

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 Dispatch and Scheduling

- 6.1.1 The SPG shall be required to schedule its power as per the applicable regulations of UPERC / UPSLDC or any other competent agency and same being recognized by the UPSLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ UP Electricity Grid Code requirements and directions, if any, as specified by concerned UPSLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation/ guidelines/ directions and any financial implication on account of this shall be on the account of the SPG.
- 6.1.2 The SPG shall be responsible for directly coordinating and dealing with the procurer, State Load Dispatch Centers, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Power and due compliance with deviation and settlement mechanism and the applicable UP Electricity Grid code Regulations.
- 6.1.3 The SPG shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the SPG.
- 6.1.4 Auxiliary power consumption will be treated as per the concerned state regulation

ARTICLE 7: METERING

7.1 Meters

- 7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the SPG and procurer shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 7.1.2 The SPG shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPG's side of Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the SPG shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable regulations of the State where the Project is located.

7.2 Reporting of Metered Data and Parameters

- 7.2.1 The grid connected solar power plants will install necessary equipment for regular monitoring of required data and simultaneously for monitoring of the electric power generated from the Project.
- 7.2.2 Online arrangement would have to be made by the SPG for submission of above data regularly for the entire period of this Power Purchase Agreement to the procurer, the MNRE and concerned agency (UPNEDA) as per applicable regulation / directions.
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation/ guidelines) shall be submitted by the SPG to UPNEDA/Procurer /Ministry of New and Renewable Energy/National Institute of Solar Energy through procurer for entire period of PPA.

ARTICLE 8: INSURANCES

8.1 Insurance

- 8.1.1 The SPG shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of PPA, Insurances against such risks to keep the Project in good condition and shall take Industrial All Risk insurance policy covering risks against any loss or damage, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements, and under the applicable laws.

8.2 Application of Insurance Proceeds

- 8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.
- 8.2.2 In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be applied as per such Financing Agreements.
- 8.2.3 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, procurer shall have claim on such proceeds of such Insurance limited to outstanding dues of procurer against SPG.

8.3 Effect on liability of Procurer

- 8.3.1 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPG can claim compensation, under any Insurance shall not be charged to or payable by procurer. It is for the SPG to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

9.1 The SPG shall be entitled to receive the Tariff of Rs. / kWh, fixed for the entire term of this Agreement, with effect from the COD, for the power sold to the procurer as reflected in the Energy Accounts.

ARTICLE 10: BILLING AND PAYMENT

10.1 General

- 10.1.1 From the commencement of supply of power by the Seller, the Procurers shall pay to the Seller the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in this Article 9 and Schedule 10. All Tariff Payments by the Procurers shall be in Indian Rupees.

10.2 Delivery and Content of Monthly Bills

- 10.2.1 The Seller shall issue to each Procurer a signed Monthly Bill for the immediately preceding Month not later than four (4) days of the next Month. In case the Monthly Bill for the immediately preceding Month issued after four (4) days of the next Month, the Due Date for payment of such Monthly Bill shall be thirty (30) days from such date

Provided that:

- a. if the date of commencement of supply of power falls during the period between the first (1st) day and up to and including the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period until the last day of such Month, or
- b. if, the date of commencement of supply of power falls after the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period commencing from the Delivery Date until the last day of the immediately following Month

Provided further that if a Monthly Bill is received on or before the second (2nd) day of a Month, it shall be deemed to have been received on the second (2nd) Business Day of such Month.

- 10.2.2 The Monthly Bill prepared as detailed in Schedule 5 of the PPA, shall include the following;
1. Provisional Bill for Solar PV power supplied in the immediately preceding Month;
 - (b) Adjustments against the Provisional Bill(s) based on Energy Accounts for the Solar PV power supplied in the Month(s) preceding to the previous month(s);
 - (c) Any other adjustments to cover changes in open access related charges and any other prior-period adjustments;
 - 2 Late Payment Surcharge, if any; and
 - 3 Taxes, Duties, Levies etc. as applicable.

10.3 Payment of Monthly Bills

- 10.3.1 The Procurers shall pay the amount payable under the Monthly Bill on the Due Date to such account of the Seller, as shall have been previously notified to the Procurers in accordance with Article 10.3.2 below.
- 10.3.2 The Seller shall open a bank account at Lucknow, Uttar Pradesh ("Seller's Designated Account") for all

Tariff Payments be made by the Procurers to the Seller, and notify the Procurers of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The Procurers shall also designate a bank account at Lucknow /Greater Noida (the "Procurer's Designated Account") for payments to be made by the Seller to the Procurers, if any, and notify the Seller of the details of such account ninety (90) days before the dispatch of the first Monthly Bill. The Seller and the Procurers shall instruct their respective bankers to make all payments under this Agreement to the Procurers' Designated Account or the Seller's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by the Procurers sixty (60) days beyond its due date, a Late Payment Surcharge shall be payable by the Procurers to the Seller at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by the Seller through the next Monthly Bill.

10.3.4 Rebate

For payment of any Bill within due date, the following Rebate shall be paid by the Seller to the Procurers in the following manner.

- a) A Rebate of 2% shall be payable to the Procurer for the payments made within a period of 10 (ten) days of the presentation of hard copy of bill along with required supporting documents at Procurer Office.
- b) Any payments made after ten (10) days of the date of presentation of hard copy of the bill along with the required supporting documents at Procurer office up to the Due date shall be allowed a rebate of 1%.
- c) For the above purpose the date of presentation of Bill shall be the next business day of delivery of the physical copy of the Bill
- d) No Rebate shall be payable on the bills raised on account of change in law relating to taxes, duties, cess etc. and on supplementary bill. For the above purpose date of presentation of bill shall be the same day of delivery in hard copy. However, for consideration of rebate, next business day shall be considered.

10.4 Payment Security Mechanism

Letter of Credit (LC):

10.4.1 The Procurers shall provide to the Seller, in respect of payment of its Monthly Bills, an unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the Procurers, which may be drawn upon by the Seller in accordance with this Article. The Procurers shall provide to the Seller draft of the Letter of Credit proposed to be provided to the Seller two (2) months before the Scheduled Commissioning Date.

10.4.2 Not later than one (1) month before the start of supply, the Procurers shall through a scheduled bank

at Lucknow open a Letter of Credit in favour of the Seller, 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 year, in the month of January and revised w.e.f. April for an amount equal to:

- i) for the first Contract Year, equal to the estimated average monthly billing;
- ii) for each subsequent Contract Year, equal to the one point one (1.1) times the average of the monthly Tariff Payments of the previous Contract Year.

10.4.3 Provided that the Seller 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 drawl in a Month.

10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, the Procurers shall restore such shortfall within fifteen days(15)

10.4.5 The Procurers shall cause the scheduled bank issuing the Letter of Credit to intimate the Seller, in writing regarding establishing of such irrevocable Letter of Credit.

10.4.6 The Procurers shall ensure that the Letter of Credit shall be renewed prior to its expiry.

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

10.4.8 If, the Procurers fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 10.4.6, the Seller may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the Procurers, an amount equal to such Monthly Bill or part thereof, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- i) a copy of the Monthly Bill which has remained unpaid by the Procurers;
- ii) a certificate from the Seller 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;

10.5 Disputed Bill

10.5.1 if the Procurers does not dispute a Monthly Bill raised by the other Party within fifteen (15) days of receiving such Bill shall be taken as conclusive.

10.5.2 If the Procurers disputes the amount payable under a Monthly Bill or Supplementary Bill, as the case may be it shall pay undisputed amount of the invoice 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.

10.5.3 If the Seller agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the Seller shall make appropriate adjustment in the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the Procurers and up to and including the date on which such payment has been received as refund.

10.5.4 If the Seller does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.6.2, 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.

10.5.5 Upon receipt of the Bill Disagreement Notice by the Procurers under Article 10.6.2, authorized representative(s) of the Procurers and the Seller shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

10.5.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.6.4, the matter shall be referred to Dispute resolution in accordance with Article 17.

10.5.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the Procurers 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.

10.6 Quarterly and Annual Reconciliation

10.6.1 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, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

10.6.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the Procurers and the Seller shall jointly sign such reconciliation statement. After signing of a reconciliation statement within 15 days, the Seller 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 17.

10.7 Payment of Supplementary Bill

10.7.1 Either Party may raise a bill on the other Party ("Supplementary Bill") for payment on account of:

Adjustments required by the Regional Energy Account (if applicable); or Change in Law as provided in Article 12, and such Supplementary Bill shall be paid by the other Party.

10.7.2 Procurers shall remit all amounts due under a Supplementary Bill raised by the SPG to the SPG's Designated Account by the Due Date. Similarly, the SPG shall pay all amounts due under a Supplementary Bill raised by Procurers, if any, by the Due Date to concerned Procurers designated bank account. For such payments by Procurers, Rebate as applicable to Monthly Bills pursuant to Article 10.3.4 shall equally apply.

10.7.3 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 10.3.3.

ARTICLE 11: FORCE MAJEURE

11.1 Definitions

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

Affected Party

An affected Party means procurer or the SPG whose performance has been affected by an event of Force Majeure.

11.2 Force Majeure

11.2.1 A 'Force Majeure' means any event or circumstance or combination of events those 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 or complied with Prudent Utility Practices:

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority/ agency (as applicable);
- b) 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 if and only if it is declared/ notified by the competent state/ central authority/ agency (as applicable); or
- c) 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.

11.3 Force Majeure Exclusions

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

- a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
- b. Delay in the performance of any contractor, sub-contractor or their agents;
- c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- d. Strikes at the facilities of the Affected Party;
- e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and

- f. 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.

11.4 Notification of Force Majeure Event

- 11.4.1 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.
- 11.4.2 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.
- 11.4.3 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.

11.5 Duty to Perform and Duty to Mitigate

- 11.5.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, 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.

11.6 Available Relief for a Force Majeure Event

- 11.6.1 Subject to this Article 11:
 - (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;
 - (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.

ARTICLE 12: CHANGE IN LAW

12.1 Definitions

In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events pertaining to this project only after the last date of the bid submission, including

- (i) the enactment of any new law; or
- (ii) an amendment, modification or repeal of an existing law; or
- (iii) the requirement to obtain a new consent, permit or license; or
- (iv) any modification to the prevailing conditions prescribed for obtaining a consent, permit or license, not owing to any default of the SPG; or
- (v) any change in the rates of any Taxes including any duties and cess or Introduction of any new tax made applicable for setting up the power project and supply of power from the Power project by the SPG Which have a direct effect on the Project. However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the SPG, or (iii) any change on account of regulatory measures by the Appropriate Commission.

In the event a Change in Law results in any adverse financial loss/ gain to the SPG then, in order to ensure that the SPG is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the SPG/ procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum and mechanism of compensation payment shall be determined and shall be effective from such date as may be decided by the Appropriate Commission.

In the event of any decrease in the recurring/ nonrecurring expenditure by the SPG or any income to the SPG on account of any of the events as indicated above, SPG shall file an application to the Appropriate Commission no later than sixty (60) days from the occurrence of such event, for seeking approval of Change in Law. In the event of the SPG failing to comply with the above requirement, in case of any gain to the SPG, procurer shall withhold the monthly tariff payments on immediate basis, until compliance of the above requirement by the SPG.

12.2 Relief for Change in Law

- 12.2.1 The aggrieved Party shall be required to approach the Appropriate Commission forseeking approval of Change in Law.
- 12.2.2 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.