

Memorandum of understanding (MOU)

This agreement / MOU made on the _____ between:

Andhra Pradesh Southern Power Distribution Co Lt.d. APSPDCL an energy distribution company wholly owned by Govt. of AP with headquarters at Tirupati (hereinafter referred to as “APSPDCL”, which term shall, unless repugnant to the context or meaning thereof, mean and include its permitted assigns) through tis authorised signatory,

_____ Chief General Manager, who is authorised to sign and execute this document vide office order / circular/memorandum number _____ dated _____, of the FIRST PART;

AND

_____, a public company incorporated under the Companies Act., 1956 and a banking company within the meaning of Banking Regulation Act 1949 – and having its registered office at _____ and its Corporate Office at _____ (here in after referred to as “_____”, which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the SECOND PART.

APSPDCL and _____ shall hereinafter be collectively referred to as the “Parties” and individually as “Party”.

WHEREAS:

- A. APSPDCL is providing facility for online collection of electricity consumption bill from the consumers.
- B. _____ is in the business of banking and provides payment gateway aggregation services including debit / credit card payment, internet banking, mobile banking, etc.,
- C. APSPDCL and _____ are desirous of entering into an arrangement whereby the Beneficiary / Payer visiting APSPDCL website will be provided with one or more of the following facilities.
 - a. Payment Gateway Facility for Maestro, MasterCard, VISARuPay cards both Debit cards and Credit Cards of all major Banks and other Cards like AMEX Diners etc., when available.
 - b. Internet Banking of _____ and other Banks.
- D. The parties hereto have agreed that their respective rights and obligations with regard to their relationship between them *inter se* will be interpreted, acted upon and governed solely in accordance with the terms and conditions of this Agreement / MoU.

IT IS NOW AGREED by and between the parties hereto as under:-

1. For the purpose of this Agreement / MoU, the following words and phrases shall have the meaning assigned to them under this Article.
 - I. "APSPDCL" shall mean and include the APSPDCL Departments facilitating online payment of electricity bills through their website.
 - II. "Applicable Law" shall mean any statute regulations, notification, circular, order, ordinance, requirement, direction, guideline, announcement or other binding action or requirement of an authority, which has the force of law in India.
 - III. "Beneficiary / Payer" shall mean the persons / consumers who, from time to time, may make payments to the APSPDCL by using a valid Credit Card / Debit Card / Pre-paid card / Net Banking account and makes payment for the same using _____ Eazypay platform on APSPDCL website.
 - IV. "Charge back transaction" shall mean those transactions which the Beneficiary / Payer disputes for not having made the payment of electricity bills to the APSPDCL.
 - V. "Connection / Service Number" shall mean an alphanumeric number which APSPDCL assigns to its consumers.
 - VI. "Interchange fee" shall mean the fee paid between bank for the acceptance of card based transactions.
 - VII. "RBI Directions" shall mean any instructions / guidelines issued by Reserve Bank of India from time to time under Payment and Settlement Systems Act, 2007 and / or any statutes and more particularly as per instructions containing in Circular bearing No. APSS.CO.PD.No.1102/02.14.08/2009-10 dated November 24, 2009 and any other instructions / amendments issued by RBI in this regard from time to time.
 - VIII. "Website" shall mean APSPDCL website displaying the particulars for the payment of electricity bills.
2. _____ shall use the Collection Account for APSPDCL provided in Annexure A as a Settlement account for transactions facilitated through Eazypay.
3. Beneficiary / Payer will log into the APSPDCL website and fill in basic certain information like Name, Beneficiary / Payer will have various online payment options as per arrangement with _____.

4. _____ and APSPDCL agrees that interchange fees as per Annexure A shall be borne by Beneficiary / Payer.
5. Any disputes regarding the payment resulting in refunds will be dealt with, by and between APSPDCL and the Beneficiary / Payer directly and _____ shall be responsible only to the extent of transferring the amount collected from the consumers to APSPDCL.
6. APSPDCL shall provide means to resolve all queries raised by Beneficiaries / Payers pertaining to their transactions facilitated by _____.
7. APSPDCL shall not be responsible for Chargeback on fraudulent transactions on _____ unless provided as per applicable Law. Chargeback are governed by the card issuing companies, a standard practice, which is being adopted and followed by the Banking Industry as of now.
8. APSPDCL shall not at any time require the Beneficiary / Payer to provide them with any details of their Bank Accounts / Card details including the password, Account Number, Beneficiary ID etc., assigned to the Beneficiary, except authentication as may be required for enabling the online payment. APSPDCL hereby undertakes and agrees not to describe itself as agent or representative of _____, or to give warranties which may require _____ to undertake to or be liable for, directly or indirectly, any obligation and / or responsibility to the Beneficiary or any third Party.
9. APSPDCL agrees that _____ is a payment aggregator facilitating multiple online payment options to the Beneficiary / Payer. _____ receives funds from all the payment channels of partner Banks and settles in the designated settlement account as per the guidelines issued by Reserve Bank of India from time to time. The settlement with the account of APSPDCL shall be responsibility of the branch / of _____ as per RBI guidelines / other regulatory guidelines in this regard.
10. APSPDCL ensures that all transactions happening through their website are in accordance with permitted by the legal practices, applicable law and that of the Beneficiary / payer and directions issued by the Card Associations. APSPDCL will

take complete responsibility for the transactions going through their system. APSPDCL further agrees that _____ liability for the transaction between the APSPDCL and the Beneficiary / Payer is restricted only to the settlement of payment in the designated settlement account of APSPDCL with _____. APSPDCL shall ensure compliance with and shall, all times, act in accordance with the applicable Laws.

11. **Reconciliation and generation of exception report** : The APSPDCL will carry out a two stage reconciliation procedure of the payment data MIS sent to the APSPDCL server by the _____.
 - a. Reconciliation of total collected amount reported by the _____ in MIS sent to APSPDCL server with the actual amount credited in to settlement account of APSPDCL with _____.
 - b. Generate exception reports by processing the MIS sent by _____ and data received from Beneficiary / Payer.
12. **Remittance of Amount Collected** : Amount collected from the Beneficiary / Payer shall be credited to the designated APSPDCL Bank A/c on the same day or the day of settlement of transaction whichever is later, sending daily MIS with details of Beneficiaries / Payers who paid and credit the amount T+1 day to APSPDCL Bank A/c as specified.
13. **Record Retention** : The parties hereby agree that in the course of performing the functions and obligations under this Agreement / MoU, the Parties shall retain all records and information for such period and in such form as per their record retention policy as agreed mutually.
14. **Indemnity** : _____ hereby undertakes and agrees to indemnify and keep at all times fully indemnified and hold harmless APSPDCL from and against all actions, proceedings, claims, liabilities, penalties, demands and costs, awards, damages, losses and / or expenses howsoever arising directly or indirectly as a result of any claim or proceedings brought by the Beneficiary in respect of any payment facilitated by _____.

APSPDCL shall also fully indemnify or hold harmless _____ against any direct loss, costs, charges, expenses, demand or liability out of claim by third party that APSPDCL website infringe intellectual property rights. _____ (i) shall provide prompt written notice of such claim to the APSPDCL and (ii) shall allow the APSPDCL defend any such claim using counsel of its choice. (iii) _____ shall not settle any such claim without the express written consent of the APSPDCL.

Notwithstanding anything contained in this Agreement, no suit or other legal proceedings or prosecution shall lie against _____ and / or Affiliates, directors, members, auditors, advisers, officers, employees, agents or its authorized persons for any loss or damage cause or is likely to be caused to the Sub Member Bank or any other party, as a result of or arising out of any act done by _____ in pursuance of the Laws.

15. Warranties & Representation :

The Parties represent and warrant to each other that they have all corporate, statutory and other authorizations, licenses and consents necessary to legally execute and perform its obligations under the Agreement / MoU and shall continue to have all such authorizations, licenses and consents at the time it carries out its respective rights and obligations hereunder or seeks to exercise and / or enforce any of its rights under the Agreement / MoU.

16. Limitation of Liability :

16.1. Without prejudice to any other provisions of this Agreement / MoU, the _____ shall not be liable to the APSPDCL for any loss or damage whatsoever or however caused or arising, whether directly or indirectly, in connection with the payments facilitated by _____ and / or this Agreement / MoU, including without limitation any:-

- (a) Loss of data contained in the Website and / or the servers maintained by the APSPDCL arising directly or indirectly by use of the payment mechanism:

- (b) any interruption or stoppage in the Beneficiary's / Payer's access to and / or the use of the _____.
- (c) Any breach of security in respect of or loss of data residing on the server of the APSPDCL or a third designated by the APSPDCL (e.g., a host) or on the server of a Beneficiary or a third party designated by a Beneficiary (e.g., a host);
- (d) any failure or delay in performing the services, if such failure or delay: (i) is caused by the APSPDCL acts or omissions; (ii) results from actions taken by the APSPDCL in good faith to avoid violating Applicable Law or to prevent fraud on a Beneficiary or (iii) is caused by any of the circumstances specified in clause 16.2 below.

16.2. In the performance of the Services, the _____ shall be entitled to assume that:

- (a) Messages that originate from the server of the APSPDCL or the server of a third party designated by APSPDCL (e.g., a host) have been duly authorised by the APSPDCL.
- (b) Messages that originate from the Beneficiary are deemed to be authorised by the Beneficiary;

And shall not be liable for any losses or damages caused to any person whatsoever as a result of any such message being unauthorised, inaccurate or fraudulent.

17. This Agreement / MoU shall be force for a period of one year from the _____ and may be extended for similar period upon such terms and conditions agreed by both the parties.

17.1 If the APSPDCL continues to receive the facility provided by _____ for thirty (30) days after the expiry of term of this agreement then this agreement shall be deemed to be renewed on same terms and conditions for a similar tenure.

17.2 Either Party may terminate the agreement / MoU by giving 30 days' notice in writing to the other party.

17.3 The Charges as specified in Annexure A may be reviewed every year or at any time to comply with any RBI mandate / APERC directives disused from time to time.

18. Governing Law and Dispute Resolution :

The Agreement shall be governed by and construed in accordance with the laws of India. Any dispute, controversy or claims arising out of or relating to this Agreement or the Breach, termination or invalidity thereof. Shall be referred to the jurisdiction of courts of Tirupati.

19. General Provisions :

(i) Amendment and Waiver :

This Agreement / MoU shall only be amended in writing, signed by the Parties. The failure of either Party at any time or times to demand strict performance by the other of any of the terms of this Agreement / MoU shall not of itself be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of such terms.

(ii) Force Majeure :

Neither Party shall be held responsible for any consequences or liabilities under this Agreement / MoU if it is prevented in performing its obligations under the terms of this Agreement / MoU by reason of laws or regulations, action, acts of God and unforeseen circumstances beyond its control. If the force majeure event continues for more than 30 days, either shall be entitled to terminate this Agreement / MoU with a notice of 30 days to the other Party.

(iii) Entire Agreement / MoU :

This Agreement / MoU constitutes the entire Agreement / MoU between the Parties concerning the Services and all other matters covered herein, and supersedes all prior and contemporaneous Agreement / MoUs, written or oral, other than any written, fully

executed contemporaneous Agreement / MoU which specifically acknowledges the existence of this Agreement / MoU.

(IV) Severability :

In the event that any provision of, or restriction contained in, this Agreement / MoU is held by a court of competent jurisdiction to be invalid or unenforceable, and is not reformed by such court, the remaining provisions and restrictions contained in this Agreement / MoU shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable provisions or restrictions of this Agreement / MoU had not been included.

(V) Arbitration :

In case of any dispute or difference between the Parties, they shall endeavour to resolve such dispute or difference in an amicable manner through mutual discussions. If no settlement can be reached through discussions/consultations between the Parties within 30 business days of one Party delivering a written notice of the dispute to the other Party, then such matter may be referred to arbitration by the disputing party to be settled by arbitration in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 (the "Act").

The parties agree with respect to such arbitration that :

- a. The arbitration proceedings shall be conducted in English and the place of arbitration shall be Visakhapatnam.
- b. If the Parties fail to appoint a single arbitrator acceptable to both the Parties, there shall be three (3) arbitrators, One (1) arbitrator shall be appointed by each Party and the third shall be appointed by the other two (2) arbitrators and shall act as the presiding arbitrator of the arbitral tribunal.
- c. Subject to the provisions of the Act the arbitration award shall be binding on the Parties, and enforceable in accordance with its terms. The arbitrators shall state the specific reasons for their findings in writing. The Parties agree to be bound thereby and to act accordingly.

(VI) Governing Law and Jurisdiction :

This Agreement / MoU shall be governed by the laws of India and subject to Clause (V) above, the courts located at Visakhapatnam shall have exclusive jurisdiction in the event of any dispute.

(VII) Counterparts :

This Agreement / MoU may be executed in two counterparts, each of which shall be deemed to be an original and both taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement / MoU to produce or account for more than one such counterpart.

(VIII) **Notices :** All notices sent by either parties shall be address to the undersigned, at the following address:-

For Bank :

For APSPDCL :

(VIII) Survival :

The rights and obligations of the Parties under the Agreement / MoU, which by their nature survive the termination of this Agreement / MoU.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement / MoU (in duplicate) on the day, month and year first hereinabove mentioned.

	Andhra Pradesh Southern Power Distribution Company of A.P., Limited.	_____ Limited
Signature		
Name		
Designation		
Seal		
Signature of Witness		
Name of witness		
Designation		

ANNEXURE "A"

_____ will charge the Beneficiary / Payer and the APSPDCL agrees for Beneficiary Paying the following interchange fee in terms of the provisions of this Agreement / MoU to _____ as interchange fees depending on the gateway provided:

PAYMENT CHANNEL	AMOUNT	PRICING (PLUS APPLICABLE SERVICE TAXES PER TRANSACTION)
RTGS / NEFT	All Amount	Rs.10/-
Debit Card	For Transactions upto Rs.2,000/-	0.75% of the value of each transactions
	For Transactions above Rs.2,000/-	1% of the value of each transaction
Credit Card	All Amount	1.1% of the Value of each transaction
Net Banking	All Amount	Rs.6/-

_____ Ltd. Reserves the right to review and revise the interchange fee after mutual consent with the APSPDCL.

APSPDCL's Bank Account Details :

S.No.	PARTICULARS	DETAILS
1.	Bank Name	_____
2.	Branch Name & Code	To be communicated by bank separately post Account opening
3.	Branch Address	
4.	City	
5.	IFSC Code of beneficiary bank	(Please Incorporate)
6.	A/C No.	To be communicated by bank separately post Account Opening
7.	Account Name	Andhra Pradesh Southern Power Distribution Company of A.P., Ltd.