

**STANDARD
POWER PURCHASE AGREEMENT**

FOR

**PROCUREMENT OF MW SOLAR POWER
FOR 25 YEARS**

Between

..... [Insert Name of Solar Power
Developer]

And

Uttar Pradesh Power Corporation Ltd. (UPPCL), Lucknow

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This Power Purchase Agreement is made on the[Insert date] day of[Insert month] of [Insert year] at [Insert place]

Between

..... [Insert name of the Solar Power Developer], a Company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at [Insert address of the registered office of Solar Power Developer] (Hereinafter referred to as “**Solar Power Developer or SPD**”, 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**;

And

Uttar Pradesh Power Corporation Ltd., Lucknow a Company incorporated in India and registered under the Companies Act, 1956, having its registered office at Shakti Bhawan, 14 – Ashok Marg, Lucknow – 226001

(Hereinafter referred to as “**UPPCL** or “**Procurer**” 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**;

The SPD and UPPCL are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

WHEREAS

:

- A.** The Government of India has announced the Policy for promotion of the Solar Power in the country and has provided a target to achieve an aggregate installed capacity of 100 GW by the year 2022.
- B.** The Ministry of Power, Government of India has issued the Guidelines for the Tariff Based Competitive Bidding Process for procurement of power generated from the Grid connected Solar Power Project vide Resolution dated 3rd August 2017 and amendments thereof.
- C.** Uttar Pradesh Power Corporation Ltd. (UPPCL) hereinafter referred to as “Procurer”, has been duly authorized to enter into this Agreement on behalf of DISCOMS namely Paschimanchal Vidyut Vitran Nigam Ltd, Poorvanchal Vidyut Vitran Nigam Ltd,

Madhyanchal Vidyut Vitran Nigam Ltd, Dakshinanchal Vidyut Vitran Nigam Ltd and will directly purchase power generated from these selected 200 MW Solar PV Projects for 25 years.

D. Under Ministry of New & Renewable Energy ,Govt of India Solar Park Scheme ,UPNEDA had initiated a competitive bidding process through issue of RfP (Request for Proposal) Document for selecting SPD for setting up of Solar PV Project for supply of solar energy for 25 years to procurers

E. The Solar Power Developer (hereinafter referred to as ‘SPD’) has been selected in the Competitive Bidding Process for development, generation and supply of electricity from theMW Solar Power Project to be established by SPD in UP Solar Park in the State of Uttar Pradesh and for supply of such electricity to the UPPCL in the State of Uttar Pradesh under a Power Purchase Agreement to be entered into between UPPCL and such Buying Utility (ies);

F. UPNEDA has issued the letter of Intent No..... dated.....in favour of the SPD for development and establishment of theMW Solar Power Project as per the terms and conditions contained in the RFS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents as well as the conditions contained in the Letter of Intent;

G. The SPD has been established as a Special Purpose Vehicle to develop and undertake the generation of the solar power from the project to be established at, UP Solar Park in the state of Uttar Pradesh.

H. In terms of the RFS and the Bidding Documents, the SPD has furnished the Performance Bank Guarantee in the sum of Rs.....in favour of UPNEDA as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee provided is in Schedule – 1 to this agreement;

I. The SPD has fulfilled the terms of the bidding and the terms of the Letter of Intent for signing this Power Purchase Agreement as a definitive agreement for establishing the Solar Power Project of.....MW at ...[Insert the name of

Plot /Land Parcel in UP Solar Park] in the state of Uttar Pradesh for generation and sale of electricity by the SPD to Procurer UPPCL;

- J.** The parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS, the bidding documents and the Letter of Intent in regard to the terms and conditions for establishment of the Solar Power Project at ...[insert the name of plot in UP Solar Park] in the state of Uttar Pradesh and for generation and supply of electricity by the SPD to UPPCL.

- K.** Procurer agree to procure Solar Photovoltaic Power up to the Contracted Capacity from the SPD as per the terms of this Agreement

- L.** The Parties hereby agree to execute this Power Purchase Agreement setting out the terms and conditions for the sale of power by SPD to Procurer

- M.** All the other RfP Project Documents will be executed by the Procurer and the Seller simultaneously with the signing of this Agreement

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:

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 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”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Agreement” or “Power Purchase Agreement” or “PPA”	shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;
“Appropriate Commission”	Unless otherwise stated, Appropriate Commission shall be the commission as state in the Clause 2.2 of the Guidelines dated 03.08.2017 notified by the Government of India for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects issued by the Ministry of Power;
“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 Seller and Procurer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Lucknow
“Billing Date ”	shall be the first Business Day after the Metering Date of each Billing Period
“Capacity Utilization Factor” or “CUF”	<p>“shall mean the percentage of power generated and measured at the Metering Point divided by the installed capacity multiplied by the number of hours (8766 Hours) in a calendar year shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2017 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;</p> <p>In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$;</p>

“UPERC”	shall mean the Uttar Pradesh Electricity Regulatory Commission of India,
“Change in Law”	shall have the meaning ascribed thereto in Article 12 of this Agreement;
“Commissioning”	shall have the meaning ascribed thereto in Article 5 of this Agreement;
“Commercial Operation Date (COD)”	shall mean the date on which the Plant is available for commercial operation and such date as specified in a written notice given at least ten days in advance by the Seller to LSPDCL/UPNEDA / Procurer(s).;
“Competent Court of Law”	shall mean any court or tribunal or any similar judicial or quasi-judicial body in Lucknow that has jurisdiction to adjudicate upon issues relating to this Agreement;
“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/ or supply of power;
“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 Seller Preliminary Default Notice or Procurer Preliminary Default Notice as provided in Article 13 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 -----MW (AC) of Solar PV power contracted with Procurer(s) for sale of such power by the Seller (----- MW AC capacity means ----- MW AC output at the delivery point i.e. at the grid sub-station where the Project would be connected to.);

<p>“Delivery Point”</p>	<p>Shall mean the point at [Insert the Voltage Level as specified by SPIA] kV where the power from the solar power project is injected into the [Insert the Pooling substation or the STU substation as specified by the SPIA] (including the dedicated transmission line connecting the power project with the Designated substation). Metering shall be done at this interconnection point where the power is injected into the Designated Substation i.e. the Delivery Point. For interconnection with grid and metering, the SPDs shall abide by the relevant UPERC Regulations, Grid Code, and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time. Energy accounting and payment shall be done from the Delivery Point.</p> <p>All charges and losses related to Transmission of power from project up to Delivery Point (including but not limited to open access (if applicable), transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC charges etc.) as notified by the competent authority / regulator shall be borne by the SPD and beyond the Delivery Point all charges and losses as notified by the competent authority / regulator from time to time shall be borne by the Procurer.</p>
<p>“Designated Substation”</p>	<p>Shall mean the Grid interconnecting substation located at [Insert details of location] having [Insert input / output voltage level specified] and as designated by the SPIA for interconnection of the Project with the Grid;</p>
<p>“Dispute”</p>	<p>shall mean any dispute or difference of any kind between the Seller and the Procurer 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 17 of this Agreement;</p>
<p>"Due Date"</p>	<p>Due Date shall mean the 30th day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the 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 the UPPCL. “</p>
<p>“Effective Date”</p>	<p>shall have the meaning ascribed thereto in Article 2.0 of this Agreement;</p>

“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 13 of this Agreement;
“Expiry Date”	Shall mean the date occurring twenty five (25) years from the date of commercial operation of the Solar PV Project;
“Financial Closure”	shall mean compliance with the requirements under Article 3.1 of this Agreement;
“Financing Agreements”	shall mean the agreements pursuant to which the SPD has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of Procurer;
"Force Majeure" or “Force Majeure Event”	shall have the meaning ascribed thereto in Article 11 of this Agreement;
“Guidelines: or “Scheme”	shall mean the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects issued by the Ministry of Power on 3 rd August 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;;
“Indian Governmental Instrumentality”	shall mean the Government of India, Governments of State of Uttar Pradesh 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;
“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;
“Insurances”	shall mean the insurance cover to be obtained and maintained by the SPD in accordance with Article 8 of this Agreement;

"Interconnection Facilities"	in respect of the Seller shall mean all the facilities installed by the Seller at the Solar PV Power Plant to transmit the energy to the grid.;
"Invoice" or "Bill"	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Joint Control"	shall mean a situation where none of the promoter shareholders has at least 51 % shareholding in the paid up share capital and voting rights in the SPD, and the control is exercised jointly;
"Late Payment Surcharge"	shall have the meaning ascribed thereto in Article 10.3.3 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 Commissions;
"Letter of Credit" or "L/C"	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
"MNRE"	shall mean the Ministry of New and Renewable Energy, Government of India;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Metering Date"	for a Billing Period, means the midnight of the last Day of the calendar month.
"Metering Point"	for purposes of recording of Injected Energy located at Injection Point.
O&M Default	shall mean any default on the part of the Seller for a continuous period of ninety (90) days to (i) operate and/or (ii) maintain (in accordance with Prudent Utility Practices).
"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 10.4 of this Agreement;
"Performance Bank Guarantee"	shall mean the irrevocable unconditional bank guarantee, submitted by the SPD to UPNEDA;

<p>“Power Project” or “Project”</p>	<p>shall mean the Solar power generation facility of Contracted Capacity of[Insert capacity] MW, located at ...[Insert the name of Plot in UP Solar Park] in the state of Uttar Pradesh having a separate control system, metering and separate points of injection into the grid at Delivery/Interconnection/Metering point at STU substation or in case of sharing of transmission lines, by separate injection at pooling point.</p> <p>The Project shall include all units and auxiliaries such as water supply, treatment or storage facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement;</p>
<p>“Preliminary Default Notice”</p>	<p>shall have the meaning ascribed thereto in Article 13 of this Agreement;</p>
<p>“Project Capacity”</p>	<p>shall mean the maximum AC capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed.</p>
<p>"Prudent Utility Practices"</p>	<p>means those practices, methods, techniques and standards, that are generally accepted for use in electric utility industries taking into account conditions in India, and commonly used in prudent electric utility engineering and operations to design, engineer, construct, test, operate and maintain equipment lawfully, safely, efficiently and economically as applicable to power stations of the size, service and type of the Project, and that generally conform to the manufacturers' operation and maintenance guidelines.</p>
<p>“RBI”</p>	<p>shall mean the Reserve Bank of India;</p>
<p>“Rebate”</p>	<p>shall have the same meaning as ascribed thereto in Article 10.3.4 of this Agreement;</p>
<p>"RLDC"</p>	<p>shall mean the relevant Regional Load Dispatch Centre established under Subsection (1) of Section 27 of the Electricity Act, 2003;</p>
<p>“RPC”</p>	<p>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;</p>

"Rupees", "Rs.", "₹"	shall mean Indian rupees, the lawful currency of India;
"Scheduled Commissioning Date" or "SCD" of the Project	Shall mean [Insert Date that is Fifteen (15) Months from the Effective Date of this Agreement];
"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 center 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 the SLDC of the state wherein the Solar Power Project is located;
"Solar Park"	shall mean concentrated zone of development of solar power generation projects being developed by the SPIA under GOI's Scheme for Solar Parks and Ultra Mega Solar Power Projects and provides an area that is well characterized, with proper infra-structure and access to amenities;
"Solar Photovoltaic Project" or "Solar PV Project"	shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the SPD to provide Solar Power to SECI as per the terms and conditions of this Agreement;
"Solar Power"	shall mean power generated from the Solar Photovoltaic Power Project;
"Solar Power Park Developer" or "SPIA" or "SPDD"	Shall mean Lucknow Solar Power Development Corporation Limited (including its successors and assignees) under Companies Act, 1956 or Companies Act 2013, as applicable;
"State Transmission Utility" or "STU"	Means State Transmission Utility as notified by the Government of the State for electricity transmission
"Tariff"	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
"Termination Notice"	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Unit/ Part Commissioning"	Unit / Part Commissioning shall mean the Solar PV Capacity (AC MW) to be commissioned as per provisions of the this Agreement and RfS document.
"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 (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;
- 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;
- 1.2.18 In the event of any discrepancy between this Agreement and the RfP document ,the later shall prevail upon.

ARTICLE 2: TERM OF AGREEMENT

2.1 *Effective Date*

2.1.1 This Agreement shall come into effect from (Enter the date as on 30th day of the issuance of Letter of Intent to the SPD) and such date shall be referred to as the Effective Date.

2.2 *Term of Agreement*

2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date.

2.3 *Early Termination*

2.3.1 This Agreement shall terminate before the Expiry Date:

- i. if either Seller or all the Procurers (jointly) terminates this Agreement, pursuant to Article 13 (Events of Default and Termination), of this Agreement; or
- ii. in such other circumstances as the Seller or all the Procurers (jointly) may agree, in writing;

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 penalty 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 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 15 (Liability and Indemnification), Article 17 (Governing Law and Dispute Resolution), Article 18 (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.

ARTICLE 3: CONDITIONS SUBSEQUENT TO BE SATISFIED BY THE SELLER/PROCURER

3.1 Satisfaction of conditions subsequent by the SPD /Seller

3.1.1 The SPD agrees and undertakes to duly perform and complete all of the following activities at SPD's own risk and cost within nine (09) months from the Effective Date, i.e. by _____ [insert the date which is nine (09) months from the Effective Date of this agreement] unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by UPNEDA: The SPD shall make Project financing arrangements and provide necessary certificates to UPNEDA in this regard;

- a) The SPD shall enter into an Land Implementation & Support Agreement with Solar Park Implementation Agency (SPIA) which is LSPDCL {A Joint Venture between UPNEDA & Solar Energy Corporation of India-(SECI)} and/or Lease Deed/Right to Use Agreement (as applicable) with the SPIA for Land & associated infrastructure for development of the Project inside the Solar Park and for connectivity with the STU System for confirming the evacuation of power by the Scheduled Commissioning Date.

The SPD shall submit to UPNEDA the relevant documents as stated above, complying with the Conditions Subsequent, within nine (09) months from the Effective Date of this agreement.

3.2 Consequences of non-fulfilment of conditions subsequent and financial closure

3.2.1 In case of a failure to submit the documents as above, UPNEDA shall encash the Performance Bank Guarantee submitted by the SPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the SPD in writing of at least seven (7) days, unless the delay (subject to the conditions that SPD has made / is making all possible efforts) is on account of delay in allotment of Land by LSPDCL (SPIA) not owing to any action or inaction on the part of the SPD or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.1.(i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

- (i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered by UPNEDA, on the sole request of SPD, on payment of penalty as mentioned in 3.2.1. This extension will not have any impact on the Scheduled

Commissioning Date. Any penalty paid so by the SPD, shall be returned to the SPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date,.

However any delay in adoption of tariff by the Appropriate Commission beyond 60 (sixty) days, from the date of application filed by the Procurer for adoption of tariff under section 63 of the Act shall entail a corresponding extension in financial closure

3.2.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

3.2.3 [Not used]

3.2.4 In case of inability of the SPD to fulfill any one or more of the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfillment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event. In case of delay in handing over of land by the SPIA as per the timeline specified in the Land Agreement, other than for any reason attributable to the SPD, such delay may entail a corresponding extension in financial closure and Scheduled Commissioning Date.

3.2.5 Provided that due to the provisions of this Article 3.2.4, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

3.3 Performance Bank Guarantee

3.3.1 Performance Bank Guarantee has been submitted by SPD within 30 days of issue of LoI or before the signing of the PPA whichever is earlier for guaranteeing the commencement and continuity of the supply of power up to the Contracted Capacity within the time specified in this Agreement.

3.3.2 The failure on the part of the SPD to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of the SPD.

3.3.3 If the SPD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by UPPCL, subject

to conditions mentioned in Article 4.5, UPNEDA shall encash the Performance Bank Guarantee without prejudice to the other rights of UPNEDA under this Agreement.

3.4 Return of Performance Bank Guarantee

3.4.1 Subject to Article 3.3, UPNEDA shall return / release the Performance Bank Guarantee /POI within forty five days (45) after the Commissioning date after taking into account any liquidated damages due to delays in commissioning.

In case of part commissioning, PBG, corresponding to the part capacity commissioned, will be released within 45 days of such part-commissioning

3.4.2 The return / release of the Performance Bank Guarantee shall be without prejudice to other rights of UPNEDA under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 *SPD's Obligations*

4.1.1 The SPD undertakes to be responsible, at SPD's own cost and risk, for:

- a) Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. The Solar Power Developer shall, on his own, obtain permissions/sanctions from Government authorities, if any required for establishing the project. Any steps that may be taken by UPNEDA/UPPCL in regard to grant of such consents and permits or any other approval to be taken by the SPD shall only be a voluntary endeavor with no intention of being bound by any legal or binding obligation.
- b) Designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
- c) the commencement of supply of power up to the Contracted Capacity to Procurer(s) on or before the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;
- d) Connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point. The SPD shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at Interconnection / Metering / Injection Point/Delivery Point.
- e) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 16;
- f) maintaining its controlling shareholding prevalent at the time of signing of PPA up to a period of one (1) year after Commercial Operation Date of the Project, in line with provisions of the RfS document
- g) Fulfilling all obligations undertaken by the SPD under this Agreement.
- h) [Not Used]
- i) The SPD shall fulfill the technical requirements according to criteria mentioned under Annexure II–Technical requirement for Grid Connected Solar PV Power Stations under Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects, issued by

Ministry of Power, vide resolution no.23/27/2017-R&R dated 03.08.2017, and subsequent amendments and clarifications thereof.

4.2 Information regarding Interconnection Facilities

- 4.2.1 The SPD shall be required to obtain all information from the SPIA/STU/concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the SPD's side of the Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost.
- 4.2.2 Penalties, fines and charges imposed by the STU under any statute or regulation in relation to delay in commissioning of Project shall be payable by the SPD to the extent the delay is attributable to the SPD.
- 4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point as per the SPIA terms and conditions, will lie with the SPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost. The maintenance of Transmission system up to the designated point as per the terms and conditions of SPIA shall be the responsibility of the SPD. All costs and charges including but not limited to the wheeling charges and losses up to the Interconnection Point associated with this arrangement will also be borne by the SPD.
- 4.2.4 [Not Used]
- 4.2.5 The arrangement of connectivity shall be made by the SPD through a dedicated transmission line as instructed by the SPIA. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Interconnection Point will be borne by the SPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the SPD, provisions of Article 14 shall be applicable.
- 4.2.6 Interconnection Delivery point will be at the Grid substation and therefore from Generators substation/switchyard transmission line will be in scope of SPIA. The maintenance of Transmission system up to the Inter-connection Point shall be