

**POWER SALE AGREEMENT**

**FOR**

**SALE OF 200 MW WIND POWER ON  
LONG TERM BASIS**

**Between**

**SOLAR ENERGY CORPORATION OF INDIA LTD (SECI)**

**And**

**UTTAR PRADESH POWER CORPORATION LTD  
(UPPCL)**

**[November, 2017]**

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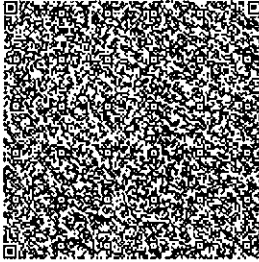
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## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL56003587516948P  
Certificate Issued Date : 22-Nov-2017 01:42 PM  
Account Reference : IMPACC (IV)/ dl921303/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL92130314474677847615P  
Purchased by : SOLAR ENERGY CORPORATION OF INDIA LIMITED  
Description of Document : Article 5 General Agreement  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : SOLAR ENERGY CORPORATION OF INDIA LIMITED  
Second Party : Not Applicable  
Stamp Duty Paid By : SOLAR ENERGY CORPORATION OF INDIA LIMITED  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)

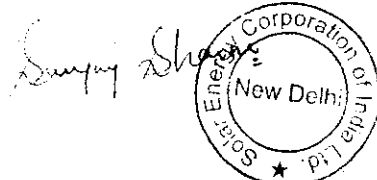


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This Power Sale Agreement is made on the 24<sup>th</sup> day of November of 2017 at New Delhi

Between

Solar Energy Corporation of India Limited, a company incorporated under the Companies Act 1956, having its registered office at 1<sup>st</sup> 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 assigns) as a Party of the first part.



MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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#### Statutory Alert:

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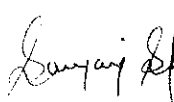

And

**Uttar Pradesh Power Corporation Ltd**, a company incorporated under the Companies Act 1956, having its registered office at Shakti Bhawan 14 Ashok Marg, Lucknow (hereinafter referred to as "UPPCL", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the second part.

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

Whereas:

- A. Solar Energy Corporation of India Limited (SECI) has been identified by the Govt. of India as the nodal agency for implementation of MNRE Scheme for Setting up of 1000 MW ISTS connected Wind Power Projects.
- B. SECI will sign Power Purchase Agreements (PPAs) with the selected Wind Power Developers (hereinafter referred to as "WPDs") for procurement of 1000 MW Wind Power or the total capacity of projects selected under the provisions of RfS (SECI/C&P/WPD/1000MW/T2/RFS/052017 dated 31.05.2017 ), if it is less than 1000 MW, on a long term basis, as indicated at Schedule-1 and Schedule-2 respectively.
- C. UPPCL has agreed to purchase wind power from SECI under the Scheme and accordingly, SECI has agreed to sign Power sale Agreement (PSA) with UTTAR PRADESH POWER CORPORATION LTD(hereinafter referred to as "UPPCL") for procurement of 200 MW Wind Power on a long term basis, as indicated at Schedule-1 and Schedule-2. SECI shall intimate the same to CTU (PGCIL) for open access. Based on input from PGCIL and corridor availability, quantity (MW) may be revised.
- D. Copy of the PPA(s) shall be submitted to Buying Entity within Seven (7) days of the signing of the PPA(s) and such PPA(s) shall become integral part of this Agreement (Buyer-Buying Entity PSA).
- E. Pursuant to the aforesaid objective, the Parties are desirous of entering into a Power Sale Agreement ("PSA") i.e. a definitive agreement, regarding purchase of power from the Project. Pending execution of the necessary agreements and other relevant documents in relation to the transaction contemplated herein, the Parties wish to execute this PSA setting out the respective obligations of the Parties and the steps necessary to complete the transactions contemplated herein.


  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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- F. To establish the commitment of UPPCL to purchase and SECI to sale power from the Project, the Parties have entered into this Agreement.
- G. A Bidder which has been selected as successful Bidder based on this RfS can also execute the Project through a Special Purpose Vehicle (SPV) i.e. a Project Company especially incorporated to execute the project. SECI shall enter into PPA with Project Company as per the terms and condition of RfS. Amendment shall be done accordingly
- H. The Parties have accordingly agreed to enter into this PSA to record their understanding and agreement with regard to the purchase of power to be generated from the Project and in respect to the matters incidental or ancillary thereto, upon the terms and conditions set out herein below.

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:

*Sanyaj Sharm*



Solar Energy Corporation of India Ltd.  
New Delhi

*[Signature]*

MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**1. ARTICLE 1: DEFINITIONS AND INTERPRETATION****1.1 Definitions**

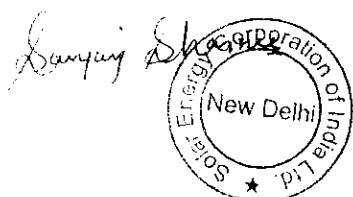
The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as defined in the SECI-WPD PPA and as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under, including those issued / framed by the Appropriate Commission (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;
"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;
"Business Day"	shall mean with respect to SECI and UPPCL, a day other than Sunday or a statutory holiday, on which the banks remain open for business in the state of Delhi
"UPPCL"	Entity that requires wind power to fulfil its non-solar RPO under respective RPO regulations and intend to buy at least 200 MW of wind power under this scheme.
"SECI-WPD PPA"	Shall mean the power purchase agreement signed between SECI and WPD for procurement of 1000MW Wind Power by SECI from WPD and annexed hereto as Schedule 2 of this Agreement;
"Capacity Utilisation Factor" or "CUF"	Shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time; However for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity;
"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;



*[Signature]*  
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 Paschimanchal Vidyut Vitran Nigam Ltd.  
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"Commercial Operation Date"	Shall mean the actual date of commercial operation/ commissioning of the project as declared by the State Nodal Agency (SNA)/ Committee/individual/any other entity authorized by SECI. COD will be declared only when the project developer has commissioned at least 50 MW capacity or 50% of the allotted Project Capacity whichever is higher. PPA tenure will be counted from the COD irrespective of the date of commissioning of the balance capacity;
"Commissioning" or "Project Commissioning"	The Project will be considered as commissioned if all equipment as per rated Project Capacity have been installed and energy has flown into grid, in line with the Commissioning procedures defined in the Guidelines/PPA.
"Competent Court of Law"	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India 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 UPPCL 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 first Contract Year shall start from Commercial Operation Date of the Project and the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;
"Contracted Capacity"	shall mean 200 MW of Wind Power contracted with UPPCL for sale of such power by SECI to UPPCL at the Delivery Point from the Wind Power Project;
"Day"	Shall mean a day, if such a day is not a Business Day, the immediately succeeding Business Day;
"Delivery Point"	Shall mean the point at 220 kV or above where the power from the wind power project(s) will be injected into the ISTS. Metering shall be done at this interconnection point where the power will be injected into the ISTS i.e. the Delivery point. For interconnection with grid and metering, the developers shall abide by the relevant CERC Regulations, Grid Code, and Central Electricity Authority Regulations as amended from time to time.;
"Dispute"	shall mean any dispute or difference of any kind between SECI and the UPPCL 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 thirtieth (30th) day after a Monthly Bill or a



*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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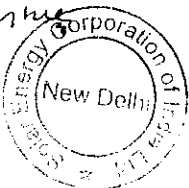
	Supplementary Bill is received and duly acknowledged by UPPCL or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by UPPCL;
"Effective Date"	Shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
"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 regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (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;
"Expiry Date"	Shall mean the date occurring twenty five (25) years from the Commercial Operation Date of the Project;
"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 7 of this Agreement;
"Guidelines: or "Scheme"	shall mean the Scheme for Setting up of 1000 MW ISTS connected Wind Power Projects issued by MNRE vide No F.NO.53/14/2016-WE.dated 04/05/2017
"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) of where the Power Project, SECI and UPPCL 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) or tribunal or judicial or quasi-judicial body in India;
"Interconnection Facilities"	shall mean the facilities on WPD's side of the 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 ;

*Sanyuk Sharma*  


*[Signature]*  
 MANAGING DIRECTOR  
 Paschimanchal Vidyut Vitran Nigam Ltd.  
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"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, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law 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;
"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;
"Pooling Substation/ Pooling Point"	Means a point where more than one wind power projects may connect to a common transmission system. Multiple projects can be connected to a pooling substation from where common transmission system shall be constructed and maintained by the developer(s) to get connected to the ISTS substation. The voltage level for such common line shall be 220 kV and above. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual projects for the purpose of billing.
"Preliminary Default Notice"	shall have the meaning ascribed thereto in Article 9 of this Agreement;
"Project" or "Power Project"	Shall mean the Wind power generation facility as per Scheduled-I having separate points of injection into the grid at interconnection/ metering point at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. Each project must also have a separate boundary, control systems and metering
"Project Capacity"	Shall mean the maximum AC capacity of the Project at the point of injection on which the Power Sale Agreement has been signed.
"RBI"	shall mean the Reserve Bank of India;
"Rebate"	shall have the same meaning as ascribed thereto in Article 6.3.4 of this Agreement;

*Sanyog Sharma*



*[Signature]*  
 MANAGING DIRECTOR  
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"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;
"Scheduled Commissioning Date"	shall mean 03.05.2019 ;
"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 Sub-section (1) of Section 83 of the Electricity Act 2003;
"SLDC"	shall mean the 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 UPPCL;
"SECI"	shall mean Solar Energy Corporation of India Limited;
"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;
"Tariff Payments"	shall mean the payments to be made under Monthly Bills as referred to in Article 6 and the relevant Supplementary Bills;
"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;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
"Wind Power Project"	shall mean the project that uses wind for direct conversion into electricity and that is being set up by the WPD to provide Wind Power to SECI;
"Wind Power"	Shall mean power generated from the Wind Power Project;

*Sanyaj Sharma*



*[Signature]*


MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**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 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 (whether or not having separate legal personality) 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 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;


*Sanyal Chandra*  


*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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- 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;

*Sanjay Sharma*



Solar Energy Corporation of India Ltd.  
New Delhi

*Jan*

MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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## 2 ARTICLE 2: TERM OF AGREEMENT

### 2.1 *Effective Date*

2.1.1 This Agreement shall come into effect from 24.11.2017 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.

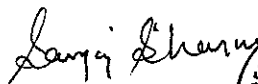

### 2.3 *Early Termination*

2.3.1 This Agreement shall terminate before the Expiry Date:

- I. if either SECI or UPPCL terminates this Agreement, pursuant to Article 9 of this Agreement. or
- II. if any SECI-WPD PPA gets terminated, the capacity under this agreement shall automatically be reduced but only to the extent of that particular SECI-WPD 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.

  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**3 ARTICLE 3: SUPPLY OF POWER TO UPPCL**

**3.1 Obligations of UPPCL:**

3.1.1 UPPCL undertakes that it shall:-

- (a) Ensure off take of the available capacity from the Commercial Operation Date of the Project.
- (b) Ensure availability of the interconnection facility and evacuation of power from the CTU-STU interface of UPPCL's state periphery from the Commercial Operation Date of the Project.
- (c) be responsible for payment of the transmission related charges and applicable RLDC/SLDC Charges, limited to the charges applicable to the Contracted Capacity of UPPCL under this Agreement.
- (d) Make payment of the Monthly Bill/Supplementary Bill by the Due Date.
- (e) Open and maintain Payment Security Mechanism as per Article 6.4 for the entire Term of the Agreement.
- (f) Arrange for required consent/NOC from STU/SLDC/concerned agencies for availing open access/scheduling of the power.
- (g) Fulfil all the obligations undertaken by UPPCL under this Agreement.


**3.2 Charges**

- 3.2.1 As per applicable regulation(s) of the Appropriate Commission(s), all charges pertaining to open access, CTU charges, SOC, MOC, scheduling charges(if any) and any other charges from injection/delivery point to the receiving substation(s) of UPPCL if any, shall be directly paid or reimbursed by UPPCL. Invoicing for all transmission related charges shall be done through Supplementary Bills.
- 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 by UPPCL.
- 3.2.3 Any charges payable for Open Access on behalf of UPPCL by SECI/WPD shall be reimbursed by **UPPCL**.

**3.3 Losses**

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


  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam **Page 13 of 41**  
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**4 ARTICLE 4: METERING ENERGY ACCOUNTING AND SCHEDULING**


**4.1 Metering**

- 4.1.1 The metering arrangements for metering the electrical energy supplied at the Delivery Point and Delivery Point shall be as per the provisions identified in the SECI-WPD PPA respectively. 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 UPPCL 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 wind power shall be as per the provisions of the SECI-WPD PPA and Grid Code.
- 4.2.2 Each Party shall be responsible for deviations made by it from the dispatch schedule and for any resultant liabilities on account of charges for deviation as per applicable regulations.
- 4.2.3. WPD shall be responsible for any deviation related to scheduling and actual generation.

*Sanjay Sharma*



*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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5 **ARTICLE 5: APPLICABLE TARIFF**

- 5.1.1 The Applicable Tariff for Wind power shall be Rs 2.72/kWh, i.e. the tariff determined from the reverse auction process conducted by SECI as per the RfS plus trading margin of Rs 0.07. *per kWh (Rupees Seven Paisa per kWh) fixed for entire term of this Agreement.*
- 5.1.2 The applicable tariff payable by UPPCL shall be the pooled tariff arrived as per Schedule-1(Plus Trading Margin) of this Agreement of the commissioned Project Capacity of all the Projects accepted by SECI, till the end of the Term of the Agreement. The UPPCL shall make the Tariff Payments to SECI as per the provisions of this Agreement.

*Sanyaj Sharm*



Solar Energy Corporation of India Ltd.  
New Delhi

*Jan*

MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**6 ARTICLE 6: BILLING AND PAYMENT**

**6.1 General**

6.1.1 From the commencement of supply of power by SECI, UPPCL 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 UPPCL shall be in Indian Rupees.

**6.2 Delivery and Content of Monthly Bills**

6.2.1 SECI shall issue to UPPCL a signed Monthly Bill on the 1<sup>st</sup> Business Day of the month

6.2.2 The Monthly Bill prepared as detailed in Schedule-3 of the PSA, shall include the following;

- i) Provisional Bill for Wind Power Supplied in the immediately preceding Month;
- ii) (a) Adjustments against the Provisional Bill(s) based on Energy Accounts for the Wind Power Supplied in the Month(s) preceding to the previous month(s);
- ii) (b) any other prior-period adjustments; and
- iii) Taxes, Duties, Levies etc as applicable.

**6.3 Payment of Monthly Bills**

6.3.1 UPPCL 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 UPPCL in accordance with Article 6.3.2 below.

6.3.2. SECI shall open a bank account at New Delhi ("SECI's Designated Account") for all Tariff Payments to be made by UPPCL to SECI, and notify UPPCL of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. UPPCL shall also designate a bank account at Lucknow (the "Discom's Designated Account") for payments to be made by SECI to UPPCL, if any, and notify SECI of the details of such account ninety (90) Days before the dispatch of the first Monthly Bill. SECI and UPPCL shall instruct their respective bankers to make all payments under this Agreement to UPPCL' 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/Supplementary Bill by UPPCL within thirty (30) days beyond its Due Date, a Late Payment Surcharge shall be payable by UPPCL to SECI at the rate of 1.5% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by SECI through the Supplementary Bill.

*Sanyal Sharma*



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MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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#### 6.3.4 Rebate

For payment of any Bill on or before Due Date, the Rebate shall be paid by SECI in the following manner.

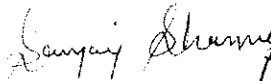
SECI to UPPCL in the following manner.


- a) A Rebate of 2% shall be payable to UPPCL for the payments made within a period of three (3) days of the presentation of Bill through e-mail.
- b) Any payments made after three (3) days of the date of presentation of bill through e-mail up to the due date shall be allowed a rebate of 1 %.
- c) No Rebate shall be payable on the Bills raised on account of taxes, duties, cess etc. and on Supplementary Bill.

#### 6.4 Payment Security Mechanism

##### Letter of Credit (LC):

- 6.4.1 UPPCL 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 UPPCL, which may be drawn upon in favour of SECI in accordance with this Article. UPPCL 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, UPPCL 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 every 6 months, in the month of January and July and revised w.e.f. April and Sept. 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 3 months of the average of the monthly Tariff Payments of the previous Contract Year.
- 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, UPPCL shall restore such shortfall within seven (7) days.
- 6.4.5 UPPCL shall cause the scheduled bank issuing the Letter of Credit to intimate SECI, in writing regarding establishing of such irrevocable Letter of Credit.
- 6.4.6 UPPCL shall ensure that the Letter of Credit shall be renewed not later than thirty (30) Days prior to its expiry.


  
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6.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by UPPCL.

6.4.8 If UPPCL fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 6.4.3 and 6.6.2, SECI may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from UPPCL, 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 UPPCL;
- 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;

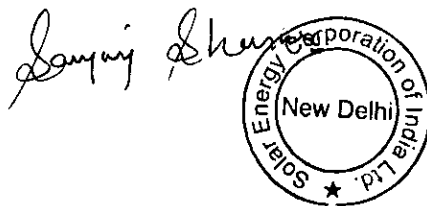
### 6.4.9 Collateral Arrangement

As a further support for UPPCL's obligations, on or prior to the Effective Date, UPPCL and SECI shall execute Default Escrow Agreement (referred as "Default Escrow Agreement") for the establishment and operation of the Default Escrow Account in favour of SECI, through which the revenues of UPPCL shall be routed and used as per the terms of the Default Escrow Agreement. UPPCL and SECI shall contemporaneously with the execution of the Default Escrow Agreement enter into the Agreement to Hypothecate Cum Deed of Hypothecation, whereby UPPCL shall agree to hypothecate, Incremental Receivables to the extent as required for the Letter of Credit as per Article 6.4.2. The Default Escrow Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the "Collateral Arrangement".

Provided that UPPCL shall ensure that SECI shall have first ranking charge on the Incremental Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation.

6.4.10 The Default Escrow would come into operation if,

- i) The Letter of Credit is not recouped by UPPCL to its required value by the 7<sup>th</sup> day of its operation;
- ii) SECI is unable to draw on the Letter of Credit on the Due Date, if the UPPCL fails to pay by the Due Date.
- iii) Non-restoration of Escrow Arrangement by the 7<sup>th</sup> day of the Due Date.



  
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**6.5 Third Party Sales by SECI**

- 6.5.1 Notwithstanding anything to the contrary contained in this Agreement, SECI shall be entitled to but not obliged to regulate power supply of Wind Power of UPPCL in case of Default in making payment by the 15<sup>th</sup> day of the Due Date by UPPCL.
- 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 16<sup>th</sup> day.
- 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.
- 6.5.4 In order to avoid any doubts, it is illustrated that:
- 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 UPPCL's allocation of the power to third parties to the extent of 40% (i.e. 10/25x100).
- 6.5.5 SECI/WPD shall have the right to divert the Wind 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 UPPCL from its obligation to pay in full to SECI for the wind power as per Schedule-3 of this Agreement and any other outstanding payment liability of UPPCL as per this Agreement.
- 6.5.7 The amount realized from the diversion and sale of power to third party shall be first adjusted against the pending liability of UPPCL including open access/RLDC/SLDC charges etc. & any other costs and the deficit if any shall be made good by UPPCL.
- 6.5.8 Sales to any third party shall cease and regular supply of electricity to UPPCL shall commence and be restored within Thirty(30) Days from the date of clearing all outstanding dues payable to SECI for the Wind Power under this Agreement.
- 6.5.9 Further, the liability of UPPCL 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 WPD for usage by UPPCL.

*Sanyal Sharma*



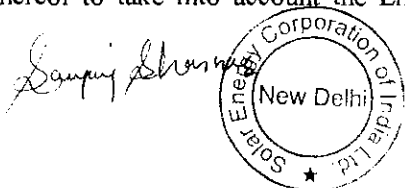
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**6.6 Disputed Bill**

- 6.6.1 If UPPCL does not dispute a Monthly Bill raised by the other Party within fifteen (15) days of receiving such Bill shall be taken as conclusive.
- 6.6.2 If UPPCL disputes the amount payable under a Monthly Bill it shall pay 95% of the disputed amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party 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 UPPCL 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 fifteen (15) 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 UPPCL under Article 6.6.4, authorized representative(s) or a director of the board of directors/ member of board of UPPCL and SECI shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.
- 6.6.6 If the Parties do not amicably resolve the Dispute within fifteen (15) 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, UPPCL shall, without prejudice to its right to Dispute, be under an obligation to make payment, of 95% of the Disputed Amount in the Monthly Bill.

**6.7 Quarterly and Annual Reconciliation**

- 6.7.1 The Parties acknowledge that all payments made against Monthly Bills shall be subject to quarterly reconciliation within 30 days of the end of the quarter of each Contract Year and annual reconciliation at the end of each Contract Year within 30 days thereof to take into account the Energy Accounts, Tariff adjustment payments,



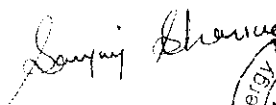
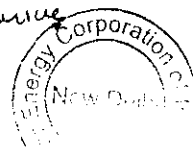
  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

- 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, UPPCL 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.

### 6.8 Renewable purchase obligation

- 6.8.1 UPPCL may identify the energy procured from the Delivery Point to meet its renewable purchase obligations (as mandated by the Appropriate Commission). Provided that the renewable purchase obligation of UPPCL shall be considered to be met by UPPCL only if there is no payment default for such energy procured by UPPCL and a certificate to such effect is provided by SECI to UPPCL.
- 6.8.2 SECI shall provide such certificate identifying the quantum of wind energy supplied by SECI and being met by UPPCL for each year within thirty (30) days after the end of such year.
- 6.8.3 The WPD will declare the CUF of the Project and will be allowed to revise the same once within first year of COD. **UPPCL**, in any Contract Year, shall not be obliged to purchase any additional energy from the SECI/WPD beyond 729.53 Million kWh (MU). If for any Contract Year, it is found that the WPD has not been able to generate minimum energy of 547.15 Million kWh (MU) WPD shall be liable to pay only such compensation at the rate decided by the State Electricity Regulatory Commission on UPPCL for such shortfall in meeting of the RPOs and shall duly pay such compensation to SECI to enable SECI to remit the amount to UPPCL . This compensation shall be proportional to the amount of shortfall in wind energy during the Contract Year. WPD shall maintain generation so as to achieve CUF not less than 90% of their declared CUF value and not more than 120% of their declared CUF value during PPA duration of 25 years. The lower limit will, however be relaxable by SECI to the extent of grid non availability for evacuation which is beyond the control of the developer. The CUF will be calculated every year from 1st April of the year to 31st March next year.
- 6.8.4 Notwithstanding Article 6.8.3, the SECI/WPD is free to sell such power to any third party prior to the Commercial Operation Date and any capacity which is in excess of the quantum of power as per Article 6.8.3 of this Agreement from Commercial Operation Date.
- 6.8.5 The compensation as per Article 6.8.3 shall be applied to the amount of shortfall in generation during the year. However, this compensation shall not be applicable in events of Force Majeure identified under this Agreement affecting supply of wind power by SECI/WPD.

  
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**6.9 Payment of Supplementary Bill**


6.9.1 SECI may raise a "Supplementary Bill" for payment on account of:

- i) Change in Law as provided in Article 8, or
- ii) pertaining to open access and scheduling related charges for transmission of the power, or
- iii) other charges, if any.

and such Supplementary Bill shall be paid by the other Party.

6.9.2 UPPCL shall remit all amounts due under a Supplementary Bill raised by the SECI to the SECI's Designated Account by the Due Date.

6.9.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 6.3.3.

*Sanyaj Sharma*  


*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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## 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 UPPCL 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-WPD PPA thereby affecting supply of power by WPD.
- f) An event of force majeure affecting the concerned STU/CTU, as the case may be, thereby affecting the evacuation of power from the Delivery Points by UPPCL;

### 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:

*Suryaj Sharm*  
New Delhi

*[Signature]*  
MANAGING DIRECTOR  
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- 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;
  - ii. Failure to comply with an Indian Law; or
  - iii. Breach of, or default under this Agreement.

### ***7.5 Notification of Force Majeure Event***

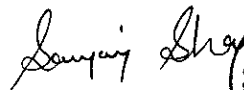

7.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force 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 reinstatement 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.

  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**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 except 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 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;

*Sanjay Sharma*



*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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## 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 date, which is the Bid Submission Date resulting into any additional recurring/ non-recurring expenditure by SECI/WPD or any income to SECI/WPD:


- 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 interpret or 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 SECI/WPD;
- any change in tax or introduction of any tax made applicable for sale of power by SECI to UPPCL 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/WPD, or (ii) any change on account of regulatory measures by the Appropriate Commission including calculation of Availability.

### 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.

*Sanyaj Sharma*  


*Jan*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
MEERUT

## 9 ARTICLE 9: EVENTS OF DEFAULT AND TERMINATION

### 9.1 UPPCL 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 UPPCL 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 UPPCL through the Letter of Credit and Default Escrow Account; or
- (ii) UPPCL fails to off-take power from the Delivery Point for a continuous period of ninety (90) days.
- (iii) if (a) UPPCL 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 **UPPCL**, or (c) the UPPCL 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,

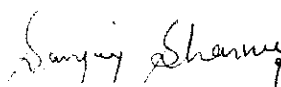

Provided that a dissolution or liquidation of UPPCL will not be a UPPCL Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the UPPCL and expressly assumes all obligations of the UPPCL under this Agreement and is in a position to perform them; or


- (iv) UPPCL 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, UPPCL is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by UPPCL 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 UPPCL.

### 9.2 Procedure for cases of UPPCL Event of Default

9.2.1 Upon the occurrence and continuation of any UPPCL Event of Default under Article 9.1, SECI shall have the right to deliver to UPPCL 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 ninety (90) 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.

  
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- 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 UPPCL 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 sixty (60) days to UPPCL.

### 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-WPD PPA, this Agreement shall automatically terminate but only to the extent of that particular SECI-WPD PPA. Provided that in case of such termination, any pending monetary liabilities of either Party shall survive the termination of this Agreement.

### 9.5 *Specific Performance of the Agreement*

- 9.5.1 The Parties acknowledge that a breach of the obligations contained herein would result in injuries. The parties hereby also agree that this PSA is specifically enforceable at the instance of either Party.
- 9.5.2 Subject to Applicable Law and as granted by the court of appropriate jurisdiction, Parties acknowledge that either party shall be entitled to seek specific performance of this Agreement in the event of a breach of the obligations or the terms and conditions contained herein.
- 9.5.3 Further, Parties hereby agree that nothing mentioned herein under this Agreement shall be taken to mean or construe that any penalty or damages shall be adequate compensation for the breach of the obligations or the terms & conditions contained herein.

Sanyaj Shrivastava



  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
MEERUT

## 10 ARTICLE 10: LIABILITY AND INDEMNIFICATION

### 10.1 Indemnity

10.1.1 UPPCL shall indemnify, defend and hold SECI/WPD harmless against:

- a) any and all third party claims against SECI/WPD 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 UPPCL of any of its obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by SECI/WPD from third party claims arising by reason of a breach by the UPPCL of any of its obligations under this Agreement, (provided that this Article 10 shall not apply to such breaches by the SECI/WPD, for which specific remedies have been provided for under this Agreement).

10.1.2 SECI shall cause the WPD to indemnify, defend and hold UPPCL harmless against:


- a) any and all third party claims against UPPCL, 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 WPD of any of their obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by UPPCL from third party claims arising by reason of a breach by WPD of any of its obligations. SECI shall incorporate appropriate covenants in the PPA for the above obligations of WPD. In so far as indemnity to UPPCL is concerned, WPD shall be the indemnifying party and not SECI.

### 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) or 10.1.2 (a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 10.1.1(a) or 10.1.2(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

*Sanjay Sharma*  


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MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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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) or 10.1.2(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.

An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

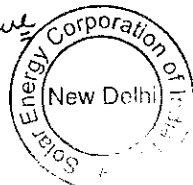
### 10.3 *Indemnifiable Losses*

- 10.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 10.1.1(b) or 10.1.2 (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.

### 10.4 *Limitation on Liability*

- 10.4.1 Except as expressly provided in this Agreement, neither UPPCL nor SECI/WPD nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of UPPCL(ies), the WPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.
- 10.4.2 SECI/WPD shall have no recourse against any officer, director or shareholder of UPPCL or any Affiliate of UPPCL or any of its officers, directors or shareholders for such claims excluded under this Article. UPPCL shall have no recourse against any officer, director or shareholder of SECI or WPD, or any affiliate of SECI or any of its officers, directors or shareholders for such claims excluded under this Article.

*Sanyaj Sharma*




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MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**10.5 Duty to Mitigate**

10.5.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 10.

*Sanjay Sharma*  


*[Signature]*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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## 11 ARTICLE 11: ASSIGNMENTS AND CHARGES

### 11.1 *Assignments*

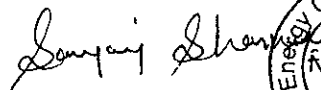

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties to be evidenced in writing:

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 assign(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*

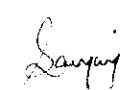

#### 12.2.1 *Amicable Settlement*


- 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 12.2.1 (i), 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 12.2.1(i) if the other Party does not furnish any counter claim or defence under Article 12.2.1(ii) 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 12.2.1(iii), 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.

  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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## SECI-UPPCL PSA

- ii. The obligations of UP-PCL under this Agreement towards SECI shall not be affected in any manner by reason of inter-se disputes amongst UPPCL.
- iii. SECI shall be entitled to co-opt the WPD as a supporting party in such proceedings before the Appropriate Commission.

### 12.3.2 Dispute Resolution through Arbitration

- i. If the Dispute arising as per Article 12.2.1 is not amicably resolved & such dispute is not covered in Article 12.3.1(i), such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 as provided below:
  - i) The Arbitration Tribunal shall consist of three (3) arbitrators. Each party shall appoint one Arbitrator within 30 days of the receipt of request for settlement of dispute by Arbitration. The two appointed Arbitrators shall within 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 appointed Arbitrator fails to agree on third Arbitrator within 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 substantiated 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. vi) SECI shall be entitled to co-opt WPD as a supporting party in such arbitration proceedings.

### 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.

*Sanyu Shrivastava*



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MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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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 assigns 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.

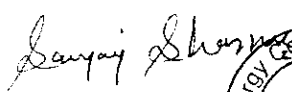
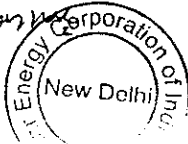
without the prior written consent of the other Parties.


#### 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.

  
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SECI-UPPCL PSA

13.6.2 If to UPPCL, 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:

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

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:

(i) Address : D-3, 1<sup>st</sup> Floor, Wing-A, Prius Platinum, District Centre, Saket, New Delhi-110017

Attention : Additional General Manager (Power Systems)

Email : aknaik@seci.co.in

Fax. No. : 011-71989287

Telephone No. : 011-71989214

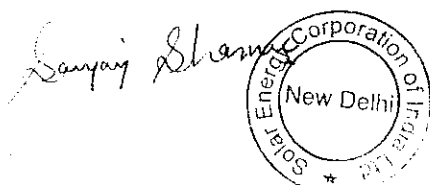
13.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement 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.



  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**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, 1956/2013.

**13.9 Taxes and Duties**

13.9.1 UPPCL shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/levied on UPPCL, contractors or their employees, that are required to be paid by UPPCL as per the Law in relation to the execution of the Agreement.

13.9.2 SECI shall be indemnified and held harmless by UPPCL 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 UPPCL by SECI on behalf of UPPCL or its personnel.

**13.10 No Consequential or Indirect Losses**

13.10.1 The liability of UPPCL 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 UPPCL 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 UPPCL shall be an independent entity performing its obligations pursuant to the Agreement.

13.12.2 Subject to the provisions of the Agreement, UPPCL shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of UPPCL in connection with the performance of the Agreement shall be under the complete control of UPPCL 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 UPPCL shall be construed to

*Sayin Sharma*  
Solar Energy Corporation of India  
New Delhi

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MANAGING DIRECTOR  
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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

[SECI]

*Sanjay Sharma*

Name, Designation and Address

SANJAY SHARMA  
GM (CRP), SECI

Signature with seal

Witness:

1. *Pratibhasa*  
Dy. Mgr (CRP)

2. Anil Yadav  
Senior Engineer

For and on behalf of

[UPPCL]

*Jan*  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
MEERUT

Name, Designation and Address

*Jan*  
Pawan Kumar (IAS)  
MD. Paschimanchal VVNL  
Meerut.

Signature with seal  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
MEERUT

Witness:

1. *Jan*  
DIA (Com) VVNL Meerut.

2.

## SECI-UPPCL PSA

## 1 SCHEDULE 1: LIST OF LOAs ISSUED TO WPDs

Sl. No.	WPD	Project Capacity	CUF%			Energy (MUs)			Applicable tariff as per PPA (Rs/kWh)
			Declared	Min. (-90%)	Max. (+120%)	Declared	Min. (-90%)	Max. (+120%)	
	1	2							3
1	Adani Green Energy (MP) Ltd	50	36	32.4	43.2	157.68	141.912	189.216	2.65
2	Green Infra Wind Energy Ltd.	250	36	32.4	43.2	788.4	709.56	946.08	2.65
3	Inox Wind Infrastructure Services Ltd-1	50	34	30.6	40.8	148.92	134.028	178.704	2.65
4	Inox Wind Infrastructure Services Ltd-2	50	34	30.6	40.8	148.92	134.028	178.704	2.65
5	Inox Wind Infrastructure Services Ltd-3	50	34	30.6	40.8	148.92	134.028	178.704	2.65
6	Inox Wind Infrastructure Services Ltd-4	50	34	30.6	40.8	148.92	134.028	178.704	2.65
7	Inox Wind Infrastructure Services Ltd-4	50	34	30.6	40.8	148.92	134.028	178.704	2.65
8	Orange Sironj Wind Power (P) Ltd	200	34.5	31.05	41.4	604.44	543.996	725.328	2.64
9	ReNew Power Ventures (P) Ltd	250	34	30.6	40.8	744.6	670.14	893.52	2.64
Pooled Tariff(kWh)									2.65

(\*Note: The Pooled Tariff is liable to changes depending on actual commissioning achieved by the respective projects, leading to changes in applicable tariffs. Example- Formula-  $3 = \text{Capacity ((MW Individual) * Tariff (Individual)) / (Total Capacity)}$ )

*Sanjay Sharma*  


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 MANAGING DIRECTOR  
 Paschimanchal Vidyut Vitran Nigam Ltd.  
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**2 SCHEDULE 2: SECI-WPD PPA**

[Shall be provided to UPPCL within seven (7) days of signing of PPA with WPD]

**3 SCHEDULE 3: AMOUNT REALISATION FOR SALE OF WIND POWER**

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

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

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

$$A_p = (E_p \times T_p)$$

Where,

- $A_p$  = Provisional Billing amount (in Rs.) for Wind Power for the applicable Month;
- $E_p$  = No. of units (kWh) as per the daily implemented schedule for the applicable Month;
- $T_p$  = Provisional monthly weighted average tariff (in Rs./kWh) based on daily implemented schedule as per declared availability, for all the operational Projects during the month and Tariff (excluding Trading Margin of the SECI @ Rs 0.07) of the respective Project as per Schedule-1, for the applicable Month.

Where, monthly weighted average of the wind power is worked out for all Wind 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 Wind Power for the preceding previous month on the basis of Energy Accounts-**

**(a) Final Amount for Wind Power for the Applicable month (preceding previous)**

$$A_f = (E_f \times T_f)$$

Where:

- $A_f$  = Final Billing Amount (in Rs.) based on Energy Accounts (REA) for Wind Power for the applicable Month (preceding previous);
- $E_f$  = Actual Energy supplied (in kWh) as per Energy Accounts (REA) for respective UPPCL from the tied power of respective Wind Power Projects during the Applicable month (preceding previous);
- $T_f$  = Final monthly weighted average tariff (in Rs./kWh) based on Energy Accounts, for all the operational Projects during the month and Tariff (excluding Trading Margin of the SECI @ Rs 0.07) of the respective Project as per Schedule-1, for the Applicable month (preceding previous);

*Sanjay Sharma*  


  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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**(b) Adjustment against Provisional billing amount for the preceding previous month-**

Adjustment against Provisional Billing for Wind Power for preceding previous month shall be the resultant of Final Amount ( $A_f$ ) computed at Serial No. 2(a) less Provisional Billing amount  $A_p$  for previous month as per last month bill at Serial no.1(a).

**3. Billing to be done by SECI on the UPPCL on each month**

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

Sanjay Singh



  
MANAGING DIRECTOR  
Paschimanchal Vidyut Vitran Nigam Ltd.  
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