

Memorandum of Agreement

Amongst

State of _____

And

**National Bank for Agriculture and Rural
Development (NABARD)**

And

Government of India

Ministry of New & Renewable Energy

_____ **2020**

Memorandum of Agreement

THIS MEMORANDUM OF AGREEMENT is made

BETWEEN

The Governor of the State of _____ acting through Principal Secretary/
Secretary, Department of Finance, Government of _____, having office at
_____, herein-after referred to as **“the State Government”** (which expression
shall, unless repugnant to the context or meaning thereof, include his successors in Office) **OF**
THE FIRST PART AND

National Bank for Agriculture and Rural Development, a body corporate established
under an Act of Parliament viz. National Bank for Agriculture and Rural Development Act, 1981
and having its Head Office at C-24, G Block, Bandra-Kurla Complex, Bandra (East), Mumbai –
400 051 hereinafter referred to as **“NABARD”** (which expression shall, unless repugnant to the
context or meaning thereof, include its successors and assigns) **OF THE SECOND PART**

AND

The President of India acting through the _____, Secretary, Ministry of
New and Renewable Energy, Government of India, having office at _____ New Delhi
– _____ hereinafter referred to as the **‘GoI’** (which expression shall, unless repugnant to the
context or meaning thereof, include his successors in Office) **OF THE THIRD PART**

**(State Government, NABARD and GoI collectively hereinafter referred to as the
Parties)**

WHEREAS

1. Countries across the globe committed to create a new international climate agreement by the conclusion of the U.N. Framework Convention on Climate Change Conference of the Parties (COP21) in Paris in December 2015. In preparation, countries have agreed to publicly outline what post-2020 climate actions they intend to take under a new international agreement, known as their “Intended Nationally Determined Contributions” (hereinafter referred to as “INDCs”). The INDCs will largely determine whether the world

achieves an ambitious 2015 agreement and is put on a path toward a low-carbon, climate-resilient future.

2. GoI has submitted its INDCs to the United Nations Framework Convention on Climate Change. As a part of INDCs, GoI has committed to increase the share of installed capacity of electric power from non-fossil-fuel sources to 40% by 2030. Further, the Cabinet has approved scaling-up of solar power target from 20,000 MW of Grid Connected Solar power projects to 1,00,000 MW by 2022.

GoI has approved Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyaan Scheme (hereinafter referred to as “PM- KUSUM”) on March 8, 2019 . for providing financial and water security to farmers. PM-KUSUM aims to add Solar and other renewable capacity of 25,750 MW by 2022 with total investment of Rs.146625 crore. Ministry of New and Renewable Energy, GoI (MNRE) is the Nodal Ministry for Implementation PM-KUSUM.

3. PM-KUSUSM consists of three components:
 - i. **Component-A: Setting up of 10,000 MW of Decentralized Ground/ Stilt Mounted Grid Connected Solar or other Renewable Energy Based Power Plants** - The estimated cost under this component is Rs. 45,000 crore.
 - ii. **Component B: Installation of 17.50 lakh stand-alone Solar Agriculture Pumps** - The estimated cost under this component is Rs. 56,625 crore.
 - iii. **Component C: Solarisation of 10 Lakh Grid Connected Agriculture Pumps-** The estimated cost under this component is Rs. 45,000 crore.
4. Under Component B and C of PM-KUSUM, the benchmark cost or the tender cost of the stand-alone agriculture pump (for Component B) / solar PV component (for component C), whichever is lower, is supported by Central Fund Assistance (CFA) by GoI at the rate of 30%, by concerned State Government where the units are to be installed/commissioned at the rate of 30% and the remaining 40% is to be borne by beneficiary farmer. For North Eastern States, Sikkim, Jammu & Kashmir, Himachal Pradesh, Uttarakhand,

Lakshadweep and A&N Islands, the same will be shared in ratio of 50:30:20 amongst GoI, concerned State Government and the beneficiary farmer respectively. In case, the State Government provides subsidy more than 30%, the beneficiary farmer's share would be reduced to that extent.

5. Government of India, MNRE, vide its letter no. 42/2/2020-SPV Division dated September 2, 2020, has expressed its intention for setting up of a funding mechanism for providing loans to States for implementing PM-KUSUM. NABARD has agreed to extend credit support to the State Government for the eligible projects under PM-KUSUM, in accordance with the Term of Reference (hereinafter referred to as "ToR") on PM-KUSUM (including the modifications) finalized by Government of India, NABARD and State Governments through mutual consultations. The ToR for release of loan to State Governments towards eligible projects under PM-KUSUM and any modifications thereto shall be read as part and parcel of this Memorandum of Agreement.

6. The State Governments shall avail loan from NABARD for funding the eligible projects under PM-KUSUM, as per their requirement.

NOW THEREFORE THIS AGREEMENT WITNESSTH THAT:

1. RIGHTS AND OBLIGATIONS OF THE STATE GOVERNMENT

(i) The State Government hereby:

- (a) Undertakes to take all such steps as may be found necessary to remove any legal or other procedural hurdles in the smooth implementation of the projects/proposals to be sanctioned under PM-KUSUM.
- (b) Undertakes to ensure that the loan advanced by NABARD shall be utilized only for the purposes for which the loan is given.
- (c) Undertakes to maintain separate accounts for the transactions of loans borrowed under PM-KUSUM clearly showing the principal amount of loan, repayment of loan, outstanding, interest and additional interest separately.
- (d) The State Government shall observe, perform and fulfill such other terms and conditions / obligations as may be stipulated in the respective sanction letters issued by NABARD and also those separately stipulated by the GoI.

- (e) Agrees to allow NABARD to verify/inspect its books of accounts, vouchers, papers, documents, etc. and any other financial/non-financial document/s of the State Government related to borrowing from NABARD.
 - (f) Agrees to submit to NABARD and GoI, the project report along with estimated cost of the eligible projects/proposals under PM-KUSUM. .
 - (g) Undertakes to submit such information/documents as and when required by Government of India and/or NABARD. State Government agrees to facilitate carrying out of evaluation, third party monitoring, social audit, IEC, other IT activities, etc. by MNRE and/or NABARD.
 - (h) Agrees to execute/cause to execute such supplementary documents as required by NABARD to carry out its obligations under this agreement including servicing of loan.
 - (i) State government will submit the loan drawal application to NABARD as per prescribed format and with recommendation of MNRE, GoI, for release of funds.
- (ii) The Finance Department of State Government will be the Nodal Department for availing loan from NABARD under PM-KUSUM. The State Government shall notify to NABARD the name, designation and specimen signature of the representative of its Finance Department, who is duly authorized by it to apply for drawal of the loan amounts and issue necessary acknowledgements for the amounts disbursed and also to receive communication, notices and other correspondence from NABARD in respect of the loans sanctioned, for completion of formalities, drawal of loan installments and repayments thereof together with interest. The State Government shall also intimate NABARD subsequent change in the designated officer, if any, and forward the particulars and specimen signature of the new incumbent immediately and in any case not exceeding 30 days.
- (iii) The State Government shall execute a Time Promissory Note (TPN) in favour of NABARD for each loan disbursement separately. Each TPN will be supported by written communication that necessary budgetary provision would be made available and held in trust to repay the principal and interest as per the schedule indicated in the TPN.
- (iv) The State Government shall repay the loan to NABARD as per the instructions as specified in the terms and conditions of the Sanction Letter/ disbursement advice issued by NABARD. The State Government shall also pay interest on loans availed for the proposals/projects under PM-KUSUM from NABARD at the rate and on due dates as may be prescribed by NABARD in the respective sanction letter/ disbursement advice. The Principal shall be repayable in annual instalments and the interest would be payable at quarterly rests. The rate of interest on loan on

each occasion shall be equal to the corresponding cost of funds to NABARD. The cost of funds to NABARD in case of funds raised from the market by NABARD for the specific purpose of funding the drawal applications under PM-KUSUM, will be the prevailing market rate as applicable for such borrowing plus NABARD's margin of 0.60% p.a. Else, the cost of funds shall be the 7 year (equivalent to tenor of loan) bond FIMMDA rate available on FIMMDA website one day prior to the date of disbursement, applicable to PSU AAA entities plus NABARD's margin of 0.60% p.a.

(v) If the State Government fails to pay the principal amount on the respective due date(s), it agrees to pay additional interest (over and above the lending rate) at the rate of 1 % per annum from the date of default to the date of payment. Further, if the State Government fails to pay the interest on the respective due date, it shall be liable to pay interest on overdue amount at the same rate as is applicable to the principal amount.

(vi) The State Government, on a continuous basis, shall maintain the details of due dates/obligations towards repayment of principal and payment of interest to NABARD and also ensure availability of adequate resources for fulfilling its obligations under this Agreement.

(vii) The State Government shall submit its tentative requirement of funds to NABARD one month prior to the expected date of disbursement. NABARD shall disburse the requisitioned amount within 15 days of getting drawal application form complete in all respects along with all necessary documents from the State Govt. In the event that State Government after giving one month's notice, does not avail funds raised by NABARD upon drawal request by the State Government, it shall be liable for financial loss suffered by NABARD in this process. This loss will be determined based on the difference between interest rate on such borrowings by NABARD and the prevailing reverse repo rate for the period such borrowing remains unutilized under this scheme.

(viii) The State Government shall furnish an undertaking in favour of NABARD in a format prescribed by NABARD that it shall make adequate and specific provision in its annual budget for repayment of the principal, payment of interest or any other dues in respect of loans availed by it from NABARD under this Agreement. The State Government shall also furnish a letter to NABARD in a format prescribed by NABARD confirming that it has made adequate and specific provision in its annual budget.

(ix) The State Government shall issue a certificate that the borrowing is within the limits fixed by the State Legislature under Article 293 (1) of the Constitution of India or that no limits have been fixed by the State Legislature under Article 293(1) in a format stipulated by NABARD. Such

borrowing is also subject to the consent of the Government of India, whenever required, under Article 293(3) of the Constitution of India.

(x) The State Government shall, in all events, abide by the terms of this agreement and ensure that it shall honour its repayment obligations to NABARD under this agreement.

(xi) Subject to the provisions of clause (xii), the State Government shall furnish an irrevocable letter of authority (Mandate) in a prescribed format duly executed by it and registered with the RBI/Principal Banker and unconditionally authorise NABARD to request RBI/Principal Banker that in the event of default by the State Government in honoring its repayment obligations to NABARD under this agreement, to debit forthwith such amount as may be requested by NABARD, (and further directs the RBI/ Principal Banker to act according to such request) in regard to repayments of principal and interest, from the account of the State Government maintained with RBI/ Principal Banker and credit the same to the account of NABARD. All such amounts in default and repayable under this agreement by the State Government to NABARD shall be intimated as such by NABARD to RBI/Principal Banker for debit from the account of the State Government.

(xii) Notwithstanding the provisions of the agreement dated -----entered into between the State Government and RBI under sub-section (1) of section 21 A of the Reserve Bank of India Act, 1934 (hereinafter referred to as "RBI Agreement")/ Agreement with its Principal Banker **to be modified as per actual position**, the State Government hereby irrevocably and unconditionally authorises NABARD to request RBI/Principal Banker to act promptly on the requests of NABARD as per clause (xi) and debit the State Government account maintained with RBI/ Principal Banker by credit to the account of NABARD or to such account as NABARD may specify, and correspondingly requests the RBI / Principal Banker to act as per this request. The State Government agrees that if at any time, the balance in the State Government account is inadequate to meet the aforesaid debit, its account may be debited to the extent of availability of funds, and the remaining amount may be debited subsequently as and to the extent funds become available in its account.

Explanation:

The balance in the State Government account means the amount held in such account including the minimum balance required to be maintained in the account under the RBI / Principal Banker agreement, and the authorised limit of the normal ways and means advances, the operative limit of the special ways and means advances, or any other authorised advances that may be made by

RBI / Principal Banker to the State Government but not including any unauthorised overdraft that may have emerged in such account.

(xiii) Notwithstanding the provisions of the RBI Agreement / Agreement with its Principal Banker **{to be modified as per actual position}**, the State Government hereby undertakes not to exercise the option of terminating the RBI Agreement / Agreement with its Principal Banker while this agreement remains in force, and the State Government accepts that the option of the State Government under the RBI Agreement / Agreement with Principal Banker stands modified to this extent.

(xiv) While this Agreement is in force, the State Government will fully indemnify NABARD against any loss or liability caused by any act or omission of the State Government that may prove harmful or prejudicial to the interest of NABARD. Further, the State Government will fully indemnify NABARD against any form or manner of revocation of this agreement during the entire duration of this agreement.

(xv) No failure to exercise and no delay in exercising, on the part of NABARD, any right, power or privilege under this agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided to NABARD are cumulative and not exclusive of any rights or remedies provided by law.

(xvi) The liability of the State Government to NABARD under this agreement shall not be impaired or discharged by reason of any time or other indulgence, which may be granted by NABARD or by a forbearance whether as to repayment, time or performance.

(xvii) Whether by any act, omission or otherwise, the State Government shall not revoke, withdraw or in any manner render this agreement ineffective either wholly or partially so long as it is in force.

(xviii) All the amounts repayable under this agreement shall be paid by the State Government to NABARD and shall be deemed as “debt charges” for which the State Government is liable. The repayment of such “debt charges” shall be expenditure chargeable to the Consolidated Fund of the State of ----- in terms of Article 202(3) of the Constitution of India.

(xix) As a separate and alternative stipulation, the State Government irrevocably agrees that any sums expressed to be payable by it under this agreement, but which for any reason whatsoever whether existing now or in future are not recoverable from the State Government on the basis of

this agreement, shall nevertheless be payable by and recoverable from the State Government, and the State Government shall indemnify NABARD and hold harmless accordingly.

2. RIGHTS AND OBLIGATIONS OF NABARD

(i) NABARD will be raising resources from the market or utilize its pool of financial resources for lending to State Governments to projects under PM-KUSUM. NABARD is authorised to raise resources from market in proportion of its Net Owned Funds (NOF) for its normal business as well as to meet requirements under PM-KUSUM. Thus, in order to ensure uninterrupted flow of funds under the programme, in the event of shortfall in Net Owned Funds, MNRE may appropriately take up with Ministry of Finance to facilitate contribution of additional share capital by GoI to NABARD in the ratio of 1 :10 [share capital : loans to be availed during a year]. In the event of NABARD's inability to raise resources from the market due to non-enhancement of its share capital by GoI, NABARD would not be liable to finance under this MoA.

(ii) The rate of interest on loan on each occasion shall be equal to the corresponding cost of funds to NABARD. The cost of funds to NABARD in case of funds raised from the market by NABARD for the specific purpose of funding the drawal applications under PM-KUSUM, will be the prevailing market rate as applicable for such borrowing plus NABARD's margin of 0.60% p.a. Else, the cost of funds shall be the 7 year (equivalent to tenor of loan) bond FIMMDA rate available on FIMMDA website one day prior to the date of disbursement, applicable to PSU AAA entities plus NABARD's margin of 0.60% p.a.

(iii) The procedure to be followed for sanction of loans by NABARD and disbursement of loans in respect of projects /proposals sanctioned shall be in accordance with the arrangements approved by the GoI and ToR framed by NABARD in consultation with MNRE and States and further on satisfying itself that the related documentation from the State Government is complete in all respects.

(iv) NABARD shall have a right to inspect/cause to inspect projects undertaken and funded under this MoA on a random basis, including site visits.

(v) In the event of default by the State Government in honoring its repayment obligations to NABARD under this agreement, NABARD, may request RBI / Principal Banker to the State Government, to debit forthwith such amount as may be requested by NABARD in regard to repayments of principal and interest, from the account of the State Government maintained with RBI/ Principal Banker and credit the same to the account of NABARD or to such account as

NABARD may specify. All such amounts in default repayable under this agreement by the State Government to NABARD shall be intimated as such by NABARD to RBI / Principal Banker for debit from the account of the State Government.

(vi) Without prejudice to the other provisions of this agreement and also without prejudice to any other legal remedies available to NABARD for recovery of its dues, NABARD, if any installment of repayment of the principal and/or payment of interest remains unpaid on the due date, can issue notice to State Government calling upon it to make payment of the same.

(vii) NABARD at its own discretion and without prejudice to its rights and other legal remedies as may be available to it upon default in payment of dues or breach of any other terms and conditions of this Agreement, may stop further disbursement of the loans and advances under PM-KUSUM or any other accommodation granted to the State Government.

(viii) NABARD may accept, purely at its discretion, advance repayment of loan or advance before due date subject to the condition that the State Government gives three days clear notice (excluding Saturdays, Sundays and Bank Holidays) to NABARD for such advance repayment, provided however that if the State Government fails to give aforesaid advance notice of three days, the repayment shall be deemed to have been made after three days (excluding Saturdays, Sundays and Bank Holidays) from the actual date of realization of payment and interest will be levied accordingly. The State Government, in such cases, shall be liable to pay a pre-payment charge equivalent to difference between cost of borrowing by NABARD and prevailing yield on 10 year G-Sec. for the period for which it is preponed / advanced, irrespective of three days notice given to NABARD.

(ix) NABARD shall be entitled to call upon the State Government to repay the entire loan in one lump sum together with interest in case NABARD is convinced that the State Government has committed breach of any of the material terms and conditions of the sanction.

(x) NABARD reserves the right to modify the terms and conditions of project specific loan sanction.

3. RIGHTS AND OBLIGATIONS OF Government of India (GoI)

(i) NABARD will be raising resources from the market or utilize its own pool of financial resources for lending to State Governments for the projects under PM-KUSUM. To facilitate extending uninterrupted loans to State Government by NABARD, in the event of shortfall in the Net Owned Funds of NABARD as indicated in para 2(i) above, for raising required financial resources from

the market, MNRE, GoI, may facilitate contribution of additional share capital to NABARD to the extent of 10% of the annual lending requirement for funding projects under PM-KUSUM.

(ii) GoI in consultation with NABARD would decide the policy for the eligible activities and projects to be funded under PM-KUSUM.

(iii) In the event of default by the State Government in honoring its repayment obligation under this agreement, GoI shall not release any further amount to the State Government under central share, if any, in projects sanctioned under PM-KUSUM or under any other scheme administered by MNRE, till the default to NABARD by the State Government is cleared. Further, NABARD shall have the “First Charge” on the amount due or becoming due from GoI to the State Government on account of central plan assistance and grants, including Finance Commission Grants, devolution of States share in Central taxes and any other amount payable to the State Government. The aforementioned amounts could be deducted, by GoI before the State share is released or in case of State share of Central taxes as and when that State’s share is credited to the State Government’s account with RBI / Principal Banker, subject to provisions of para 1 (xi) above.

Further, MNRE shall facilitate execution of an irrevocable letter of authority (Mandate) by the State Government with RBI/Principal Banker and registration of the same with RBI/Principal Banker as per the provision of clause 1(xi) of this MoA.

(v) GoI shall suitably advise and facilitate State Government to undertake awareness building on promoting use of renewable energy and social auditing in the project areas.

4. The Parties to this MoA may amend/ modify/ add/ delete any provision of the Agreement with mutual consent in writing.

5. DISPUTE RESOLUTION

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018.

Signature of -----

(Secretary), Ministry of New and Renewable Energy

Govt. of India, New Delhi 110 003

Acting in the premises for and behalf of and under the
Authority of President of India

Place:

Date:

In the presence of

- 1.
- 2.