

POWER SALE AGREEMENT

FOR

SUPPLY OF 40 MW SOLAR POWER

FROM

GRID CONNECT SOLAR PARK

FOR

25 YEARS

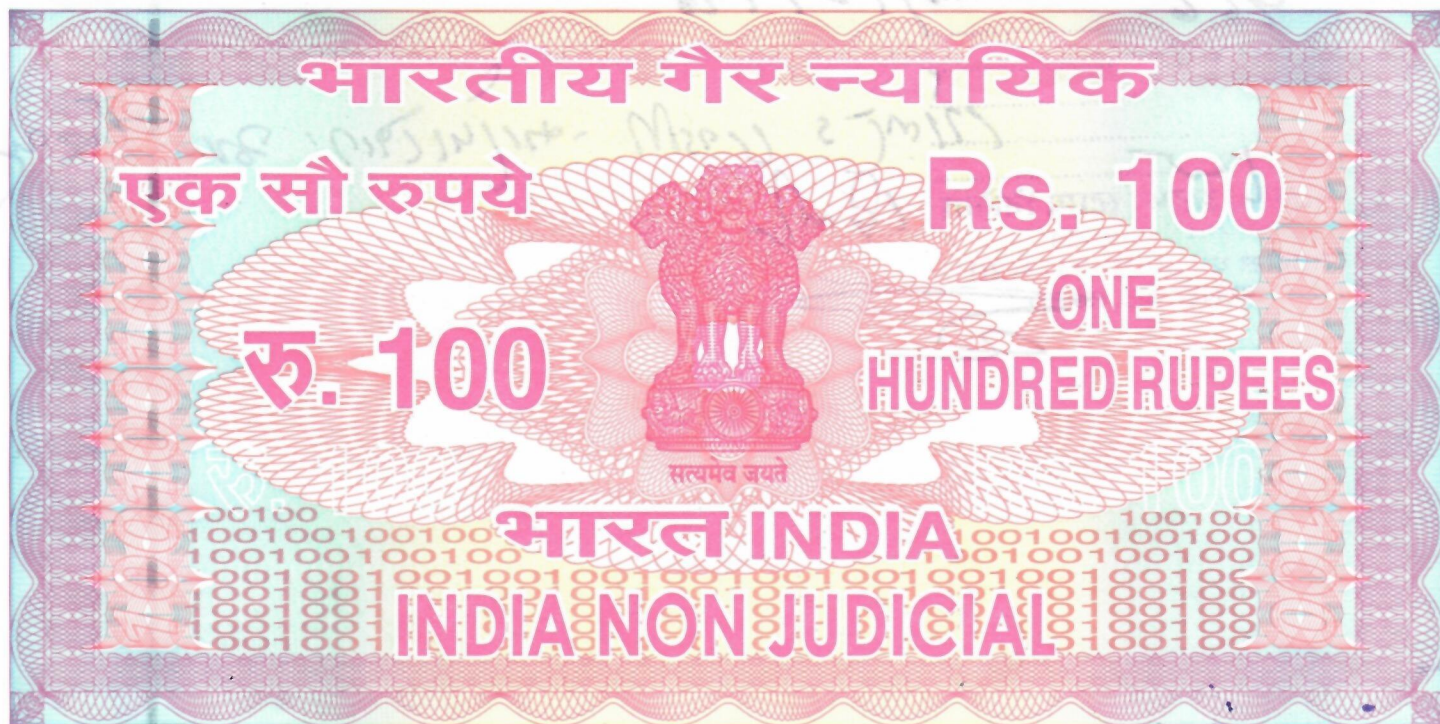
By

[SOLAR ENERGY CORPORATION OF INDIA LIMITED]

NEW DELHI

With

Uttar Pradesh Power Corporation Ltd. (UPPCL), Lucknow



UTTAR PRADESH

DD 115429



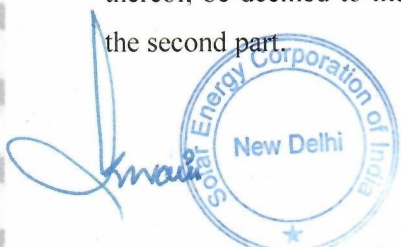
This Power Sale Agreement is made on the ^{4th} day of JANUARY 2017.

Between

Solar Energy Corporation of India Limited, a company incorporated under the Companies Act 1956, having its registered office at 1st Floor, A-Wing, D-3, District Centre, Saket, New Delhi-110017(hereinafter referred to as "SECI", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assignees) as a Party of the first part.

And

U. P. Power Corporation Ltd., a company incorporated under the Companies Act 1956 or the Companies Act 2013 as applicable, having its registered office at Shakti Bhawan, 14-Ashok Marg, Lucknow-226001 (hereinafter referred to as "UPPCL", or "Buying Utility", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assignees) as a Party of the second part.





CB. (PPA)
U. P. P. L.
Shakti Bhawan
Lucknow


SECI and Buying Utility are individually referred to as 'Party' and collectively referred to as 'Parties'.

Whereas:

- A. SECI has been identified by the Government of India as the implementing agency for purchase and sale of grid connected Solar PV power at 33 kV or above under Phase –II, Batch- III of the Jawaharlal Nehru National Solar Mission of Government of India (GoI).
- B. [Not Used].
- C. SECI will sign Power Purchase Agreements (PPAs) and VGF Securitization Agreements (VGFSAs) with the selected solar power developers (hereinafter referred to as "SPDs") for procurement of 40MW Solar Power projects selected under the provisions of RfS (SECI/JNNSM/P-2/B-3/UP/042016 dated 19.04.2016) on a long term basis, as indicated at Schedule-1 and Schedule-2 respectively.
- D. [Not Used].
- E. SECI has agreed to sell Solar Power to the Buying Utility and the Buying Utility has agreed to purchase such Solar Power from SECI as per the terms and conditions of this Agreement.
- F. SECI has agreed to sell power to the Buying Utilities at the Tariff determined from the reverse auction process mentioned in the RfS plus trading margin of Rs. 0.07/kWh (maximum possible being Rs. 4.50/kWh including trading margin of Rs. 0.07/ kWh) fixed for entire term of this Agreement.
- G. The Parties hereby agree to execute this Power Sale Agreement setting out the terms and conditions for the sale of Solar Power up to the agreed Contracted Capacity by SECI to the Buying Utility.
- H. The agreed Contracted Capacity by SECI to the Buying Utility shall be **40MW(40MW)** or the total capacity of projects selected under the provisions of RfS (SECI/JNNSM/P-2/B-3/UP/042016 dated 19.04.2016), if it is less than 40 MW, as per the allocation letter issued by SECI.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL AGREEMENTS, COVENANTS AND CONDITIONS SET FORTH HEREIN, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:


CE. (P.P.A.)
U.P.P.L.
Shakti Bhawan 3, 6th
Lucknow

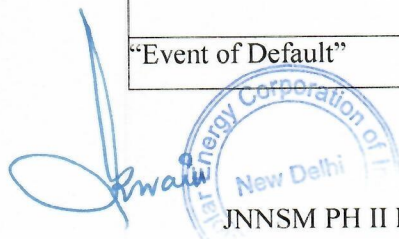
1 **ARTICLE 1: DEFINITIONS AND INTERPRETATION**

1.1. Definitions

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003, Indian Electricity Grid Code 2010 and the Rules or Regulations framed there under, including those issued / framed by the Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time.

"Act" or "Electricity Act, 2003"	Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
"Affiliates"	shall mean a company that, directly or indirectly, i. controls, or ii. is controlled by, or iii. is under common control with, a Company developing a Project or a Member in a Consortium developing the Project and control means ownership by one company of at least 26% (twenty six percent) of the voting rights of the other company.
"Agreement" or "Power Sale Agreement" or "PSA"	shall mean this Power Sale Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;
"Appropriate Commission"	shall mean the Central Electricity Regulatory Commission referred to in sub- section (1) of section 76 or the State Electricity Regulatory Commission referred to in section 82 or the Joint Electricity Regulatory Commission referred to in Section 83 of the Electricity Act 2003, as the case may be;
"Bill Dispute Notice"	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
"Bulk Consumer"	shall have the same meaning as provided in CERC (Indian Electricity Grid Code) Regulation, 2010 as amended from time to time;
"Business Day"	shall mean with respect to SECI and Buying Utility, a day other than Sunday or a statutory holiday, on which the PSU banks remain open for business in the state of Delhi and / or Lucknow;
"Buying Utilities"	shall mean UPPCL on behalf of all four DISCOMS namely Poorvanchal Vidyut Vitran Nigam Ltd, Madhyanchal Vidyut Vitran Nigam Ltd, Dakshinanchal Vidyut Vitran Nigam Ltd & Paschimanchal Vidyut Vitran Nigam Ltd who has signed the PSA with SECI for purchase of Power;
"CERC"	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
"Central Transmission Utility" or "CTU"	shall mean the utility notified by the Central Government under Section-38 of the Electricity Act 2003;

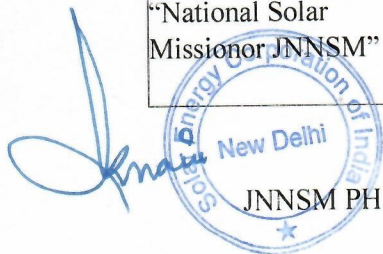
"Change in Law"	shall have the meaning ascribed thereto in Article 8 of this Agreement;
"Competent Court of Law"	shall mean any court or tribunal or any similar judicial or quasi-judicial body in Delhi or Lucknow that has jurisdiction to adjudicate upon issues relating to this Agreement;
"Consultation Period"	shall mean the period of sixty (60) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SECI Preliminary Default Notice or Buying Utility Preliminary Default Notice as provided in Article 9 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
"Contract Year"	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;
"Contracted Capacity"	shall mean Solar Power contracted with Buying Utility for sale of such power by SECI to Buying Utility as per recital H of this Agreement;
"Day"	shall mean a day, if such a day is not a Business Day, the immediately succeeding Business Day;
"Delivery Points" / "SPD Delivery Point"	shall mean the delivery point as identified in SECI-SPD PPA for respective Projects contributing to total capacity of 40 MW;
"Dispute"	shall mean any dispute or difference of any kind between SECI and the Buying Utility in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 12 of this Agreement;
"Due Date"	shall mean the Last Day of the Month provided SECI raises bill up to 4 th day of the month. For the bills raised after 4 th it shall be 30 th day from the date of raising of bill, by which date such Monthly Bill is payable by the Buying Utility;
"Effective Date"	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
"Electricity Laws"	shall mean the Electricity Act, 2003 and the rules and regulations made thereunder from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the Joint Meter reading (JMR) /regional energy accounts/state energy accounts or energy accounts as specified in the Grid Code issued by the appropriate agency for each Month or issued by State agency (as per their prescribed methodology), including the revisions and amendments thereof;
"Event of Default"	shall mean the events as defined in Article 9 of this Agreement;



JNNSM PH II B III/PSA/UPPCL/40 MW


CE. (P.P.A.)
UPPCL.

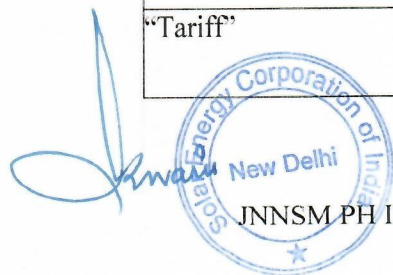
"Expiry Date"	Since multiple projects of different capacities with different COD will contribute to total capacity, expiry date for the capacity of a Project shall mean the date occurring twenty five (25) years from the date of commercial operation of the last unit of the concerned Solar Power Project;
"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 7 of this Agreement;
"Grid Code" / "IEGC" or "State Grid Code"	shall mean the Grid Code specified by the Central Commission under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;
"Incremental Receivables"	shall mean the amount of receivables, in excess of the amounts which have already been charged or agreed to be charged in favour of the parties by way of a legally binding agreement, executed prior to the Effective Date;
"Indian Governmental Instrumentality"	shall mean the Government of India, Governments of State(s), where the Power Projects, SECI and Buying Utility are located and any Ministry, Department, Board, Authority, Agency, Corporation, Commission under the direct or indirect control of Government of India or any of the above state Government(s) or both, any political sub-division of any of them including any court or Appropriate Commission(s) in India;
"Interconnection Facilities"	shall mean the facilities on SPD's side of the SPD Delivery Point for sending and metering the electrical output in accordance with this Agreement and, subject to Article 4, the Metering System required for supply of power;
"Invoice" or "Bill"	shall mean either a Monthly Invoice, Monthly Bill or a Supplementary Invoice /Supplementary Bill by any of the Parties;
"Late Payment Surcharge"	shall have the meaning ascribed thereto in Article 6.3.3 of this Agreement;
"Law"	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commission;
"Letter of Credit" or "L/C"	shall have the meaning ascribed thereto in Article 6.4 of this Agreement;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"National Solar Mission/JNNSM"	shall mean the Jawaharlal Nehru National Solar Mission launched by the Government of India vide resolution No. 5/14/2008-P&C dated 11 th January 2010, as amended from time to time;



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CE. (P.P.A.)
U.P.P.C.L.
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"JNNSM Phase-II Batch –III"	shall mean the Phase II Batch III of the JNNSM;
"SECI-SPD PPA"	shall mean the Power Purchase Agreement signed between SECI and SPD for procurement of Solar Power by SECI from SPD and annexed hereto as Schedule 1 of this Agreement;
"SECI-SPD VGFSa"	shall mean the VGF Securitization Agreement signed between SECI and SPD annexed hereto as Schedule 2 of this Agreement;
"Open Access"	shall have the same meaning as provided in the Electricity Act 2003 as amended from time to time;
"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
"Payment Security Mechanism"	shall have the meaning ascribed thereto in Article 6.4 of this Agreement;
"Preliminary Default Notice"	shall have the meaning ascribed thereto in Article 9 of this Agreement;
"RBI"	shall mean the Reserve Bank of India;
"RLDC"	shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
"RPC"	shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that region;
"Rupees", "Rs.", "₹"	shall mean Indian rupees, the lawful currency of India;
"SERC"	shall mean the Electricity Regulatory Commission of any State in India constituted under Section-82 of the Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under Subsection (1) of Section 83 of the Electricity Act 2003;
"SLDC"	shall mean State Load Dispatch Centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located;
"SLDC Charges"	shall mean the charges levied by any of the relevant SLDCs on the Buying Utility;
"Solar Photovoltaic" or "Solar PV"	shall mean the solar photovoltaic power project that uses sunlight for direct conversion into electricity and that is being set up by the SPD to provide Solar Power to SECI;
"Solar Power"	shall mean power generated from the Solar Photovoltaic Power Project;
"State Transmission Utility" or "STU"	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;
"Tariff"	shall have the same meaning as provided for in Article 5 of this Agreement;



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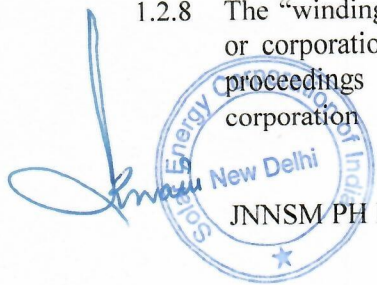
(Signature)
CE. (P.P.A.)
U.P.P.C.L.
 New Delhi

"Tariff Payments"	shall mean the payments to be made under Monthly Bills as referred to in Article 6;
"Termination Notice"	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 9 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Trading Margin"	shall mean the margin as fixed by MNRE for SECI under this scheme on sale of Solar power to Buying Utilities, subject to CERC applicable Regulations in this regard;
"Unit"	shall mean part Capacity commissioned;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

1.2. Interpretation

Save where the contrary is indicated, any reference in this Agreement to:

- 1.2.1 "Agreement" shall be construed as including a reference to its Schedules and/or Appendices and/or Annexures;
- 1.2.2 An "Article", a "Recital", a "Schedule" and a "paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;
- 1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (1,00,000);
- 1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;
- 1.2.5 "Indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.6 A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;
- 1.2.7 "Rupee", "Rupees", "Rs." or new rupee symbol "₹" shall denote Indian Rupees, the lawful currency of India;
- 1.2.8 The "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or

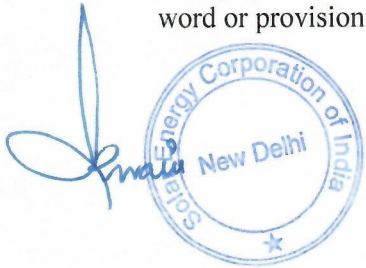



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CE. (P.P.A.)
U.P.P.C.L.

corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

- 1.2.9 Words importing the singular shall include the plural and vice versa;
- 1.2.10 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented only if agreed to between the parties;
- 1.2.11 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time;
- 1.2.12 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time;
- 1.2.13 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part;
- 1.2.14 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement;
- 1.2.15 All interest, if applicable and payable under this Agreement, shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days;
- 1.2.16 The words "hereof" or "herein", if and when used in this Agreement shall mean a reference to this Agreement;
- 1.2.17 The terms "including" or "including without limitation" shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;




CE. (P.P.A.)
U P P C L.
Shakti Bawin Extra
Lucknow.

2 **ARTICLE 2: TERM OF AGREEMENT**

2.1. Effective Date

- 2.1.1 This Agreement shall come into effect from the date of its execution by both the Parties and such date shall be referred to as the Effective Date.

2.2. Term of Agreement

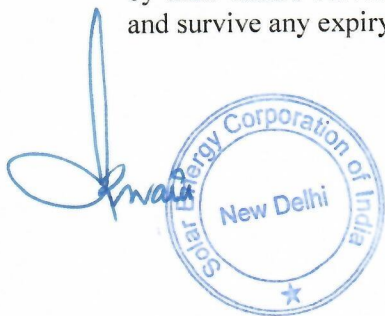
- 2.2.1 This Agreement subject to Article 2.3 and 2.4 shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period on mutually agreed terms and conditions at least one hundred eighty (180) days prior to the Expiry Date.


2.3. Early Termination

- 2.3.1 This Agreement shall terminate before the Expiry Date: i) if either SECI or Buying Utility terminates this Agreement, pursuant to Article 9 of this Agreement; or ii) if any SECI-SPD PPA gets terminated, the capacity under this Agreement shall automatically be reduced but only to the extent of that particular SECI-SPD PPA capacity.

2.4. Survival

- 2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive liquidated damages as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under, Article 7 (Force Majeure), Article 9 (Events of Default and Termination), Article 10 (Liability and Indemnification), Article 12 (Governing Law and Dispute Resolution), Article 13 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.




CE. (P.P.A.)
UPPCL.
Shakti Bina Extn
Lucknow.

3 **ARTICLE 3: OPEN ACCESS & TRANSMISSION**

3.1. Open Access

- 3.1.1 The Buying Utility shall be responsible for obtaining and maintaining long term open access, as required, from the Delivery Points to its receiving substation(s).
- 3.1.2 The Buying Utility shall be required to apply for open access as per the applicable regulations specified by the Appropriate Commission and shall obtain open access for the Term of the Agreement well in advance so as to start evacuating the Contracted Capacity from the Delivery Points.
- 3.1.3 Delay or failure by the Buying Utility to obtain open access as required under this Article 3.1, shall not relieve Buying Utility from the Tariff payment obligations to SECI which shall commence from the date of supply of power by SPD.


3.2. Charges

- 3.2.1 As per applicable regulation(s) of the Appropriate Commission(s), all charges pertaining to BPTA and open access of the transmission network of the concerned STU/CTU/ any other Transmission Utility from the Delivery Points to the receiving substation(s) shall be directly paid by the Buying Utility.
- 3.2.2 SECI shall neither be liable for obtaining the open access nor for any payments to be made for such open access to the concerned STU/CTU/any other Transmission Utility by the Buying Utility.
- 3.2.3 Not used.

3.3. Losses

- 3.3.1 The Buying Utility shall be liable to bear all the losses including transmission losses in respect of the power evacuated from the Delivery Points to its receiving substation(s).




CE. (P.P.A.)
U.P.P.C.L.
Shakti Biliwadi Extn.
Lucknow.

4 **ARTICLE 4: METERING**


4.1. Metering

- 4.1.1 The metering arrangements for metering the electrical energy supplied at the SPD Delivery Point shall be as per the provisions identified in the concerned SECI-SPD PPA. The metering arrangement shall comply with the norms of SERC / CERC/ CEA as applicable.
- 4.1.2 The energy details obtained from Energy Accounts shall be provided to the Buying Utility by SECI along with Monthly Bill validating the total energy for which the Monthly Bill is generated.
- 4.1.3 Energy Accounts shall be binding on both the Parties for billing and payment purposes.

4.2. Energy Accounting & Scheduling

- 4.2.1 The scheduling and energy accounting of solar power shall be as per the provisions of the SECI-SPD PPA and Grid Code.





CE. (P.P.A.)
U. P. P. C. L.
Shakti Bina Bata
Lucknow.

5 ARTICLE 5: APPLICABLE TARIFF

- 5.1.1 The Tariff for Solar Power of individual projects shall be the tariff determined from the reverse auction process mentioned in the RfS plus trading margin of Rs. 0.07/kWh (maximum possible being Rs. 4.50/kWh including trading margin of Rs. 0.07/ kWh) fixed for entire term of this Agreement.
- 5.1.2 The applicable tariff shall be the weighted average tariff of all the commissioned project capacity as per Article-14.1, till the end of the term of the Agreement. The Buying Utility shall make the Tariff Payments to SECI as per the provisions of this Agreement.




CE. (P.P.A.)
U.P.P.C.L.
Shakti Bhawan Bldg
Lucknow

6 ARTICLE 6: BILLING AND PAYMENT

6.1. General

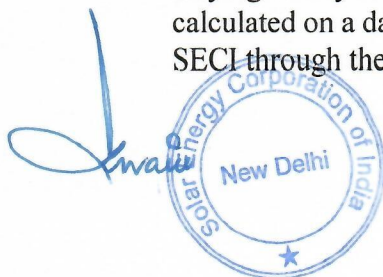
- 6.1.1 From the commencement of supply of power by SECI, the Buying Utility shall pay to SECI the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 5. All Tariff Payments by the Buying Utility shall be in Indian Rupees.


6.2. Delivery and Content of Monthly Bills

- 6.2.1 SECI shall issue to the Buying Utility a signed Monthly Bill on the 1st Business Day of the next Month.
- 6.2.2 The Monthly Bill prepared as detailed in Schedule-3 of the PSA, shall include the following;
- i) Provisional Bill for Solar Power Supplied in the immediately preceding Month which shall include estimated generation from the SPD as declared by SECI;
 - ii) (a) Adjustments against the Provisional Bill(s) based on Energy Accounts for the Solar Power Supplied in the Month(s) preceding to the previous month(s);
 - ii) (b) Any other adjustments to cover open access related charges and any other prior-period adjustments;
 - iii) Late Payment Surcharge, if any; and
 - iv) Taxes, Duties, Levies etc. as applicable.

6.3. Payment of Monthly Bills

- 6.3.1 The Buying Utility shall pay the amount payable under the Monthly Bill on the Due Date to such account of SECI, as shall have been previously notified to the Buying Utility in accordance with Article 6.3.2 mentioned below,. Buying utility shall notify SECI on every monthly payment for any deduction including any reasons thereof.
- 6.3.2 SECI shall open a bank account at **New Delhi** ("SECI's Designated Account") for all Tariff Payments to be made by the Buying Utility to SECI, and notify the Buying Utility of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The Buying Utility shall also designate a bank account at **Lucknow** (the "Buying Utility's Designated Account") for payments to be made by SECI to the Buying Utility, if any, and notify SECI of the details of such account ninety (90) Days before the dispatch of the first Monthly Bill. SECI and the Buying Utility shall instruct their respective bankers to make all payments under this Agreement to the Buying Utility's Designated Account or SECI's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.
- 6.3.3 **Late Payment Surcharge**
In the event of delay in payment of a Monthly Bill by the Buying Utility thirty (30) days beyond its Due Date, a Late Payment Surcharge shall be payable by the Buying Utility to SECI at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by SECI through the next Monthly Bill.

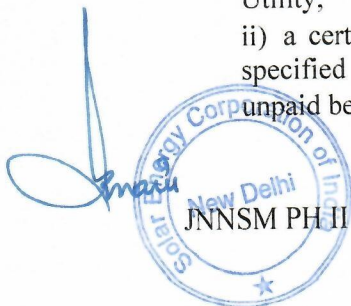



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Shakti Bhawan Extn
Lucknow.

6.4. Payment Security Mechanism

Letter of Credit (LC):

- 6.4.1 The Buying Utility shall provide to SECI, in respect of payment of its Monthly Bills, an unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the Buying Utility, which may be drawn upon by SECI in accordance with this Article. The Buying Utility shall provide SECI draft of the Letter of Credit proposed to be provided to SECI two (2) months before the Scheduled Commissioning Date.
- 6.4.2 Not later than one (1) Month before the Start of Supply, the Buying Utility shall through a scheduled bank at **Lucknow** open a Letter of Credit in favour of SECI, to be made operative at least 15 days prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be reviewed for every year, and revised w.e.f. April for an amount equal to:
- i) for the first Contract Year, equal to 3 months of the estimated average monthly billing;
 - ii) for each subsequent Contract Year, equal to 1.1 times of the average of the monthly Tariff Payments of the previous Contract Year and equal to 3 months of the estimated monthly billing from new capacities.
- 6.4.3 Provided that SECI shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill, and shall not make more than one drawal in a Month.
- 6.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 6.4.2 due to any reason whatsoever, the Buying Utility shall restore such shortfall within seven (7) days from the occurrence of such shortfall.
- 6.4.5 The Buying Utility shall cause the scheduled bank issuing the Letter of Credit to intimate SECI, in writing regarding establishing of such irrevocable Letter of Credit and of any changes therein.
- 6.4.6 The Buying Utility shall ensure that the Letter of Credit shall be renewed not later than fifteen (15) days prior to its expiry.
- 6.4.7 All costs relating to opening and maintenance of the Letter of Credit shall be borne by the Buying Utility.
- 6.4.8 If the Buying Utility fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 6.6.1 and 6.6.2, SECI may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the Buying Utility, an amount equal to such Monthly Bill or part thereof, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:
- i) a copy of the Monthly Bill which has remained unpaid by the Buying Utility;
 - ii) a certificate from SECI to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;



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C.E. (P.P.A.)
UPPCL.
Chief Engineer (P.P.A.)

6.4.9 [Not Used]


6.4.10 [Not Used]

6.5 Third Party Sales by SECI

- 6.5.1 Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence of any of the following event(s), SECI shall be entitled to regulate power supply of Solar Power of the Buying Utility;
- i) Default in making payment by the 15th day after the Due Date,
 - ii) Non-recoupment of LC by the 15th day after its operation.
 - iii) Non-availability of LC for operation and for its required value by the 15th day after the Due Date.
- 6.5.2 SECI shall issue the Notice for Regulation of Power Supply on the date above and shall give a notice of 15 days to start the regulation on the 16th day thereafter.
- 6.5.3 Regulation of Power Supply would be on pro rata basis i.e., in the ratio of amount due and unpaid to total amount due against the relevant Monthly Bill. In case of shortfall in amount of LC available, the right to regulate shall be in the ratio of shortfall in LC maintained /available to the total amount of LC required.
- 6.5.4 In order to avoid any doubts, it is illustrated that:
- i) In the event of a bill amounting to Rs. 25 Crore is unpaid to the extent of Rs. 10 Crore, SECI would have a right to regulate and sell Buying Utility's allocation of the power to third parties to the extent of 40% (i.e. $10/25 \times 100$).
 - ii) If LC required to be opened/ maintained by Buying Utility is to the extent of Rs. 25 Crore and LC opened/maintained/available is to the extent of Rs. 15 Crore only i.e. LC available is short by Rs. 10 Crore, SECI would have a right to regulate and sell Buying Utility's allocation of power to third parties to the extent of 40% (i.e. $10/25 \times 100$).
- 6.5.5 SECI shall have the right to divert the Solar Power or part thereof and sell it to any third party namely;
- i) Any consumer, subject to applicable Law; or
 - ii) Any licensee under the Act;
- SECI shall request the concerned SLDC/RLDC to divert such power to third party as it may consider appropriate.
- 6.5.6 Provided that such sale of power to third party shall not absolve the Buying Utility from its obligation to pay in full to SECI for the solar power as per SECI-SPD PPA and any other outstanding payment liability of the Buying Utility as per this Agreement.
- 6.5.7 The amount realized from the diversion and sale of power to third party over and above the trading margin, any charges including open access charges and other costs shall be adjusted first against the pending liability of the Buying Utility. Deficit if any shall be made good by the Buying Utility.
- 6.5.8 Sales to any third party shall cease and regular supply of electricity to the Buying Utility shall commence and be restored within thirty (30) days from the date of clearing all outstanding dues payable to SECI for the Solar Power under this Agreement.



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U.P.P.C.L.
Shakti Bhawan Bhubaneswar

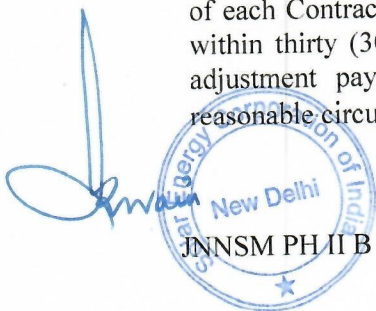
- 6.5.9 Further, the liability of the Buying Utility to make the Tariff Payments to SECI as per Energy Accounts shall start from the day of such restoration of supply of power and shall continue for such periods wherein such power was made available by SPD for usage by the Buying Utility.

6.5. Disputed Bill

- 6.6.1 If the Buying Utility does not dispute a Monthly Bill raised by the other Party within thirty(30) days of receiving, such Bill shall be taken as conclusive.
- 6.6.2 If the Buying Utility disputes the amount payable under a Monthly Bill it shall pay the un-disputed amount and it shall within thirty (30) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party against disputed amount setting out:
- i) the details of the disputed amount;
 - ii) its estimate of what the correct amount should be; and
 - iii) all written material in support of its claim.
- 6.6.3 If the SECI agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 6.6.2, the SECI shall make appropriate adjustment in the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the Buying Utility and up to and including the date on which such payment has been received as refund.
- 6.6.4 If the SECI does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 6.6.2, it shall, within thirty (30) days of receiving the Bill Dispute Notice, furnish a notice ("Bill Disagreement Notice") to the disputing Party providing:
- i) reasons for its disagreement;
 - ii) its estimate of what the correct amount should be; and
 - iii) all written material in support of its counter-claim.
- 6.6.5 Upon receipt of the Bill Disagreement Notice by the Buying Utility under Article 6.6.4, authorized representative(s) or a director of the board of directors/ member of board of the Buying Utility and SECI shall meet and make best endeavours to amicably resolve such dispute within thirty (30) days of receipt of the Bill Disagreement Notice.
- 6.6.6 If the Parties do not amicably resolve the Dispute within thirty (30) days of receipt of Bill Disagreement Notice pursuant to Article 6.6.4, the matter shall be referred to Dispute resolution in accordance with Article 12.
- 6.6.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the Buying Utility shall, without prejudice to its right to Dispute, be under an obligation to make payment, of 50% of the Disputed Amount in the Monthly Bill.

6.6. Quarterly and Annual Reconciliation

- 6.7.1 The Parties acknowledge that all payments made against Monthly Bills shall be subject to quarterly reconciliation within thirty (30) days of the end of the quarter of each Contract Year and annual reconciliation at the end of each Contract Year within thirty (30) days thereof to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.



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CE. (P.P.A.)
U.P.P.C.L.
Joint Dispute Extra

6.7.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the Buying Utility and SECI shall jointly sign such reconciliation statement. After signing of a reconciliation statement, the SECI shall make appropriate adjustments in the following Monthly Bill, with Surcharge/Interest, as applicable. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 12.

6.7. Renewable purchase obligation

- 6.8.1 The Buying Utility may identify the energy procured from the SPD Delivery Point to meet its renewable purchase obligations (as mandated by the Appropriate Commission). Provided that the renewable purchase obligation of the Buying Utility shall be considered to be met by the Buying Utility only if there is no payment default for such energy procured by the Buying Utility. A certificate to such effect shall be provided by SECI to the Buying Utility.
- 6.8.2 SECI shall provide such certificate identifying the quantum of solar energy supplied by SECI and being met by the Buying Utility for each year within thirty (30) days after the end of such year.
- 6.8.3 SECI, at any time during a Contract Year, shall not be obliged to purchase any additional energy from the SPDs beyond **77.088 Million kWh (MU)**¹ as per PPAs signed with SECI for solar PV Projects. If for any Contract Year, it is found that the SPDs have not been able to generate minimum energy of **59.568 Million kWh (MU)** till the end of 10 years and **56.064 Million kWh (MU)** for the rest of the term of the Agreement, as per PPA signed with SECI for solar PV Projects, on account of reasons solely attributable to the SPD, the noncompliance by SPD shall make SPD liable to pay the compensation and shall duly pay such compensation to SECI to enable SECI to remit the amount to Buying Utilities. This compensation shall be equal to the compensation payable (including RECs) by the Buying Utility towards non-meeting of RPOs, if such compensation is ordered by the State Commission and proportional to the amount of shortfall in solar energy during the Contract Year. This compensation shall be subject to the adjustment made in energy generated in case of non-availability of grid for evacuation which is beyond the control of SPD and / or abnormally low annual Global Horizontal Irradiance year and /or Force Majeure identified under PPA with SECI affecting supply of solar power by SPD.
- 6.8.4 Notwithstanding Article 6.8.3, any power which is in excess of the quantum of power agreed to be supplied under this Agreement shall be offered to the Buying Utility and in case the Buying Utility does not accept the same, SECI shall take appropriate action as per PPA.

¹ Weighted annual average value of declared CUF shall be calculated by taking weighted average of CUFs as declared by all selected SPDs pursuant to Article 4.4.1 of the Schedule 1 of this Agreement (i.e. SECI-SPD PPAs).

7 **ARTICLE 7: FORCE MAJEURE**

7.1. Definitions

7.1.1 In this Article, the following terms shall have the following meanings:

7.2. Affected Party

7.2.1 An affected Party means SECI or the Buying Utility whose performance has been adversely affected by an event of Force Majeure.

7.3. Force Majeure

7.3.1 A 'Force Majeure' means any event or circumstance or combination of events and circumstances as stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care in performing its obligations:

- a) Act of God, including, but not limited to lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, resulting in evacuation of power being disrupted from the Delivery Points; or
- b) Explosion, accident or breakage of transmission facilities to deliver power from the Delivery Points to the receiving substation(s); or
- c) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action making the performance of obligations as specified herein as impossible; or
- d) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.
- e) An event of force majeure identified under SECI-SPD PPA thereby affecting supply of power by SPD.
- f) An event of force majeure affecting the concerned STU/CTU/ any other transmission utility, as the case may be, thereby affecting the evacuation of power from the Delivery Points by the Buying Utility.

7.4. Force Majeure Exclusions

7.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- a. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- b. Strikes at the facilities of the Affected Party;
- c. Insufficiency of finances or funds or the agreement becoming onerous to perform; and
- d. Non-performance caused by, or connected with, the Affected Party's:
 - i. Negligent or intentional acts, errors or omissions; or
 - ii. Failure to comply with an Indian Law; or
 - iii. Breach of, or default under this Agreement.

7.5. Notification of Force Majeure Event

- 7.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after restoration of communications, but not later than one (1) day after such reinstatement. Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.
- 7.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.


7.6. Duty to Perform and Duty to Mitigate

- 7.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 7.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

7.7. Available Relief for a Force Majeure Event

- 7.7.1 Subject to this Article 7:
- (a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
 - (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations as specified under this Agreement;
 - (c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable for the period prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
 - (d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.




CE. (P.P.A.)
U P P C L.
Shakti Bhawan Extn.
Lucknow.

8 **ARTICLE 8: CHANGE IN LAW**

8.1. Definitions

In this Article 8, the following terms shall have the following meanings:

8.1.1 "Change in Law" means the occurrence of any of the following events after the Effective Date resulting into any additional recurring/ non-recurring expenditure by SECI or any income to SECI:

- the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;
- a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to apply such Law, or any Competent Court of Law;
- the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;
- a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the Buying Utility;
- any change in tax or introduction of any tax made applicable for sale of power by SECI to the Buying Utility as per the terms of this Agreement.


but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of SECI (if applicable).

8.2. Relief for Change in Law

8.2.1 The aggrieved Party shall be required to approach the Appropriate Commission for seeking approval of Change in Law.

8.2.2 The decision of the Appropriate Commission to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on both the Parties.




CE. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.

9 ARTICLE 9: EVENTS OF DEFAULT AND TERMINATION

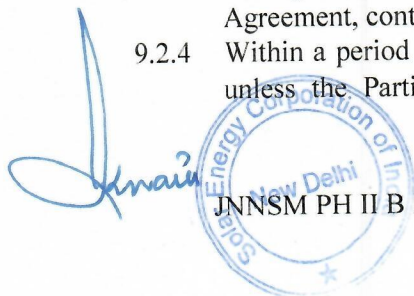
9.1. Buying Utility Event of Default

9.1.1 The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event, shall constitute a Buying Utility Event of Default:

- (i) Any amount, subject to Article 6.6 remains outstanding beyond a period of ninety (90) days after the Due Date and SECI is unable to recover the amount outstanding from the Buying Utility through the Letter of Credit; or
- (ii) The Buying Utility fails to evacuate power from the Delivery Points for a continuous period of one year.
- (iii) if (a) the Buying Utility becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the Buying Utility, or (c) the Buying Utility goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law,
Provided that a dissolution or liquidation of the Buying Utility will not be a Buying Utility Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the Buying Utility and expressly assumes all obligations of the Buying Utility under this Agreement and is in a position to perform them; or
- (iv) the Buying Utility repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from SECI in this regard; or
- (v) except where due to any SECI's failure to comply with its material obligations, the Buying Utility is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the Buying Utility within thirty (30) days of receipt of first notice in this regard given by SECI.
- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the Buying Utility.

9.2. Procedure for cases of Buying Utility Event of Default

- 9.2.1 Upon the occurrence and continuation of any Buying Utility Event of Default under Article 9.1, SECI shall have the right to deliver to the Buying Utility a notice, stating its intention to terminate this Agreement (SECI Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 9.2.2 Following the issue of SECI Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 9.2.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 9.2.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the Buying



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Utility Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, SECI may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the Buying Utility.


9.3. Termination due to Force Majeure

- 9.3.1 If the Force Majeure Event or its effects continue to be present beyond a period of twelve (12) months; either Party shall have the right to cause termination of the Agreement. In such an event this Agreement shall terminate on the date of such Termination Notice without any further liability to either Party from the date of such termination.

9.4. Termination of back to back agreements

In case of termination of SECI- any SPD PPA, this Agreement shall automatically be of reduced capacity but only to the extent of that particular SECI-SPD PPA capacity. Provided that in case of such reduction, any pending monetary liabilities of either Party shall survive the reduced capacity of this Agreement.




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10 ARTICLE 10: LIABILITY AND INDEMNIFICATION

10.1. Indemnity

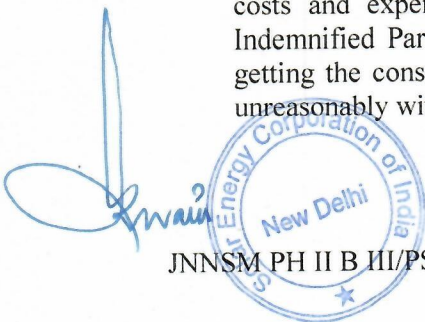
10.1.1 The Buying Utility shall indemnify, defend and hold SECI harmless against:

- a) any and all third party claims against SECI for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the Buying Utility of any of its obligations under this Agreement, except to the extent that any such claim has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of SECI, its contractors, servants or agents; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by SECI from third party claims arising by reason of:
 - (i) breach by the Buying Utility of any of its obligations under this Agreement, (provided that this Article 10 shall not apply to such breaches by the Buying Utility, for which specific remedies have been provided for under this Agreement) except to the extent that any such losses, damages, costs and expenses including legal costs, fines, penalties and interest (together to constitute "Indemnifiable Losses") has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of SECI, its contractors, servants or agents, or
 - (ii) any of the representations or warranties of the Buying Utility, if any made under this Agreement, being found to be inaccurate or untrue.

10.2. Procedure for claiming Indemnity

10.2.1 Third party claims

- a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 10.1.1(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 10.1.1(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:
 - i) the Parties choose to refer the dispute before the Arbitrator in accordance with Article 12.3.2; and
 - ii) the claim amount is not required to be paid/ deposited to such third party pending the resolution of the Dispute,the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.
- b. The Indemnified Party may contest the claim by referring to the Arbitrator for which it is entitled to be Indemnified under Article 10.1.1(a) and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.




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Handwritten signature and stamp of the Chairman, UPPCL. The stamp contains the text 'CE. (P.P.A.) UPPCL' and 'Shakti Bhawan Extn.'.

10.3. Indemnifiable Losses

- 10.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 10.1.1(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non-payment of such losses after a valid notice under this Article 10.3, such event shall constitute a payment default under Article 9.




CE. (PPA)
U. P. P. L.
Shakti B. ...
Lucknow

11 **ARTICLE 11: ASSIGNMENTS AND CHARGES**

11.1. **Assignments**

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assignees. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties to be evidenced in writing:


Provided that, such consent shall not be withheld if SECI seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

Provided further that any successor(s) or permitted assignee(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

11.2. **Permitted Charges**

11.2.1 Neither Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement.




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12 **ARTICLE 12: GOVERNING LAW AND DISPUTE RESOLUTION**

12.1. Governing Law

- 12.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes arising out of or in connection with this Agreement shall be under the jurisdiction of appropriate courts in Delhi.

12.2. Amicable Settlement and Dispute Resolution

12.2.1 Amicable Settlement

- i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement ("Dispute") by giving a written notice (Dispute Notice) to the other Party, which shall contain:
 - (i) a description of the Dispute;
 - (ii) the grounds for such Dispute; and
 - (iii) all written material in support of its claim.
- ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 6.6.2, furnish:
 - (i) counter-claim and defences, if any, regarding the Dispute; and
 - (ii) all written material in support of its defences and counter-claim.
- iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 6.6.2 if the other Party does not furnish any counter claim or defence under Article 6.6.4 or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 6.6.4, the Dispute shall be referred for dispute resolution in accordance with Article 12.3.

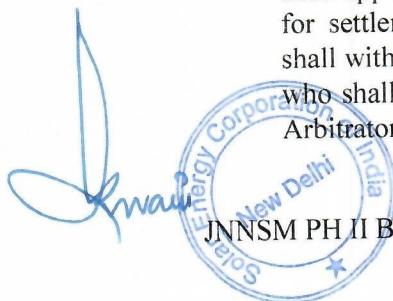
12.3. Dispute Resolution

12.3.1 Dispute Resolution by the Appropriate Commission

- i. Where any Dispute (i) arises from a claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, or (ii) relates to any matter agreed to be referred to the Appropriate Commission, such Dispute shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.
- ii. The obligations of the Buying Utility under this Agreement towards SECI shall not be affected in any manner by reason of inter-se disputes amongst the Buying Utility.

12.3.2 Dispute Resolution through Arbitration

- i. If the Dispute arises out of or in connection with any claims not covered in Article 12.3.1i), such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 as under:
 - i) The Arbitration Tribunal shall consist of three (3) arbitrators. Each party shall appoint one Arbitrator within thirty (30) days of the receipt of request for settlement of dispute by Arbitration. The two appointed Arbitrators shall within thirty (30) days of their appointment, appoint a third Arbitrator who shall act as presiding Arbitrator. In case the party fails to appoint an Arbitrator within 30 days from the date of receipt of request or the two



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appointed Arbitrator fails to agree on third Arbitrator within thirty (30) days of their appointment, the appointment of Arbitrator, as the case may be, shall be made in accordance with the Indian Arbitration and Conciliation Act, 1996.

- ii) The place of arbitration shall be Delhi. The language of the arbitration shall be English.
- iii) The Arbitration Tribunal's award shall be pronounced in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.
- iv) The provisions of this Article shall survive the termination of this PSA for any reason whatsoever.
- v) The award shall be of majority decision.

12.4. Parties to Perform Obligations

12.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 12.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.




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U. P. P. C. L.
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13 **ARTICLE 13: MISCELLANEOUS PROVISIONS**

13.1. Amendment

13.1.1 This Agreement may only be amended or supplemented by a written agreement between the Parties.

13.2. Third Party Beneficiaries

13.2.1 This Agreement is solely for the benefit of the Parties and their respective successors and permitted assignees and shall not be construed as creating any duty, standard of care or any liability to, any person not a party to this Agreement.

13.3. Waiver

13.3.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorised representative of such Party:

13.3.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other Parties shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

13.4. Confidentiality

13.4.1 The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

- a) to their professional advisors;
- b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- c) disclosures required under Law.

without the prior written consent of the other Parties.

13.5. Severability

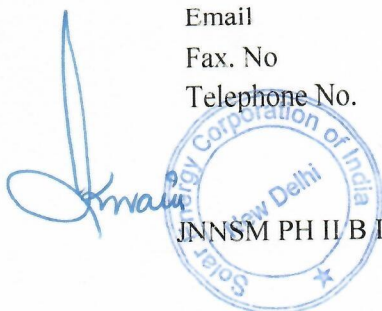
13.5.1 The invalidity or unenforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

13.6. Notices

13.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.

13.6.2 If to the Buying Utility, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Name : Sh. V. P. Srivastava
Designation : Chief Engineer (PPA)
Address : U. P. Power Corporation Ltd.
14th Floor, Shakti Bhawan Ext, 14-Ashok Marg
Lucknow- 226001, Uttar Pradesh
Email : ceppa.2009@gmail.com
Fax. No : 0522-2218812
Telephone No. : 0522-2218812



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- 13.6.3 If to SECI, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address(es) below:

Name: Sh. Atulya Kumar Naik
Designation: Addl. General Manager (PS)
Address: Solar Energy Corporation of India Limited,
1st Floor, A-Wing, D-3, District
Centre, Saket,
New Delhi-110017
Email: aknaik@seci.gov.in
Fax. No: 01171989242
Telephone No.: 01171989214

- 13.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.
- 13.6.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

13.7. Language

- 13.7.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.
- 13.7.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.

13.8. Restriction of Shareholders / Owners' Liability

- 13.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement shall be restricted to the extent provided in the Indian Companies Act, 1956 or the Indian Companies Act 2013 as applicable.

13.9. Taxes and Duties

- 13.9.1 The Buying Utility shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the Buying Utility, contractors or their employees that are required to be paid by the Buying Utility as per the Law in relation to the execution of the Agreement.
- 13.9.2 SECI shall be indemnified and held harmless by the Buying Utility against any claims that may be made against SECI in relation to the matters set out in Article 13.9.1.
- 13.9.3 SECI shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the Buying Utility by SECI on behalf of Buying Utility or its personnel.

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13.10. No Consequential or Indirect Losses

13.10.1 The liability of the Buying Utility and SECI shall be limited to that explicitly provided in this Agreement.

Provided that notwithstanding anything contained in this Agreement, under no event shall SECI or the Buying Utility claim from one another any indirect or consequential losses or damages.

13.11. Order of priority in application

In case of inconsistencies between the agreement(s) executed between the Parties, applicable Law including rules and regulations framed thereunder, the order of priority as between them shall be the order in which they are placed below:

- i. applicable Law, rules and regulations framed thereunder;
- ii. the Grid Code; and
- iii. the terms and conditions of this Agreement;

13.12. Independent Entity

13.12.1 The Buying Utility shall be an independent entity performing its obligations pursuant to the Agreement.

13.12.2 Subject to the provisions of the Agreement, the Buying Utility shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the Buying Utility in connection with the performance of the Agreement shall be under the complete control of the Buying Utility and shall not be deemed to be employees, representatives, of SECI and nothing contained in the Agreement or in any agreement or contract awarded by the Buying Utility shall be construed to create any contractual relationship between any such employees, representatives or contractors and SECI.

13.13. Compliance with Law

Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made thereunder, such provision of this Agreement shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

IN WITNESS WHEREOF the Parties have caused the Agreement to be executed through their duly authorized representatives as of the date and place set forth above.

For and on behalf of

Solar Energy Corporation of India Limited

Name : Atulya Kumar Naik

Designation : Addl. General Manager (PS)

(Signature with Seal)

Witness:

1.

शक्ति बिजली
(शक्ति)

For and on behalf of

U. P. Power Corporation Ltd

Name : V.P. Srivastava

Designation : Chief Engineer (PPA)

(Signature with Seal)

Witness:

1.

शक्ति बिजली
(शक्ति)
SE PPA

14 **SCHEDULE 1: SECI-SPD PPA(S)**

14.1 List of SECI-SPD PPAs

Sl. No.	Name of SPD	Project Code	Capacity (MW)	Project Name	Tariff (₹/kWh)
1.	Azure Power Thirty Six Private Limited	P2B3T3-APVPL-B-4UP-1V	40	Dakor, Jalaun	4.43

To be filled after selection of projects through the provisions of RfS (SECI/JNNSM/P-2/B-3/RfS/UP/042016 dated 19.04.2016)

14.2: Model SECI- SPD PPA

[To be Annexed]



[Handwritten Signature]
CE. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.


15 SCHEDULE 2: SECI-SPD VGF SECURITIZATION AGREEMENT(S)

15.1 List of SPD VGFSAs: Same as per Article 14.1.

15.2 Model SECI- SPD VGFA

[To be Annexed]




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Lucknow.

16 **SCHEDULE 3: AMOUNT REALISATION FOR SALE OF SOLAR POWER**

- (i) The billing to the Buying Utility shall be done by SECI for realisation of amount for solar power
- (ii) The payments to be made by the Buying Utility to SECI for the Solar Power in a Monthly Invoice shall comprise of amounts to be realized for Solar Power.
- (iii) The Bills shall be raised by SECI on the Buying Utility as mentioned under:

1. **Provisional Billing for Solar Power for the previous month-**

(a) **Provisional Amount for power for the Applicable month**

$$A_p = \sum E_p(sp) * T(sp) + \sum A_{tr}$$

Where,

- A_p = Provisional Billing amount (in Rs.) for Solar Power for the applicable Month;
- $E_p(sp)$ = No. of units (kWh) for the applicable Month as per Article 6.8.3 of this Agreement;
- $T(sp)$ = Tariff (in Rs./kWh) subject to article 5 of this Agreement. (including Trading Margin of SECI @ 7 paisa/kWh);
- A_{tr} = Monthly Transmission Charges (Rs.) as applicable for the link between the respective STU pooling Station to STU grid station/CTU grid station for the Solar Power Stations, as the case may be; The Monthly Transmission Charges shall be based on Demand Charges and Usage Charges of the STU;
- Transmission charges may be invoiced/billed separately, if required by SECI.

Where, weighted average component of solar power is worked out for all Solar Power Developers with whom SECI has entered into Power Purchase Agreements and as detailed in Schedule-1 of this Agreement.

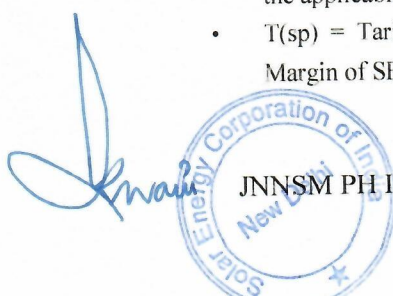
2. **Adjustment against Provisional Billing for Solar Power for the preceding previous month on the basis of Energy Accounts-**

(a) **Tariff for Solar power for the preceding previous month**

$$T_r = (\sum E_a(sp) * T(sp) + \sum A_{tr}) / \sum E_a(sp)$$

Where,

- T_r = Tariff (in Rs./kWh) as computed for Solar Power for the applicable Month (preceding previous);
- $E_a(sp)$ = No. of units (kWh) metered at SPD Delivery Point as per the Energy Accounts for the applicable Month (preceding previous);
- $T(sp)$ = Tariff (in Rs./kWh) subject to article 5 of this Agreement. (including Trading Margin of SECI @ 7 paisa/kWh);



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- A_{tr} = Monthly Transmission Charges (Rs.) as applicable for the link between the respective STU pooling Station to STU grid station/CTU grid station for the Solar Power Stations, as the case may be; The Monthly Transmission Charges shall be based on Demand Charges and Usage Charges of the STU;

(b) Adjustment against Provisional billing amount for preceding previous month

$$A_f = E_d * T_{(f)}$$

Where:

- A_f = Adjustment against Provisional Billing amount(in Rs.) based on Energy Accounts for Solar Power for the applicable Month(preceding previous);
- E_d = Actual Energy metered for respective Buying Utilities from the tied power of respective Solar Power Projects during the preceding previous month ;
- $T_{(f)}$ = ActualTariff (in Rs./kWh) for Solar Power for the applicable Month(preceding previous);

(c) Adjustment against Provisional billing amount for the preceding previous month-

Adjustment against Provisional Billing for Solar power A_f for preceding previous month as computed at Serial No.2(b) less Provisional Billing amount A_p for preceding previous month as per last month bill at Serial no.1(a).

3. Billing to be done by SECI on the Distribution Utilities on each month

Total Amount to be billed = {Provisional Billing as at serial 1(a) + Adjustment against Provisional Billing amount as at serial 2(c)}



**CE. (P.P.A.)
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Lucknow**