings as predetermined by the ESCO under Clause 7.3(i), then that adjustment together with any necessary reimbursements shall be made with effect from the date of the ESCO's original determination.
- 7.4. Procedures and methods of operation post-ECM implementation
 - (i) The ESCO shall develop a Standard Operating Procedure (SOP) for operation of the process/equipment of the implemented ECM.

- (ii) The Client shall follow the SOP.
 - (iii) The ESCO acknowledges and agrees that the SOP shall not violate the requirements set by manufacturers or relevant statutory requirements.
- 7.5. In case of failure of equipment or system outside the boundary of ECM installed by the ESCO, the ESCO shall not be liable to the Client for any failure to realise the minimum expected guaranteed energy savings.

8. OBLIGATIONS OF ESCO

- 8.1. ESCO shall arrange finance for the capital expenditure required for installation of the ECM. (*Shared savings/Variable contract term*)
- 8.2. ESCO agrees to deliver the minimum expected guaranteed savings as specified in **Schedule A**.
- 8.3. ESCO shall provide all service, repairs, and adjustments to the Equipment installed without any cost to the Client, except as set forth in **Schedule D**.
- 8.4. ESCO shall charge Client for the actual cost of the maintenance or repair insofar as such cost is not covered by any warranty or insurance proceeds when the need for maintenance or repairs arises due to the negligence or willful misconduct of Client or any employee or other agent of Client.
- 8.5. ESCO shall perform all tasks, and install the Equipment in such a manner so as not to harm the structural integrity of the buildings or their operating systems and so as to conformity to **Schedule G**.
- 8.6. ESCO shall repair and restore to its original condition any area of damage caused by ESCO's performance under this Contract and bear all costs associated with it.
- 8.7. ESCO shall remain responsible for the professional and technical accuracy of all services performed, whether by ESCO or its subcontractors or others on its behalf, throughout the term of this Contract.

9. OBLIGATIONS OF CLIENT

- 9.1. Client shall not move, remove, modify, alter, or change the Equipment or any part thereof of the equipment in the boundary of the ECM installed by the ESCO without the prior written approval of ESCO except as set forth in **Schedule G**.
Notwithstanding sub-section (9.1), Client shall take reasonable steps to protect the Equipment from damage or injury and shall follow instructions for emergency action provided in advance by ESCO.
- 9.2. Client shall use its best efforts to notify ESCO or its designate(s) within twenty-four hours after Client's actual knowledge and occurrence of:
 - (i) Any malfunction in the operation of the Equipment or any pre-existing energy related equipment that might materially impact upon the minimum expected guaranteed energy savings; or
 - (ii) Any interruption or alteration to the energy supply to the Premises; or
 - (iii) Any alteration or modification in any energy-related equipment or its operation.
- 9.3. Where Client exercises due diligence in attempting to assess the existence of a malfunction, interruption, or alteration it shall be deemed not at fault in failing to correctly identify such conditions as having a material impact upon the Minimum Expected Guaranteed energy savings.

10. PAYMENTS TO ESCO

- 10.1. ESCO guarantees to the Client the annual Energy Savings to be achieved after installation of Energy Saving Equipment and provision of services provided for in this contract as specified in Clause 2, **Schedule F** and **Schedule G**.
- 10.2. ESCO shall annually prepare and provide a report to the client documenting the performance of the ECMs.
- 10.3. ESCO shall maintain cost accounting records on authorised work performed under actual costs for labour and material, or other basis requiring records and shall afford to the client access to these records and preserve them for a period of one year after final payment.
- 10.4. The Client shall take all steps to ensure timely payments to the ESCO.
- 10.5. Payments due to ESCO shall be calculated in accordance with the provisions of Schedule D and ESCO shall provide to the client an invoice of the total amount due. Notwithstanding the above provisions in this Section, the client shall not be required to make any payments to ESCO under this contract unless all Energy Savings Equipment installation is completed by ESCO in accordance with Section 4 and **Schedule F** and accepted by the client.
- 10.6. The client shall give a Certificate of Acceptance as set forth in **Annexure D**.
- 10.7. ESCO shall issue notice for temporary stoppage of activities where the client defaults for two or more invoices and re-schedule payments as reflected in Schedule D. This may include penalties and any other costs that ESCO may incur during this period.

11. EVENTS OF DEFAULTS

- 11.1. Each of the following events or conditions shall constitute an "Event of Default" by Client:
 - (i) any failure by Client to pay ESCO any sum due for a service and maintenance period of more than thirty (30) days after written notification by ESCO that Client is delinquent in making payment and provided that ESCO is not in default in its performance under the terms of this Contract;
 - (ii) any other material failure by Client to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after notice to Client demanding that such failures to perform be cured or if such cure cannot be effected in thirty (30) days, Client shall be deemed to have cured default upon the commencement of a cure within thirty (30) days and diligent subsequent completion thereof; or
 - (iii) any representation or warranty furnished by Client in this Contract, which was false, or misleading in any material respect when made.
- 11.2. Each of the following events or conditions shall constitute an "Event of Default" by ESCO:
 - (i) any representation or warranty furnished by ESCO in this Contract is false or misleading in any material respect when made;
 - (ii) failure to furnish and install the Equipment and make it ready for use within the time specified by this Contract as set forth in **Schedule A** and **Schedule G**;
 - (iii) any lien or encumbrance is placed upon the Equipment by any subcontractor, supplier or lender of ESCO;
 - (iv) the filing of a bankruptcy petition whether by ESCO or its creditors against ESCO which proceeding shall not have been dismissed within ninety (90) days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of ESCO;
 - (v) any change in ownership or control of ESCO without the prior approval of Client, which shall not be unreasonably withheld; or
 - (vi) failure by ESCO to pay any amount due Client or perform any obligation under the terms of this Contract.

12. REMEDIES UPON DEFAULTS

- 12.1. If an event of default by the Client occurs, ESCO may exercise all remedies available at law or in equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by Client, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy. Election of one (1) remedy is not a waiver of other available remedies.
- 12.2. If an event of default by ESCO, the Client may exercise and any all remedies at law or equity, or institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably incurred, including attorney's fees. Election of one (1) remedy is not a waiver of other available remedies.

13. TERMINATION OF CONTRCT PRIOR TO ENERGY SAVING CALCULATIONS

- 13.1. ESCO shall not be entitled to receive any payments from the Client where ESCO is unable to complete the construction and equipment installation in accordance with **Schedule F**.
- 13.2. Where the contract is terminated by the Client before the commencement of the Energy Saving Calculations or the first Monitoring and Valuation Report as specified in **Schedule H**, whichever is earlier, ESCO shall be entitled to receive from the Client capital expenditure incurred on the construction and installation of the Energy Saving Equipment.

14. TERMINATION OF CONTRACT AFTER ENERGY SAVING CALCULATIONS

- 14.1. Where the contract is terminated due to ESCO's events of default, ESCO shall be entitled to receive from client termination payment equal to 90 per cent of the capital expenditure incurred on the installation of the Energy Saving Equipment.
- 14.2. Where the contract is terminated due to the Client's events of default, ESCO shall be entitled to receive from the client 120 per cent of the capital expenditure incurred on the installation of the Energy Saving Equipment.

15. TERMINATION BY MUTUAL CONSENT

Where the parties terminate this Contract by mutual consent, both parties shall be entitled to receive from each other the expenditure incurred or to be incurred by themselves towards the works done or in progress under this Contract after adjusting the depreciation of equipment.

16. FORCE MAJEURE

If any party is unable to perform any of its obligations under this Contract due to acts of God, Earthquake, war, insurrection or riots, or any other event beyond its control, this Contract shall at the other party's option:

- (i) Remain in effect but said performing party's obligations shall be suspended until the said events shall have ended; or
- (ii) Be terminated upon 10 days' notice to the performing party, in which even neither party shall have any further liability to the other.

17. DISPUTE RESOLUTION

- 17.1. Unless otherwise provided in this contract, if a party considers that there is a dispute in respect of any matters arising out of, or in connection with this contract, then that party shall immediately try to resolve the matter amicably.
- 17.2. Where the parties fail to resolve the dispute as provided in 17.1, the party which considers that there is a dispute shall give notice to the other party setting out details of the dispute. The parties will endeavor in good faith to resolve the dispute between themselves within five working days of the receipt of the notice, failing which the parties will within a further ten

- working days to appoint an independent mediator agreed upon by both parties, and resolve the dispute, time being of the essence.
- 17.3. If the parties fail to agree in mediation then the dispute shall be referred to the arbitration of a sole arbitrator.
- 17.4. Where the parties disagree to the arbitration of a sole arbitrator, the dispute shall be referred to the arbitration of three arbitrators.
- 17.5. The parties are free to agree on a procedure for appointing an arbitrator or arbitrators. Failing any agreement in arbitration with three arbitrators, each party shall appoint one arbitrator, and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator.
- 17.6. If the appointment procedure in sub-section 17.3, 17.4 or 17.5 applies and
- (i) A party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party; or
 - (ii) The parties fail to agree on the appointment of a sole arbitrator; or
 - (iii) The two appointed arbitrators fail to agree on the third arbitrator within thirty days from the date of their appointment, then
- 17.7. The arbitration shall be referred to the Indian Council of Arbitration (the Council). The President of the Council shall appoint a sole arbitrator or three arbitrators in accordance with the Rules of Arbitration of the Council.
- 17.8. The decision of the Arbitrator(s) shall be final. No appeal shall lie against the decision of the Arbitrator(s).
- 17.9. The place of the arbitration shall be agreeable to both parties, and the language of the arbitration shall be English.

18. COORDINATION

The client shall provide all necessary support to the ESCOs to ensure smooth coordination with the existing contractors of ESCO.

19. ASSIGNMENT

No party shall transfer or assign or sub-assign its rights, interests or obligations in whole or in part to any third party without the prior written approval of the other party in this contract.

20. PROPERTY/CASUALTY/INSURANCE: INDEMNIFICATION

ESCO shall save and hold harmless Client and their officers, agents and employees or any of them from any and all claims, demands, actions or liability of any nature based upon or arising out of any services performed by ESCO, its agents or employees under this Contract.

21. GENERAL PROVISIONS

The contract shall be governed by Indian Laws and the Courts at [Place] will have jurisdiction to entertain any dispute or claim arising on the contract.

- 21.1. ESCO shall be responsible for obtaining all permits, consents, and authorizations as may be required to perform its obligations hereunder. Failure in this Contract to specifically identify any applicable law does not affect its applicability.
- 21.2. ESCO is an independent contractor in the performance of each and every part of this Contract, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, and for any and all damages in connection with the operation of this Contract, whether it may be for personal injuries or damages of any other kind.
- 21.3. This Contract, when executed, together with all Schedules attached hereto or to be attached hereto, as provided for by this Contract shall constitute the entire Contract between both

parties and this Contract may not be amended, modified, or terminated except by a written amendment signed by the parties hereto.

- 21.4. This contract shall be construed in accordance with laws of the state. Any action to enforce the provisions of this contract shall be brought in the district court of [Name of City]. In the event any term of this contract is held to be invalid or unenforceable by a court, the remaining terms of this Agreement will remain in force.
- 21.5. Any notice required or permitted hereunder shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

TO [ESCO Name and Address]

TO [Client Name and Address]

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this Contract by their duly authorized officers on the date first above written.

[Name of ESCO]

[Name of Client]

By: _____

By: _____

(Signature)_____

(Signature) _____

(Name and Title)

(Name and Title)

Annexure A: Particulars of the ECM

| Sr. No. | Project Name | Annual Savings in Electricity, kWh | Annual Savings, Rs | Annual O&M Costs (Rs) | Annual M&V Costs (Rs) | Other project costs (Rs) | Payback Period, Months | Return on Investment % |
|---------|--------------|------------------------------------|--------------------|-----------------------|-----------------------|--------------------------|------------------------|------------------------|
| 1 | | | | | | | | |

Annexure B: Final Energy Audit Report [To be provided by the ESCO]

Annexure C: Measurement & Verification Protocol (Describe the proposed M&V system, methods, instruments, issues covered by reports etc.)

SCHEDULE A: EQUIPMENT TO BE INSTALLED BY ESCO**SCHEDULE B:** BASELINE ENERGY CONSUMPTION

Baseline and post-installation energy is to be defined using metering, billing analysis and/or engineering calculations (including computer simulations) either individually or in combination. In addition, values for certain factors that affect energy use and savings that are beyond ESCO's control may be stipulated using historical data, analyses and/or results of spot or short-term metering.

SCHEDULE C: SAVINGS MEASUREMENT & CALCULATION FORMULAE; METHODOLOGY TO ADJUST BASELINE

The energy savings are determined by calculating the difference between the energy measured in the pre-retrofit and post-retrofit periods after accounting for differences in non- ECM factors between the two periods.

In general the savings equation is:

$$\text{Savings} = \text{Base year Energy Use} - \text{Post-Retrofit Energy Use} +/\text{-Adjustments}$$

SCHEDULE D: PAYMENTS TO ESCO

| Year | Contract Payments {A} | Maintenance Services {B} | Fee | Operations Monitoring Fee {C} | Other (specify) {D} | Total payments {E} = {A}+{B}+{C} |
|------|-----------------------|--------------------------|-----|-------------------------------|---------------------|----------------------------------|
| | | | | | | |
| | | | | | | |

| Year | Annual Energy Saving (---UNIT) | Annual Energy Saving Contracted demand (KW) |
|--------------------------------------|--------------------------------|---|
| ----- | | |
| ----- | | |
| Total over project concession period | | |

Description of the model (Guaranteed/Shared/Deemed savings etc.)

SCHEDULE E: ENERGY SAVINGS ESTIMATE

SCHEDULE F: CONSTRUCTION AND INSTALLATION SCHEDULE

[To be prepared as per plan]

SCHEDULE G: SYSTEMS START-UP AND COMMISSIONING; OPERATING PARAMETERS OF INSTALLED EQUIPMENT

| ECM | ECM Description | M&V option | Summary of M&V Plan |
|-----|-----------------|------------|---------------------|
| | | | |
| | | | |

* Option A, B, C, D of IPMVP

SCHEDULE H: M&V PLAN SUMMARY (ATTACH FULL M&V IN A SEPARATE SHEET)

SCHEDULE I: ESCO'S, CLIENTS AND FACILITY MAINTENANCE RESPONSIBILITIES

A description of ESCO's specific operations and maintenance responsibilities should be included in this schedule along with the time intervals for their performance of the stated O&M activities.

SCHEDULE J: ESCO'S TRAINING RESPONSIBILITIES

Annexure D:

CERTIFICATE OF ACCEPTANCE — INSTALLED EQUIPMENT
FINAL CERTIFICATE OF ACCEPTANCE

Dated _____, 20XX

In compliance with the terms, conditions and provisions of the ENERGY PERFORMANCE CONTRACT

dated _____, 20XX (the “Contract”), by and between the undersigned (the “Client”) and (the

“ESCO”), Client hereby:

- a) certifies and warrants that all equipment described in the above-referenced Contract (the “Equipment”) is delivered, inspected, fully installed and operational as of the Acceptance Date, as indicated and defined below:
- b) accepts all of the Equipment for all purposes under the contract and all attendant documents as of this _____ day of _____, 20XX (the “Acceptance Date”).

Client:

By: _____

Title: _____

Revision History of the document

| Version | Date | Description |
|---------|----------------|--|
| 1 | 28 July 2014 | Original Model EPC described in AEEE report |
| 2 | 30 July 2015 | Circulated for the participants at Model EPC Roadshow Workshop at Pune |
| 2.1 | 17 August 2015 | Formatting changes and minor corrections |