

(On Rs. 200/- Stamp Paper)

AGREEMENT FOR DISTRIBUTION FRANCHISEE THROUGH MoU ROUTE.

(REVISION-II)

(Only for those Developers who have fully developed the Electrical Infrastructure at their own cost and also who undertake to develop additional infrastructure in future)

Agreement for Distribution Franchisee through MoU route between MSEDCL and Designated Franchisee (Name of the Rural/Hilly area having scattered network / IT Park / SEZ / Urban Township area/ Others such as Malls, Commercial / Residential Complexes, Small Colonies, etc.) pursuant to MERC order dated 24.05.10 in Case no.62 of 2009 and dated 1.06.2010 in Case No. 75 of 2007.

The areas considered for Distribution Franchisee are categorized as follows:-

(Table-I)

Sr. No.	Particulars of D.F. Area	Eligibility Criteria for selection
1.	Rural/Hilly area having scattered network	As approved in G.R. or by concerned Govt. Authority having minimum demand of 2 MVA.
2	a) IT – park, SEZ Multiple Building etc. b) IT- Single Building	As approved in G.R. or by concerned Govt. Authority having minimum demand of 2 MVA.
3.	Urban Township area	As approved in G.R. or by concerned Govt. Authority having minimum demand of 2 MVA.
4.	Others such as Malls, Commercial / Residential Complexes, Small Colonies, etc.	Subject to fulfillment of minimum load demand of 2 MVA by prospective DF.

This Franchisee Agreement through MOU is made and entered into this -----day of -----month -----year at Mumbai by and between:

Maharashtra State Electricity Distribution Company Limited, hereinafter referred to as "MSEDCL" (which expression shall unless repugnant to the context thereof, include its administrators, successors and permitted assigns), a company constituted under the Companies Act, 1956 by the government of Maharashtra, having its registered office at Prakashgad, Plot No.G-9,Dr.Anant Kanekar Marg, Bandra (East) Mumbai 400051.

AND

M/s.----- (Designated Franchisee) /
(Developer) hereinafter referred to as the "Distribution Franchisee" (Which expression unless repugnant to the context or meaning thereof shall include its successors and permitted assigns) a Company/Society registered under the Appropriate Act, having its registered office at -----
------(Site address -----
-----), each individually known as a "Party" and together as "Parties.

WHEREAS:

1. MSEDCL is a Company formed under the Government of Maharashtra General Resolution No. ELA – 1003/P.K. 8588/Bhag-2/Urja-5 Dated January 24, 2005 with effect from 6th June 2005, according to the provisions envisaged in the Electricity Act 2003. It has been registered under the provisions of the Indian Companies Act, 1956, with Registrar of Companies, Mumbai on 31st May 2005.
2. MSEDCL is a Distribution Licensee under the provisions of the Electricity Act, 2003 (the "Act") having license to supply electricity in the State of Maharashtra, except in the specific licensed areas of Mumbai. ----- (Franchisee), at -----
-----having applied KVA Load for -----No. of connections having-----
----- point of supply is the Developer of the Rural/Hilly area having scattered network / IT – park, SEZ, etc / Urban Township area / others such as Malls, Commercial / Residential Complexes, Small Colonies, etc. Who has undertaken the development of Distribution Infrastructure as required under the ----- Policy issued by -----
----- vide notification no. ----- Dated --
----- if applicable.
3. The developer of DF area has submitted a proposal to MSEDCL, to become a Distribution Franchisee of MSEDCL, under category at Sr. No. ----- of Table I i.e. -----
----- and as the M.S.E.D.C.L. has accepted the proposal of DF.Now therefore in consideration of premises and mutual agreements,covenant and conditions setforth here with, it is hereby agreed by and between the parties as follows.

Following general terms & conditions shall be applicable.

I. General Conditions:-

1. MSEDCL agrees to provide power supply at HV/EHV level as a single point/multiple points at mutually agreed *injection* point/points.
The Distribution Franchisee shall develop and maintain an efficient, Co-ordinate & economical distribution system in his area to supply electricity. The complete cost of the infrastructure shall be borne by the said Distribution Franchisee. All the provisions of the Electricity Act, 2003, various Regulations made thereunder and as per Indian Electricity Rules, 1956 as amended from time to time shall be observed by Distribution Franchisee while developing and maintaining the infrastructure.
2. The minimum load requirement will be 2 MVA with 50% utilization of load. In case where the recorded Maximum Demand is less than 50%, demand charges will be levied on the difference between recorded Maximum Demand and 50% of Minimum Load requirement to the Distribution Franchisee.
3. The detail map as verified by the nodal officer with description of premises (i.e. township or any others), number of connections, infrastructure is the part of the agreement.

4. The power supply shall be made available by MSEDCL to the Franchisee area as per the existing load shedding / outages etc. protocol of the concerned area as per approval of Maharashtra Electricity Regulatory Commission (hereinafter called as "MERC") & shall also be governed as per the directives of MERC passed from time to time.
5. Distribution Franchisee shall have to make its own arrangement for Standby Power to supply to the consumers for the period of Load Shedding if he wants 24*7 days continuous supply. He will be entitled to recover reliability charges as may be approved by MERC, MSEDCL will assist the franchisee for approval of Hon'ble MERC.
6. The Distribution Franchisee may purchase power from any Generator/ any Licensee/any other source directly under the following conditions only if alternative arrangement is practically possible & any captive generation will be allowed only after approval of MSEDCL:
 - a. Planned preventative maintenance by MSEDCL
 - b. Accidental break downs due to reasons beyond control of MSEDCL
 - c. For mitigating the load shedding.
7. Open Access permission to Distribution Franchisee through MoU route is not permitted.
8. Extra Cost of power paid to avoid load shedding will be recovered through reliability charges from the consumers as per the rates approved by MERC and the same shall be reflected in the bill separately. The responsibility and accountability of the same will be with Franchisee & MSEDCL will not be responsible in any way for this power procurement / distribution as per clause sr.no.5. MSEDCL being the licensee will assist Distribution Franchisee to approach MERC for approval of the reliability charges.
The responsibility of mitigating load shedding will be solely of Distribution Franchisee.
9. Meters if already installed by Franchisee, shall be replaced as per specifications approved by MSEDCL or by better / higher quality, standard/specifications meters if approved by MSEDCL. This replacement cost shall be borne by the Franchisee. In case the installed meters are as per the approved specifications / norms of MSEDCL and MSEDCL finds it fit, the same need not be replaced.
 - a) All the electromechanical type of meters shall be replaced by static meters.
 - b) Metering arrangement and their sealing arrangement should be done under the supervision and with the help of Nodal Officer & Testing Authority.
 - c) If the Testing Authority has verified that the existing dual source meters installed by the franchisee are found as per approved vender with MSEDCL's specifications approved by CE, (Distribution) / Testing, then such meters shall be permitted to be used by the franchisee. This permission is temporary & will be reviewed, if necessary in pursuance of direction of MSEDCL, and in review if such meters are not found as per specifications, DF shall replace the same at its own cost.
 - d) In case of multiple meters installed for same purpose in single premises, then it should be clubbed with single connection by the DF.
 - e) The DF shall install Separate meter for Hoardings.
10. Except in the circumstances allowed and without prior written approval of MSEDCL the distribution franchisee or consumer shall not install sub-meters within area of distribution franchisee for any reason. The distribution franchisee or consumer shall not distribute, transmit, resale or redistribute the electrical energy to others through the meters or sub-meters if not authorized by MSEDCL. If it is noticed by the supplier (MSEDCL) that the distribution franchisee/ consumer has installed sub-meter or/ and illegally distributing / transmitting electrical energy to any person/Premises , the distribution franchisee/ consumer shall be liable for action such as under Sec.126/Sec.135 of the Electricity Act-2003 and such other provisions of the act and Regulation as the case may be.

11. For Distribution Transformer rating in DF area:-
 - a) For new coming distribution franchisee, the distribution transformer rating should be standard rating approved by CE, (Distribution).
 - b) In case of failure, Franchisee shall replace the transformer, as per MSEDCL specifications and shall bear all cost of replacement.
12. The distribution Franchisee should keep updated billing records, including the existing and the prospective consumers into the billing data base as per MSEDCL'S requirements and should provide monthly or as and when required to The Nodal Officer and to the concerned IT Section.
MIS Function – Franchisee should generate information as may be required by MIS and monitor reports in prescribed formats and communicate the same to the IT Centre of MSEDCL.
13. The Distribution Franchisee should be vigilant for activities such as collection of bills and proper categorization of the consumer as this affects the revenue of MSEDCL. Any discrepancies same should be informed to the Nodal Officer for further action. At all times, MSEDCL and its Authorised Officers shall be given access to enter/check unauthorized extensions etc. in the distribution franchisee area. Franchisee should detect unauthorized consumption and should report the same to the Nodal Officer of licensee. For all purposes the consumers in Franchisee area are the consumers of MSEDCL and hence MSEDCL at all times shall have overriding powers, when it comes to billing, applicability of norms (MERC supply code & SOP), consumer grievances etc. Any amount imposed by way of compensation/ penalty by MERC / any other statutory body shall be borne by DF and will be recovered from payment of DF and if M.S.E.D.C.L. is required to make payments of such compensation /Penalty, DF shall be liable to indemnify the MSEDCL.
14. All provisions of Supply Code/SOP/MERC Regulations shall be applicable to Distribution Franchisee. Action under section 126,135 such as 138 of the Electricity Act 2003 shall be taken by MSEDCL. For overall monitoring and day to day co-ordination activities, the concerned S.E. would be the Nodal Officer. In case of any penalties levied on MSEDCL by the Competent Authority / Forum, etc. for non-compliance of the provisions of Act/Regulations etc by Distribution Franchisee, the same shall be passed on to the Franchisee. Such penalties shall be recovered from the O&M charges payable to the Franchisee and Franchisee shall always liable to idemnify the MSEDCL.
15. Distribution Franchisee shall be responsible for the distribution system within his area of operation to meet the standards that may be prescribed by Regulatory Commissions/ Electricity Act 2003 and also as may be decided by MSEDCL.
16. The Distribution Franchisee should provide new connection as per norms of MSEDCL after collection of SD; NSC charges etc. and submit reports as prescribed by IT for new service connection SD & NSC charges collected by DF should be deposited on the same day/next working day in the bank account operated by MSEDCL failing with the DF shall be liable to pay interest as per law.
17. Distribution Franchisee shall be responsible for the Universal Service Obligation in his area of operation.
18. After expiry / termination of Agreement, the distribution franchisee / Developer shall handover the infrastructure to the MSEDCL, without any delay and protest.
19. In a Distribution franchisee area, if the consumer demand / ask for direct supply from MSEDCL he shall be entitled to get supply through the infrastructure of Distribution franchisee.

20. For the contravention of any provision of laws, Regulation or the terms of consumer's agreements, MSEDCL shall have all right to take action under EA Act under section 126/135 and other provision of Electricity act 2003 and for any reason disconnection will be done by MSEDCL.
21. Nodal Office will collect the BG/LC from DF Agency equivalent to average of 18 days' revenue of a month of D.F. area as performance guarantee.

$$\text{i.e. Performance Guarantee} = \frac{18 \text{ Days} \times \text{Total revenue of the month}}{30 \text{ days}}$$

Financial Conditions:-

Criteria for maximum allowable Distribution losses and reimbursement charges.

(Table –II)

Sr. No.	Particulars of D.F. Area	Distribution Losses	Reimbursement Charges
1.	Rural /Hilly area having scattered network	3.5%	2%
2.	a) IT – park ,SEZ Multiple Building etc	1.5%	1%
	b) IT Single Building	1%	1%
3.	Urban Township area	2%	1.5%
4.	Others such as Malls, Commercial / Residential Complexes, Small Colonies, etc.	1.5%	1%

Criteria for maximum allowable Distribution losses and reimbursement charges are subject to downward revision at the end of financial year.

22. Distribution Franchisee shall be monitored by MSEDCL for the losses in the Distribution system and the losses beyond ----- will not be allowed for DF area at Sr. No. -----i.e. ----- and the same will be required to be made good at the rate of Commercial tariff and the same will be recovered from the monthly payments to the Distribution Franchisee.
23. The DF should ensure that the Collection efficiency of the DF area should be 100% for Each Quarter or there should be no Arrears while producing the claims for Reimbursement Charges.

Distribution Franchisee should take efforts to reduce losses and increase collection efficiency.

24. Distribution Franchisee will also take up the work:-
- A) Regarding meter reading/ photo meter reading or any other mechanism devised for taking readings and providing same to MSEDCL for preparation of bills.
 - B) Distribution Franchisee shall arrange for distribution of bills prepared by MSEDCL.
 - C) Collection of payment of bills from all consumers on behalf of MSEDCL.
 - D) The Distribution Franchisee should transfer the money collected from the consumer on the same day/next working day in the bank account operated by MSEDCL. All the payments will be collected by Franchisee on behalf of MSEDCL and Franchisee is not allowed to recover any bills in their own name.

The rates for meter reading will be as under:-

(Table –III)

Sr.No.	Particulars	Rate
1.	For LT KWH meter reading including Distribution and Collection of bill amount	Rs. 2/-
2.	For MD Based meter reading including Distribution and collection of bill amount	Rs.50/- only
3.	For HT meter reading including Distribution and Collection of bill amount	Rs.50/- only

25. MSEDCL shall pay the franchisee for the Operation & Maintenance of network as per table II, on normative revenue collected excluding add-ons such as FAC, ED etc.
26. The power supply at single point or multi points will be released under DDF (Dedicated Distribution Facility).

III. Other Conditions:

27. Event of Default & Termination: (Financial / Non Financial)

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure event or a breach by MSEDCL its substantial obligations under this agreement, shall constitute a Distribution Franchisee event of default.

Financial:

- 1) Failure on account of Distribution Franchisee to make payments as stipulated in this Agreement.
- 2) Failure to maintain a performance guarantee as per agreement.
- 3) The Distribution Franchisee is declared insolvent or bankrupt.
- 4) Sale of energy meant for the Franchisee area to any party outside the Franchisee area.

Non financial:

- 1) Failure to submit in time the information report.
 - 2) The Distribution Franchisee has unlawfully repudiated this agreement or has otherwise Expressed an intention not to be bound by this Agreement.
 - 3) Any representation or warranty made by the Distribution Franchisee during the term of the agreement is found to be false or misleading.
 - 4) Failure to submit Periodic Performance Report (Billing and collection report, updation of Assets, Register on monthly basis, Energy Audit report) to MSEDCL after a stabilization period of two months from effective date.
 1. Reporting inconsistencies in energy / revenue accounting.
 2. Non-compliance of regulations of MERC.
 - a) Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other Conditions of Supply) Regulations 2005 and as amended time to time.
 - b) Maharashtra Electricity Regulatory Commission (Standard of Performance Of Distribution licensees, period for giving supply and determination of Compensation) Regulations 2014 and same as amended time to time.
28. In case the Distribution Franchisee fails to operate as per the terms and conditions of this contract and fails to correct the defaults within the period of one month of the service notice, he shall be liable for penalty of Rs 5000/- per day till the default is removed.
In case MSEDCL is required to correct the said default DF will be liable to bear the cost thereof in addition to penalty. In case of any default by DF and for recovery of any dues outstanding against DF MSEDCL shall be entitled to invoke the BG /LC without any notice; without prejudice to its rights to recover the balance by following all modes of recovery available as per law.
- #### **29. Amicable Settlement:**
- For any dispute, Director (Operations); MSEDCL, Director (Finance) MSEDCL will be authorized to resolve the disputes & their decision will be final and binding on both the parties.

30. Governing Law & Dispute Resolution:

Any dispute arising out of compliance / non-compliance of this agreement shall be subjected to jurisdiction of Courts in Mumbai and all the laws as applicable in the state of Maharashtra shall be applicable to this agreement.

30 Without prejudice to the action has contemplated under clause no.27 the MSEDCL may

- a) In case the Distribution franchisee fails to comply with any of the terms of this agreement, MSEDCL will be entitled to terminate the contract by giving 10 days Notice.
- b) In case of termination of contract, MSEDCL will be entitled to take over and operate its functions as licensee in r/o consumers within distribution franchisee Area.

31. Steps in case of Event of Default after serving of Termination Notice:

- i) MSEDCL or its designate(s) shall be entitled to immediately enter any and / or all of the site(s) and operate the Distribution System and collect revenues due from consumers.
- ii) MSEDCL shall have right to invoke the Bank Guarantee / Letter of Credit furnished by the Distribution Franchisee and to recover all its dues and outstanding amounts.

32. -----This Franchisee arrangement will be valid for a period of **One year** from the date of signing.

33. Notices: All notices to be given under this Agreement shall be in writing and in English or Marathi Language and shall be served on the following Address.

Office of Nodal Officer (DF): -----

IN WITNESS WHEREOF the Parties have executed these presents through their authorized representatives at Mumbai

For and on behalf of

For and on behalf

[M/s Maharashtra State Electricity
Distribution Company Limited]

[M/s. -----]

Signature with seal [Chief Engineer (Comm)]

Signature with seal (Authorized Signatory)

Witness:

Witness:

1.

1.

2.

2.