

POWER SALE AGREEMENT

FOR

SALE OF WIND POWER ON LONG TERM BASIS

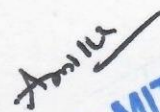
Between

NTPC Limited

And

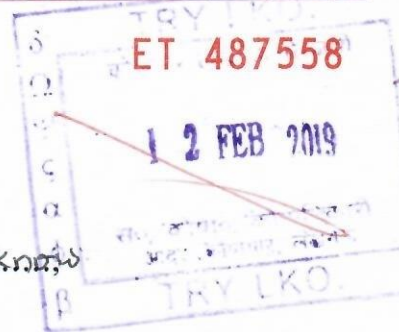
UTTAR PRADESH POWER CORPORATION LIMITED


हीरानन्द सी हरचन्दानी
HIRANAND C HARCHANDANI
महाप्रबन्धक (वाणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
टोली-33-बी/1, विन्डूरे बन्द, गेन्तो नगर, लखनऊ-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.



UTTAR PRADESH



This Power Sale Agreement is made on the 14th day of Mar. of 2019 at Lucknow.

Between

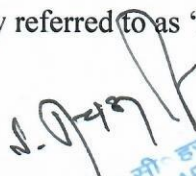
NTPC Limited, a company incorporated under the Companies Act 1956, having its registered office at 7, Institutional Area, Core-7, Scope Complex, Lodhi Road, New Delhi-110003 (hereinafter referred to as "NTPC", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the first part.

And

Uttar Pradesh Power Corporation Ltd, a company incorporated under the Companies Act 1956, having its registered office at Shakti Bhawan 14 Ashok Marg, Lucknow (hereinafter referred to as "UPPCL or Discom", 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

And

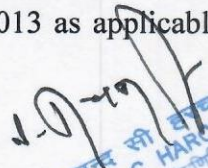
NTPC or Uttar Pradesh Power Corporation Ltd are individually referred to as 'Party' and collectively referred to as 'Parties'


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ARVIND MITTAL
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Shakti Bhawan (Extension) 2
LUCKNOW.

WHEREAS:

- A. 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, Meerut, Poorvanchal Vidyut Vitran Nigam Ltd, Varanasi, Madhyanchal Vidyut Vitran Nigam Ltd, Lucknow, Dakshinanchal Vidyut Vitran Nigam Ltd, Agra and Kanpur Electric Supply Authority to directly purchase power generated from wind power developers through NTPC.
- B. NTPC is a Government of India Undertaking and intends to facilitate the development of ISTS connected Wind Power projects in India and for sale of Wind Power generated to the UPPCL to enable them to procure Wind Power including for due fulfillment of the Renewable Purchase Obligations;
- C. NTPC has agreed to facilitate the development of the ISTS connected Wind Power in line with the provisions of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects, issued by Ministry of Power, vide resolution no.23/54/2017-R&R dated 08.12.2017;
- D. NTPC has agreed to act as an intermediary Agency / Procurer for the procurement of power from the ISTS connected Wind Power Projects to be established, operated and maintained by the Wind Power Developers on Built, Owned and Operate basis in pursuance to a competitive bid process to be held for the purpose and the Distribution Licensees desirous of purchasing Wind Power including for the purpose of fulfilling the Renewable Purchase Obligations in accordance with the scheme and objective of the Electricity Act, 2003, the Policies of the Government of India and the Policies of the State Governments;
- E. NTPC initiated a competitive bid process for selection of a Wind Power Developers to set up the ISTS connected Wind Power Projects with ISTS connectivity any where in India
- F. Srijan Energy Systems Private Limited a company incorporated under the Companies Act 2013 as applicable, having its registered office at 102, EI Tara Building Orchid


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U.P. Power Corporation Ltd.
Sheela Bhawan (Extension)
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Avenue Road Hiranandani Powai Mumbai-76 (hereinafter referred to as "Wind Power Developer or WPD"), has been selected in a Tariff Based Competitive Bid Process initiated by NTPC inviting proposal from all interested entities and on the basis that the tariff terms and conditions quoted by the WPD in comparison to others, were the most economical and least cost;

- G. The WPD has agreed to establish ISTS connected Wind Power Project with an installed capacity of 50 MW on built, owned and operate basis located at Taluka Bhuj and Nakhtarana distt Kutch, Gujarat and agreed to sell the power generated from the project to NTPC to enable onward sale to the distribution licensees of Uttar Pradesh i.e. UPPCL on the terms and conditions contained in the PPA, finalized and initialed between NTPC and WPD, (hereinafter referred to as 'NTPC- WPD PPA') a copy of the said initialed PPA is attached hereto and marked as Schedule 'A' to this PSA.
- H. The Letter of Intent was issued by NTPC to the WPD and the PPA has come to be initialed between NTPC and the WPD and to be entered into providing for the purchase of electricity generated at the project and resale of the same to UPPCL including the terms and conditions for such purchase, rights and obligations assumed by NTPC and the WPD under the PPA and the consequences of the default by either of parties to the PPA;
- I. UPPCL acknowledges and accepts that NTPC is only an Intermediary Company and is facilitating the purchase of sale of electricity generated from the Wind Project and, therefore, cannot assume independently, any obligation, financial or otherwise, either to the WPD or to UPPCL, (unless specifically provided otherwise in the PPA), except on a back to back basis, namely, that whatever obligation is enforced by the WPD under the PPA against NTPC, UPPCL shall be bound to fulfill the obligation on a back to back basis towards NTPC and similarly, whatever rights that UPPCL may claim under this Agreement against NTPC, shall be subject to due enforcement of the corresponding rights on a back to back basis by NTPC against WPD, without an independent obligation on the part of NTPC;

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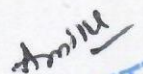
Arvind Mittal
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- J. UPPCL further acknowledges and accepts that NTPC shall proceed to sign the PPA with WPD solely on the basis of the agreement reached with UPPCL for signing of this Agreement;
- K. NTPC has agreed to sell and make available to UPPCL the entire agreed Contracted Capacity agreed to between NTPC and the WPD which is 50 MW, entirely on a back to back basis of the terms and conditions contained in the PPA to be entered into between NTPC and WPD,
- L. NTPC Vidyut Vyapar Nigam Limited (NVVN) on behalf of NTPC, will be the trading licensee for the purchase of Wind Power from WPD and resale of such Power to UPPCL. Further, on behalf of NTPC, NVVN will facilitate billing, realisation, data submission, and other associated day to day activities for fulfilling the obligations of NTPC as assigned in this agreement.
- M. The Parties had agreed that the execution of the PSA between NTPC and the UPPCL is a pre-condition for NTPC to sign the PPA with the WPD

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

- I This Agreement shall come into effect from signing of this Agreement by both the parties and such date shall be the Effective Date for the purpose of this Agreement.
- II Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that within reasonable time preferably with 2 months from the Effective Date, the UPPCL shall duly approve the PSA by obtain the order of the Uttar Pradesh Electricity Regulatory commission/ ETF /State Cabinet for the terms and conditions of PSA read with PPA executed between NTPC & WPD. Commission adopting the Tariff and the trading margin of seven (7) paise/KWh to NTPC and approving the procurement of the contracted capacity on the terms and conditions contained in this Agreement entered into between NTPC and UPPCL read with the terms and conditions contained in the PPA to be entered into between NTPC and the WPD.


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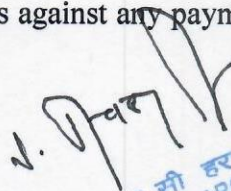
- III The parties agree that as mentioned in (II) above in the event, the approval of adoption of Tariff, trading margin and the Agreements for procurement of Power, as mentioned above is not given by the Uttar Pradesh Electricity Regulatory Commission /ETF /State Cabinet within the time specified above, this Agreement as well as the Power Purchase Agreement entered into between NTPC and the WPD shall stand cancelled and terminated with no liability of either party to the other or vis a vis the WPD, unless the parties and the WPD mutually agree to extend the time for fulfilling the Conditions Precedent.
- IV The duration of this Agreement shall be coextensive with the duration of the Power Purchase Agreement to be entered into between the NTPC and the WPD for all intent and purposes.
- V Subject to the terms and conditions contained herein, NTPC hereby agrees to sell and make available the electricity procured by NTPC from the 50 MW Wind Power Project to be set up by the WPD at Taluka Bhuj and Nakhtarana Distt Kutch, Gujarat on the terms and conditions contained in the PPA to be entered into between NTPC and the WPD, as per the initialed PPA (Schedule "A") on a back to back basis.
- VI. UPPCL hereby acknowledge and accept that NTPC is an Intermediary to facilitate the promotion of Wind Power and to purchase and re-sell the electricity to the distribution licensees to enable them to fulfill the Renewable Purchase Obligation and, therefore, the sale of electricity by NTPC to UPPCL under this Agreement shall be entirely on a back to back basis to the purchase of electricity by NTPC from the WPD under the NTPC- WPD PPA, with the intent that there shall be no residual liability on the NTPC towards the WPD which will not be fulfilled by the UPPCL.
- VII. In accordance with the above and except as otherwise specifically provided in this agreement, the rights and obligations of UPPCL under this agreement shall be available and enforceable entirely and effectively on a back to back basis to the rights and obligations of the NTPC in the NTPC-WPD PPA, Although NTPC is primarily responsible and in the event NTPC is not in a position to enforce its rights against the


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LUCKNOW. 6

WPD or is subject to any obligation to be performed towards WPD, but UPPCL is also entitled to exercise such rights shall not be liable to perform such obligation or shall be entitled to such rights only on a mutatis mutandi basis , without any additional or independent exposure whatsoever to NTPC.

- VIII. NTPC has agreed with the WPD in regard to the payment of money becoming due to WPD under the NTPC – WPD PPA and NTPC shall be liable to discharge the payment obligation in terms of the provisions of the NTPC- WPD PPA. Accordingly, UPPCL agrees to effectively securitize the payment of money becoming due from UPPCL to NTPC as detailed in this Agreement
- IX. The parties agree that in respect of the obligations other than the payment obligation specifically mentioned herein above, in the event UPPCL has any claim against NTPC in regard to the performance of any obligation of NTPC under this Agreement or enforcement of any right of UPPCL against NTPC under this Agreement, the same shall be subject to the ability of NTPC to enforce the corresponding obligations assumed by WPD to NTPC under the NTPC-WPD PPA, NTPC shall not be required to perform and implement the obligations of NTPC or agree to the enforcement of the rights of UPPCL under this Agreement till such time the corresponding obligations under NTPC-WPD PPA is duly implemented by the WPD and in case of monetary obligations the amount is received by NTPC from the WPD. In the event of any such claim arising at the instance of UPPCL, the parties shall discuss on the course of action to be initiated by NTPC against the WPD for enforcement of the corresponding obligation and all proceedings to be initiated by NTPC against the WPD for such enforcement shall be pursued by NTPC in consultation with UPPCL.
- X. The parties hereby agrees that the Liquidated Damages are payable by WPD under the NTPC-WPD PPA for the delay in the commissioning of the Wind Projects and for short supply of the contracted capacity of the Wind Power. The amount of such liquidated damages for delay shall be payable to UPPCL only upon the receipt of the amount from the WPD. UPPCL shall not be entitled to make any deductions towards the claim of liquidated damages against any payment due to NTPC and all such other payments shall be made by


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U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
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UPPCL by the Due Dates, notwithstanding the status of the pending claims on liquidated damages. The Parties agree that as an intermediary, NTPC shall have no legal obligation to pay any amount towards liquidated damages except when the amount of such liquidated damages has been recovered from the WPD by NTPC without any conditions and encumbrances and the amount is available for appropriation by NTPC.

- XI. The parties agree that the various terms contained in the NTPC-WPD PPA such as Scope of Project, Terms of the Agreement, Performance Guarantee, Conditions Subsequent, Obligations of the respective Parties, Construction of the Power Generation Capacity, Synchronization, Commissioning and Commercial Operation, Operation and Maintenance, Purchase and Sale of Wind Power, Measuring and Metering and Dispatch of Power, Billing and Power Accounting and payments, Liabilities, Force Majeure, Events of Default, Termination, Transfer, Change in Law, Indemnity, Insurance, Assignment and Changes, Financing and Bankability, Representations and Warranties, Governing Law, Notices and all other Miscellaneous Terms provided in the NTPC- WPD PPA shall mutatis mutandi apply to this agreement between NTPC and UPPCL.
- XII. The UPPCL shall not be directly responsible for coordinating and dealing with the WPD, State Load Dispatch Centers, Regional Power Committees, and other authorities except the responsibilities and duties assigned by Regulations to UPPCL/SLDC in all respects in regard to declaration of availability, forecasting, scheduling and despatch of Wind Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations. NTPC/NVVN shall be responsible for the activities to be performed under regulations as trader.

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 NTPC 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.

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General Manager (Commercial)
एन टी पी सी बिजली कर्ष, गोलवी नगर लखनऊ-२०

Arvind Mittal
ARVIND MITTAL⁸
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
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“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”	:	shall mean the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 and where ever the context so requires the State Electricity Regulatory Commission referred to in section 82 I 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;
“Bidding Company”	:	shall refer to such company that has submitted the response in accordance with the provisions of this RfS;
“Bulk Consumer”	:	shall have the same meaning as provided in CERC (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time;
“Business Day”	:	shall mean with respect to WPD and NTPC, a day other than Saturday, Sunday or a statutory holiday, on which the banks remain open for business in Delhi and Uttar Pradesh both;
“Buying Utilities” or “End Procurer”	:	shall mean the distribution utilities of the Uttar Pradesh namely Paschimanchal Vidyut Vitran Nigam Ltd, Meerut, Poorvanchal Vidyut Vitran Nigam Ltd, Varanasi, Madhyanchal Vidyut Vitran Nigam Ltd, Lucknow, Dakshinanchal Vidyut Vitran Nigam Ltd, Agra and Kanpur Electric Supply Authority who entered the PSA (s) with NTPC for purchase of Power; unless otherwise intimated in writing separately;


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“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 Capacity declared under Commercial Operation at the “Delivery / Inter- connection / Metering Point”;
“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;
“Change in Law”	:	shall have the meaning ascribed thereto in Article 12 of NTPC-WPD PPA;
“Commissioning”	:	shall have the meaning ascribed thereto in Article 5 of NTPC-WPD PPA;
“Commercial Operation Date (COD)”	:	shall mean the date on which the commissioning certificate is issued by the commissioning committee constituted by NTPC/UP/any agency of State or Central Government upon successful commissioning of the full capacity of the Project or the last part capacity of the Project as the case may be;
“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 NTPC-WPD PPA and 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	:	shall mean the period of sixty (60) days or such other longer period as


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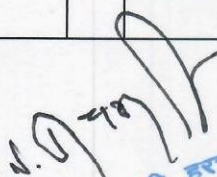

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Period"		the Parties may agree, commencing from the date of issuance of a WPD Preliminary Default Notice or NTPC Preliminary Default Notice as provided in Article 13 of NTPC-WPD PPA and this agreement, for consultation between the Parties to mitigate 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: in the financial year in which the SCD would occur, the Contract Year shall end on the date immediately before the SCD and a new Contract Year shall commence once again from the SCD and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of NTPC-WPD PPA and this agreement shall end on the last day of the Term of NTPC-WPD PPA;
"Contracted Capacity"	:	shall mean ISTS connected 50 MW (AC) contracted with NTPC for supply by the WPD to NTPC at the Interconnection/Metering/Delivery Point from the Wind Power Project for on ward sale to Discom(s) namely UPPCL who have signed the PSA(s) with NTPC for purchase of such Power;
"Day"	:	shall mean a day, if not a Business Day, the immediately succeeding Business Day;
"Delivery / Inter-connection / Metering"	÷	Shall mean the point at 220 kV or above at the CTU Sub Station where the power from the Wind Power Project is injected into the Inter State Transmission System (ISTS). Any cost of building transmission line from Wind Project to this point and Transmission charges and losses up to this point shall be borne by WPD. The UPPCL shall abide by the


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Point"		relevant CERC/SERC Regulations, Grid Code, and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised or substituted from time to time.
"Discom(s)" or power distribution company of the State	:	shall mean the distribution utility of the UP State namely UPPCL who shall sign the PSA(s) with NTPC for purchase of Wind Power to be generated and supplied by the WPD as per NTPC-WPD PPA and this agreement;
"Dispute"	:	shall mean any dispute or difference of any kind between NTPC and the WPD, in connection with or arising out of NTPC-WPD PPA or/ and this Agreement including but not limited to any issue on the interpretation and scope of the terms of NTPC-WPD PPA as provided in Article 16 of NTPC-WPD PPA;
"Due Date"	:	shall have the same meaning ascribed thereto in Article 10 of NTPC-WPD PPA;
"Effective Date"	:	shall have the meaning ascribed thereto in Para I of this Agreement;
"Electricity Laws"	:	shall mean the Electricity Act, 2003 and the rules and regulation made there under from time to time along with amendments there to 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 there visions and amendments thereof or where such regional energy accounts/ state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; NTPC reserves the right to choose for many of the above, i.e. JMR/REA, based on the acceptance of same by the Discom(s)


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“Event of Default”	:	shall mean the events as defined in Article 13 of NTPC-WPD PPA and Article 5 of this Agreement;
“Expiry Date”	:	shall mean the date occurring twenty-five (25) years from the Commercial Operation Date subject to that the supply of power shall be limited for a period of 25 years from the Commercial Operation Date unless extended by the Parties as per this Agreement;
“Financing Agreements”	:	shall mean the agreements pursuant to which the WPD has got financing for the Power Project including the loan agreements, 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 NTPC;
“Force Majeure” or “Force Majeure Event”	:	shall have the meaning ascribed thereto in Article 11 of NTPC-WPD PPA and Article 6 of this Agreement;
"Grid Code" / “IEGC” or “State Grid Code”	:	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, 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 UP or any other State Government or Union Territory 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 subdivision of any of them including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
“Interconnection	:	shall mean the facilities on WPD’s side of the


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Facilities"		Interconnection/Metering/Delivery Point for scheduling, transmitting and metering the electrical output in accordance with NTPC-WPD PPA and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of NTPC-WPD PPA;
"Intermediary Procurer"	:	shall mean, NTPC Limited (NTPC)/NTPC Vidyut Vyapar Nigam Ltd (NVVN)
"Invoice" or "Bill"	:	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Late Payment Surcharge"	:	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Law"	:	shall mean in relation to this Agreement, all laws in force in India including Electricity Laws of 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 3 of this Agreement;
"MNRE"	:	Shall mean the Ministry of New and Renewable Energy, Government of India;

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"Month"	:	shall mean a period of thirty (30) days from (and excluding) the date of the event, where specified, else a calendar month;
"Operating Period"	:	shall mean the period commencing from the first part commissioning /SCOD (as applicable), until the last day of the Term of NTPC-WPD PPA or date of earlier termination of NTPC-WPD PPA in accordance with Article 2 of NTPC-WPD PPA;
"Open Access Charges"	:	shall mean the charges levied by the CTU/ RLDC of the State wherein the Wind Power Project is located for the grant of Open Access as defined in Electricity Act 2003 and amended time to time;
"Part Commissioning"	:	shall mean the minimum 50 MW capacity as first and subsequent parts of the Wind Capacity (AC MW) to be commissioned as per Article 5 of NTPC-WPD PPA;
"Party" and "Parties"	:	shall have the meaning ascribed thereto in the recital of this Agreement
"Payment Security Mechanism"	:	shall have the meaning ascribed in Article 3 of this Agreement
"Pooling Substation / Pooling Point"	:	shall mean a point / substation where more than one Wind project may connect to a common transmission system. The losses in the common transmission system up to the Delivery point shall be apportioned to the individual projects for the purpose of billing, based on generation side meter reading i.e. at the Interconnection/Metering/Delivery point of the pooling substation. In such case, it shall be responsibility of the WPD to obtain and furnish the meter reading jointly by the WPD(s), and any competent authority (State Government or Central Government) as applicable which shall be final and binding on all the parties;
"Power Project" or	:	shall mean the Wind power generation facility of Contracted Capacity


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“Project”		of 50 MW, located in the being developed by the WPD at Taluka Bhuj and Nakhtarana distt Kutch, Gujarat and having a separate boundary, control system, metering and separate points of injection into the grid at Delivery/Interconnection/ metering point at Designated Substation or in case of sharing of transmission lines, by separate injection at pooling point. This includes all WTGs 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 wind 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 NTPC-WPD PPA;
“Power Purchase Agreement” or “PPA”	:	shall mean the Agreement entered between the WPD and NTPC for selling the power as per the provisions of Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects, issued by Ministry of Power, vide resolution no.23/54/2017-R&R dated 08.12.2017;
“Preliminary Default Notice”	:	shall have the meaning ascribed thereto in Article 13 of NTPC-WPD PPA and Article 5 of this Agreement;
“Project Financing /Arrangements Financial Closure”	:	shall mean arrangement of necessary funds by the Project Developer either by way of commitment of funds by the company from its internal resources and/or tie up of funds through a bank / financial institution by way of sanction of a loan or letter agreeing to finance;
“Prudent Utility Practices”	:	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power


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		<p>generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:</p> <p>a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;</p> <p>b) the requirements of Indian Law; and the physical conditions at the site of the Power Project;</p>
"RBI"	:	shall mean the Reserve Bank of India;
"RLDC"	:	shall mean the concerned Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
"Rebate"	:	shall have the same meaning as ascribed thereto in Article 2 of this Agreement;
"Rupees", "Rs.", "₹"	:	shall mean Indian rupees, the lawful currency of India;
"Scheduled Commissioning Date" or "SCD"	:	shall mean a date as on 18 months from the Effective Date as defined in NTPC-WPD PPA;
"Wind Power Project"	:	shall mean the power project that uses Wind for conversion into electricity through Wind Turbine Generators being set up by the WPD to provide Power to NTPC as per the terms and conditions of NTPC-WPD PPA;
"Wind Power"	:	shall mean power generated from the Wind Power Project;
WTG		Shall mean set of Wind Turbine Generators used to convert wind energy into Electrical energy connected to electrical power evacuation system


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“Tariff”	:	shall have the same meaning as provided for in Article 9 of NTPC-WPD PPA and Article 1 of this Agreement;
“Tariff Payment”	:	shall mean the payments to be made under Monthly Bills as referred to in Article 2 of this Agreement;
“Termination Notice”	:	shall mean the notice given by either Parties for termination of NTPC-WPD PPA in accordance with Article 13 of NTPC-WPD PPA and Article 5 of this Agreement ;
“Term of Agreement”	:	shall have the meaning ascribed thereto in Article 2 of NTPC-WPD PPA;
“Trading Margin”	:	Shall mean margin payable towards the services provided by NTPC/NVVN for sale of Wind power to UPPCL or any other entity, which shall be Rs 0.07/kWh.

Article 1. APPLICABLE TARIFF

- 1.1** The Tariff applicable for the sale of Wind Power by NTPC to the Discoms under this Agreement shall be the weighted average tariff of the total procurement made by NTPC i.e. Rs 2.80/kWh. In addition thereto a trading margin of Seven (7) Paise/kWh shall be payable by the UPPCL to NTPC which NTPC shall be entitled to appropriate as its income

Article 2. BILLING AND PAYMENT

2.1 General

From the commencement of supply of power by NTPC, the UPPCL shall pay to NTPC the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 1. All Tariff Payments by the UPPCL shall be in Indian Rupees.

NTPC shall issue to the UPPCL a signed Monthly Bill on the First business day of the month prepared based on provisional wind energy of the preceding month (except for first

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month which shall be computed based on committed CUF and commissioned capacity of project) and shall include the following:

- i) Adjustment bill against the Provisional Bill(s) based on applicable Energy Account/JMR for the energy supplied in the preceding month(s)
- ii) Late Payment Surcharge if any
- iii) Taxes, duties Levies etc, as applicable

2.2. Payment of Monthly Bills

2.2.1 The UPPCL shall pay the amount payable under the Monthly Bill on or before the Due Date i.e. within 60 days of presentation of bill to such account of NTPC, as shall have been previously notified to the UPPCL in accordance with Article 2.2.2 below

2.2.2. NTPC shall open a bank account at New Delhi ("NTPC's Designated Account") for all Tariff Payments to be made by the UPPCL to NTPC, and notify the UPPCL of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The UPPCL shall also designate a bank account at Lucknow. The UPPCL shall inform NTPC the details of such account ninety (90) Days before the dispatch of the first Monthly Bill. NTPC and the UPPCL shall instruct their respective bankers to make all payments under this Agreement to the 'UPPCL' Designated Account or NTPC's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

2.3 Late Payment Surcharge

In the event of payment of a Monthly Bill by the UPPCL beyond sixty (60) days from the date of presentation of bill, a Late Payment Surcharge shall be payable by the UPPCL to NTPC 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 NTPC through the next/subsequent Monthly Bill(s).


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2.4 Rebate


For payment of any Bill on or before Due Date, the following Rebate shall be paid by the NTPC to UPPCL in the following manner subject to valid LC of requisite value as per article 3 is established by beneficiary Discom(s) in favour of NTPC.

- a) A Rebate of 2% shall be payable to the UPPCL for the payments made within a period of 2 Business days of the date of presentation of bills.
- b) Any payments made beyond a period of 2 days of the date of presentation upto thirty (30) days from date of presentation of bill shall be allowed a rebate of 1%.
- c) No Rebate shall be payable on the Bills raised on account of taxes, duties, cess etc'

Article 3. Payment Security Mechanism

(A) Letter of Credit (LC):

- 3.1 The UPPCL shall provide to NTPC, in respect of payment of its Monthly Bills, a single, unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the UPPCL, which may be drawn upon by NTPC in accordance with this Article. The UPPCL shall provide NTPC draft of the Letter of Credit proposed to be provided to NTPC two (2) months before the Scheduled Commissioning Date.
- 3.2. Not later than one (1) Month before the Start of Supply, the UPPCL shall through a scheduled bank at Lucknow open a Letter of Credit in favour of NTPC, 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 105% of amount in the following manner:
 - (i) For the first Contract Year, equal to the estimated average monthly billing;
 - ii) For each subsequent Contract Year, equal to the monthly average billing for the previous Year.


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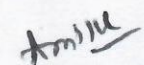

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- 3.3 NTPC shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill, and shall not make more than one drawal in a Month provided that there are no outstanding dues.
- 3.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 3.2 due to any reason whatsoever, the UPPCL shall restore such shortfall within seven (7) days.
- 3.5 The UPPCL shall cause the scheduled bank issuing the Letter of Credit to intimate NTPC, in writing regarding establishing of such irrevocable Letter of Credit.
- 3.6 The UPPCL shall ensure that the Letter of Credit shall be renewed not later than thirty (30) days prior to its expiry.
- 3.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by the UPPCL.
- 3.8 If the UPPCL fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 4.1 and 4.2, NTPC may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the 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 the UPPCL;
 - ii) a certificate from NTPC 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;

(B) Collateral Arrangement

- 3.9. As a further support for the UPPCL obligations, on or prior to the expiry of the TPA, the UPPCL and NTPC shall execute Default Escrow Agreement (referred as "Default Escrow Agreement") for the establishment and operation of the Default Escrow Account in favour of NTPC, through which the revenues of the UPPCL shall be routed and used as per the


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terms of the Default Escrow Agreement. The UPPCL and NTPC shall contemporaneously with the execution of the Default Escrow Agreement enter into the Agreement to Hypothecate Cum Deed of Hypothecation, whereby the UPPCL shall agree to hypothecate, Incremental Receivables to the extent as required for the Letter of Credit as per Article 3.2 The Default Escrow Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the "Collateral Arrangement". Provided that the UPPCL shall ensure that NTPC shall have first ranking charge on the Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation.

3.10 UPPCL hereby agrees to provide an alternative payment security arrangement before expiry of the TPA or its extension either by efflux of time or otherwise on assignment of bulk purchase functions to a company not owned or controlled by Govt of Uttar Pradesh in the form of Escrow Arrangement as a back up to the Letter of Credit. Under this arrangement an Escrow Account in favour of NTPC shall be established through which the Receivables of UPPCL shall be routed as per the terms of Escrow Agreement. UPPCL hereby agrees that NTPC will have first charge on Receivables of UPPCL. However, such first ranking charge shall be on the amounts, in excess of amounts, which have already been charged or agreed to be charged prior to the date of the execution of this Agreement. UPPCL agrees to enter into a separate 'Agreement to Hypothecate Cum Deed of Hypothecation' whereby, UPPCLs shall hypothecate Receivables to the extent required for Payment of dues of NTPC by UPPCLs including under this Agreement by creation of first charge in favour of NTPC. These Receivables shall be routed through Escrow Account for payment to NTPC in case of default in payments by UPPCLs. "Receivables" for this purpose shall mean all of the present and future receipts, obligations, monies, claims, bills and any other property whatsoever which may from time to time be derived from or accrue or be offered or due to the UPPCLs in respect of the sale by the UPPCLs to the consumers of electric capacity, energy and / or services or for any other reason whatsoever and all proceeds thereof.

3.11 The Escrow Agreement and Agreement to Hypothecate Cum Deed of Hypothecation shall be established by UPPCLs to the satisfaction of NTPC at least three months before the expiry of the TPA or any extension thereof either by efflux of time or otherwise on assignment of bulk purchase function to a company not owned by Govt of Uttar Pradesh. In


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the event three months before expiry of TPA or its extension thereof, UPPCLs does not sign the 'Escrow Agreement' and 'Agreement to Hypothecate Cum Deed of Hypothecation' or UPPCLs creating any superior charge in favour of any other party on its Receivables, NTPC shall have the right to reallocate part or full contracted capacity of UPPCLs to Third Party(ies). In case of termination of this Agreement or reallocation of capacity due to reasons stated above, UPPCLs shall be liable to pay charges equivalent to average monthly billing of last twelve months for such capacity, till the capacity is reallocated.

Since the payments from UPPCLs are secured as per provisions of TPA, establishment of Escrow Arrangements is not being insisted upon by NTPC presently. UPPCLs and NTPC agree that this Agreement shall deemed to have created a legally binding first charge on UPPCLs, receivables in favour of NTPC. Accordingly, UPPCLs shall not create any encumbrance, charge, and lien or otherwise execute any instrument which in any way affects the first charge over the Receivables. While creating any subsequent charge on its Receivables or agreeing to provide Escrow cover or any other form of payment security to any other entities like energy supplier(s), banks, and financial institutions etc. during the interim period till signing of Escrow Agreement with NTPC, UPPCLs shall duly inform such energy supplier(s), banks, financial institutions etc. of the legally binding first charge on UPPCLs Receivables in favour of NTPC and the first charge of NTPC shall be in preference to any other charge that UPPCLs may create in favour of any other party.

3.12 UPPCLs agrees to ensure that the successor entities of UPPCLs are duly notified of the above arrangements with NTPC and shall be bound by the terms of this Agreement as if they are parties to this Agreement.

3.13 The Default Escrow would come into operation if,

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


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3.14. In the event of the extension of Tri partite Agreement signed between Government of India (GOI), Government of Uttar Pradesh and Reserve Bank of India (RBI), it will not be mandatory for UPPCLs to execute the escrow arrangement till the validity of the extended Tripartite Agreement.

(C) Payment Security Fund

3.15. In addition to provisions contained in Article 3(A) and (B) above, the UPPCLs shall provide Payment Security Fund, which shall be suitable to support payment of at least 3 (three) months' billing, through additional LC

Third Party Sales by NTPC

3.16 Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence of any of the following event(s), NTPC shall be entitled to {but not an obligation to} regulate power supply from any of the NTPC Stations to the UPPCLs;

- i) Default in making payment by the 60th day from the date of presentation of Bill,
- ii) Non-recoupment of LC by the 7th day of its operation.
- iii) Non-availability of LC for operation and for its required value by the 7th day of the Due Date.

3.17. NTPC shall issue the Notice for Regulation of Power Supply on the date above and shall give a notice of 2 days to start the regulation on the 3rd day.

3.18 Regulation of Power Supply would be on pro rata basis i.e., in the ratio of amount due and unpaid to total amount due against the relevant Monthly Bill. In case of shortfall in amount of LC available, the right to regulate shall be in the ratio of shortfall in LC maintained /available to the total amount of LC required.

3.19 In order to avoid any doubts, it is illustrated that:

- i) In the event of a bill amounting to Rs. 25 Crore is unpaid to the extent of Rs. 10 Crore, NTPC would have a right to regulate and sell UPPCL's allocation of the power to third parties to the extent of 40% (i.e. $10/25 \times 100$).


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ii) If LC required to be opened/ maintained by UPPCLs is to the extent of Rs. 25 Crore and LC opened/maintained/available is to the extent of Rs. 15 Crore only i.e. LC available is short by Rs. 10 Crore, NTPC would have a right to regulate and sell UPPCL's allocation of power to third parties to the extent of 40% (i.e. 10/25x100).

3.20 NTPC shall have the right to divert the 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;

NTPC shall request the concerned RLDC to divert such power to third party as it may consider appropriate.

Provided that such sale of power to third party shall not absolve the UPPCLs from its obligation to pay due amount in full to NTPC for the Wind power as per NTPC-WPD PPA.

3.21 Sales to any third party shall cease and regular supply of electricity to the UPPCLs shall commence and be restored within thirty (30) days from the date of clearing all the outstanding dues payable to NTPC under this Agreement.

3.22 Further, that the liability of the UPPCL to make the Tariff Payments to NTPC 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 NTPC and WPD for usage by the UPPCL.

ARTICLE 4 - Disputed Bill

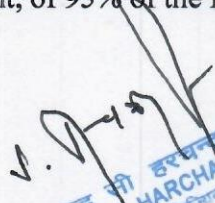
4.1 If the UPPCL does not dispute a Monthly Bill raised by the other Party within fifteen (15) days of receiving such Bill shall be taken as conclusive and binding.

4.2 If the 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:


हीरानन्द सी हर्चन्दानी
HIRANAND C. HARCHANDANI
महाप्रबन्धक (व्यापारिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विप्लवी रोड, मोहली नगर, लखनऊ-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

- 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.
- 4.3 If the NTPC agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 4, the NTPC shall make appropriate adjustment in the next Monthly Bill.
- 4.4 If the NTPC does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 4.2, 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.
- 4.5 Upon receipt of the Bill Disagreement Notice by the UPPCLs under Article 4.4, authorized representative(s) or a director of the board of directors/ member of board of the UPPCL and NTPC shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.
- 4.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 4.4, the matter shall be referred to Dispute resolution in accordance with governing Laws and Dispute resolution in PPA.
- 4.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the UPPCLs 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.


हिरानन्द सी हरचन्दानी
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महाप्रबन्धक (वणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विप्लव बाजार, गान्धी नगर, लखनऊ-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

Article 5: EVENTS OF DEFAULT AND TERMINATION

5.1 UPPCL Event of Default

- 5.1.1 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 4 remains outstanding beyond a period of sixty (60) days after the Due Date and NTPC is unable to recover the amount outstanding from the UPPCL through the Letter of Credit, Payment Security fund and Default Escrow Account; or
 - (ii) The UPPCL fails to evacuate power from the Delivery Points for a continuous period of Seven days.
 - (iii) if (a) the 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 the 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) the UPPCL repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from NTPC in this regard; or
 - (v) except where due to any NTPC's failure to comply with its material obligations, the UPPCL is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the UPPCL within thirty (30) days of receipt of first notice in this regard given by NTPC.
 - (vi) occurrence of any other event which is specified in this Agreement to be a material breach/default of the UPPCL.

1.0-10/11/2019
हिरानन्द सी. चव्हाणानी
HIRANAND C. CHAVHANANI
सहायक प्रबन्धक (व्यावसायिक)
General Manager (Commercial)
एन.टी.पी.सी. निवास, जे.पी. रोड, मुम्बई-400
टीसी-33-बी/1, विद्युत संचयन, लखनऊ-20

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U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

5.2 Procedure for cases of UPPCL Event of Default

- 5.2.1 Upon the occurrence and continuation of any UPPCL Event of Default under Article 5.1, NTPC shall have the right to deliver to the UPPCL a notice, stating its intention to terminate this Agreement (NTPC Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 5.2.2 Following the issue of NTPC Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 5.2.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 5.2.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the NTPC may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the UPPCL
- 5.2.5 Subject to the occurrence and continuation of default by as contained under Article 5.1 and before expiry of time period of 30 days as per Clause 5.2.4,
- 5.2.5.1 Subject to the prior consent of the NTPC, the UPPCL shall novate its part of the PSA to any third party, including its Affiliates,
- 5.2.5.2 In the event the aforesaid novation is not acceptable to NTPC, or if no offer of novation is made by the defaulting UPPCL, then NTPC on expiry of 30 days as provided in article 5.2.4 may terminate the PSA and at its discretion require the defaulting UPPCL to either


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एन.टी.पी.सी. रोड, लिफ्ट 4, गंगापी क्षेत्र मुख्यालय
दोली-33-6/1, प्रखण्ड-मन्दाकिनी नगर, बलनसिंह-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

- (i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and the 150% (one hundred and fifty per cent) of the adjusted equity to WPD or,
- (ii) pay to the WPD, damages, amount equivalent to the last 6 (six) months average billing, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the WPD.

5.3 Termination of back to back agreements

In case of termination of NTPC -WPD PPA, this Agreement shall automatically terminate, Provided that in case of such termination as identified in this Article any pending monetary liabilities of either Party shall survive on the termination of this Agreement.

ARTICLE 11: FORCE MAJEURE

6.1 Definitions

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

6.2 Affected Party

6.2.1 An affected Party means NTPC or the UPPCL whose performance has been affected by an event of Force Majeure.

6.3 Force Majeure

6.3.1 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

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एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
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U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

- / 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.
- d) An event of Force Majeure identified under NTPC-UPPCL(s) PSA, thereby affecting delivery of power from WPD to UPPCL(s).

6.4 Notification of Force Majeure Event

- 6.4.1 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.

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.

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HIRANAND C. HARCHANDANI
महाप्रबन्धक (वणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी, 1, 100वीं स्ट्रॉट, गान्धी मार्ग, लखनऊ-10

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ARVIND MITTAL³⁰
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

6.4.2 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.

6.5 Duty to Perform and Duty to Mitigate

6.5.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3 of NTPC-WPD PPA and this Article of PSA, 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.

6.6 Available Relief for a Force Majeure Event

6.6.1 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, including but not limited to those specified under Article 4.5 of NTPC-WPD PPA and this Article of PSA;
- 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 Events.

हिरानन्द जी हरचन्दानी
HIRANAND O. HARCHANDANI
सहायक (वणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विन्डो रोड, गेन्सी नगर, लखनऊ-40

Arvind
ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.³¹
Shakti Bhawan (Extension)
LUCKNOW.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Amendment

7.1.1 This Agreement may only be amended or supplemented by a written agreement between the Parties, with the approval of the Central/State Commission, if necessary. Subject to the provisions of RfS Document and keep this Agreement as principle Agreement, both Parties may execute further Agreement on similar terms and conditions.

7.2 Third Party Beneficiaries

7.2.1 This Agreement is solely for the benefit of the Parties, WPD 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.

7.3 Waiver

7.3.1 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 authorized representative of such Party:

7.3.2 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.

7.4 Confidentiality

7.4.1 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 Party.

हिरानन्द सी. कृष्णन्दानी
HIRANAND C. KRISHNANDANI
महाप्रबन्धक (वणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विद्युत बन्द, गैंगोत्री नगर, लखनऊ-10

ARVIND MITTAL 32
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

7.5 Severability

7.5.1 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.

7.6 Notices

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

7.6.2 If to the UPPCLs, 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 : Chief Engineer PPA
: Uttar Pradesh Power Corporation Ltd., Shakti Bhawan,
: 14 – Ashok Marg, Lucknow – 226 001

Email : ppareuppcl@gmail.com

Telephone No. : 0522 2218812

7.6.3 If to NTPC, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address below:

(i) Address : ED (Commercial)
NTPC Limited, NTPC Bhawan
SCOPE Complex, Core-5, IInd Floor
7, Institutional Area, Lodhi Road
New Delhi- 110 003

7.7 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 there under, 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.

हिरानन्द सी. हरचन्दानी
HIRANAND C. HARCHANDANI
महाप्रबन्धक (वाणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विनोय लान्ड, गोमती नगर, लखनऊ-40

ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd. 33
Shakti Bhawan (Extension)
LUCKNOW.

- 7.8 The duly executed Power Purchase Agreement between NTPC and WPD shall be attached to this Agreement and shall be read along with Agreement as a composite back to back process for Generation and supply of electricity to UPPCL to fulfill the Renewable Purchase Obligations under the provisions of the Electricity Act, 2003 and the Regulations notified there under.

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
[NTPC Limited]

Signature with seal

1. Witness

PARUL PRAKASH
MANAGER (Commercial)
NTPC

1. NTPC WPD Signed PPA

For and on behalf of

[Uttar Pradesh Power Corporation Ltd.]

Signature with seal


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

2. Witness

CP Maurya
AB (PPA) R
Chy

SCHEDULE -A

POWER SALE AGREEMENT
FOR
SALE OF WIND POWER ON LONG TERM BASIS
Between
NTPC Limited
And
UTTAR PRADESH POWER CORPORATION LIMITED


ह्रीरानन्द सी डरचन्दानी
HIRANAND C HARCHANDANI
महाप्रबन्धक (वाणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, विन्डी बाजार, गेनली गल, लखनऊ-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.



श UTTAR PRADESH



This Power Sale Agreement is made on the 14th March day of ... of 2019 at Lucknow.

Between

NTPC Limited, a company incorporated under the Companies Act 1956, having its registered office at 7, Institutional Area, Core-7, Scope Complex, Lodhi Road, New Delhi-110003 (hereinafter referred to as "NTPC", 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, a company incorporated under the Companies Act 1956, having its registered office at Shakti Bhawan 14 Ashok Marg, Lucknow (hereinafter referred to as "UPPCL or Discom", 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

And

NTPC or Uttar Pradesh Power Corporation Ltd are individually referred to as 'Party' and collectively referred to as 'Parties'

Hiranand C. Harchandani
HIRANAND C. HARCHANDANI
महाप्रबन्धक (वाणिज्यिक)
General Manager (Commercial)
एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
प्लॉट-33-बी/1, सिंगुली कन्ड, गौरी नगर, लखनऊ-20

Arvind Mittal
ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

WHEREAS:

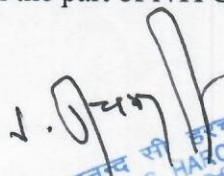
- A. Uttar Pradesh Power Corporation Ltd. (UPPCL) hereinafter referred to as "Procurer", has been duly authorized to enter into this Agreement on behalf of DISCOMS namely Paschimanchal Vidyut Vitran Nigam Ltd, Meerut, Poorvanchal Vidyut Vitran Nigam Ltd, Varanasi, Madhyanchal Vidyut Vitran Nigam Ltd, Lucknow, Dakshinanchal Vidyut Vitran Nigam Ltd, Agra and Kanpur Electric Supply Authority to directly purchase power generated from wind power developers through NTPC.
- B. NTPC is a Government of India Undertaking and intends to facilitate the development of ISTS connected Wind Power projects in India and for sale of Wind Power generated to the UPPCL to enable them to procure Wind Power including for due fulfillment of the Renewable Purchase Obligations;
- C. NTPC has agreed to facilitate the development of the ISTS connected Wind Power in line with the provisions of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects, issued by Ministry of Power, vide resolution no.23/54/2017-R&R dated 08.12.2017;
- D. NTPC has agreed to act as an intermediary Agency / Procurer for the procurement of power from the ISTS connected Wind Power Projects to be established, operated and maintained by the Wind Power Developers on Built, Owned and Operate basis in pursuance to a competitive bid process to be held for the purpose and the Distribution Licensees desirous of purchasing Wind Power including for the purpose of fulfilling the Renewable Purchase Obligations in accordance with the scheme and objective of the Electricity Act, 2003, the Policies of the Government of India and the Policies of the State Governments;
- E. NTPC initiated a competitive bid process for selection of a Wind Power Developers to set up the ISTS connected Wind Power Projects at Morda, Samudrawani Tuljapur Osmanabad.
- F. Mytrah Energy (India) Private Limited a company incorporated under the Companies Act 2013 as applicable, having its registered office at 8001, Q- City, S No. 109

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हिरानन्द सी. हर्चन्दानी
HIRANAND C. HARCHANDANI
महाप्रबन्धक (वणिज्यिक)
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एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
सीटी-33-बी/1, विजुति चण्ड, गोनली नगर, लखनऊ-10


ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW.

Gachibowli, Hyderabad 500032 (hereinafter referred to as "Wind Power Developer or WPD"), has been selected in a Tariff Based Competitive Bid Process initiated by NTPC inviting proposal from all interested entities and on the basis that the tariff terms and conditions quoted by the WPD in comparison to others, were the most economical and least cost;

- G. The WPD has agreed to establish ISTS connected Wind Power Project with an installed capacity of 300 MW on built, owned and operate basis located at Morda, Samudrawani Tuljapur Osmanabad and agreed to sell the power generated from the project to NTPC to enable onward sale to the distribution licensees of Uttar Pradesh i.e. UPPCL on the terms and conditions contained in the PPA, finalized and initialed between NTPC and WPD, (hereinafter referred to as 'NTPC- WPD PPA') a copy of the said initialed PPA is attached hereto and marked as Schedule 'A' to this PSA.
- H. The Letter of Intent was issued by NTPC to the WPD and the PPA has come to be initialed between NTPC and the WPD and to be entered into providing for the purchase of electricity generated at the project and resale of the same to UPPCL including the terms and conditions for such purchase, rights and obligations assumed by NTPC and the WPD under the PPA and the consequences of the default by either of parties to the PPA;
- I. UPPCL acknowledges and accepts that NTPC is only an Intermediary Company and is facilitating the purchase of sale of electricity generated from the Wind Project and, therefore, cannot assume independently, any obligation, financial or otherwise, either to the WPD or to UPPCL, (unless specifically provided otherwise in the PPA), except on a back to back basis, namely, that whatever obligation is enforced by the WPD under the PPA against NTPC, UPPCL shall be bound to fulfill the obligation on a back to back basis towards NTPC and similarly, whatever rights that UPPCL may claim under this Agreement against NTPC, shall be subject to due enforcement of the corresponding rights on a back to back basis by NTPC against WPD, without an independent obligation on the part of NTPC;



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एन.टी.पी.सी. लिमिटेड, उत्तरी क्षेत्र मुख्यालय
टीसी-33-बी/1, विन्डो खण्ड, गेम्स रोड, लखनऊ-40


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- J. UPPCL further acknowledges and accepts that NTPC shall proceed to sign the PPA with WPD solely on the basis of the agreement reached with UPPCL for signing of this Agreement;
- K. NTPC has agreed to sell and make available to UPPCL the entire agreed Contracted Capacity agreed to between NTPC and the WPD which is 300 MW, entirely on a back to back basis of the terms and conditions contained in the PPA to be entered into between NTPC and WPD,
- L. NTPC Vidyut Vyapar Nigam Limited (NVVN) on behalf of NTPC, will be the trading licensee for the purchase of Wind Power from WPD and resale of such Power to UPPCL. Further, on behalf of NTPC, NVVN will facilitate billing, realisation, data submission, and other associated day to day activities for fulfilling the obligations of NTPC as assigned in this agreement.
- M. The Parties had agreed that the execution of the PSA between NTPC and the UPPCL is a pre-condition for NTPC to sign the PPA with the WPD

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

- I This Agreement shall come into effect from signing of this Agreement by both the parties and such date shall be the Effective Date for the purpose of this Agreement.
- II Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that within reasonable time preferably with 2 months from the Effective Date, the UPPCL shall duly approve the PSA by obtain the order of the Uttar Pradesh Electricity Regulatory commission/ ETF /State Cabinet for the terms and conditions of PSA read with PPA executed between NTPC & WPD. Commission adopting the Tariff and the trading margin of seven (7) paise/KWh to NTPC and approving the procurement of the contracted capacity on the terms and conditions contained in this Agreement entered into

2. 
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between NTPC and UPPCL read with the terms and conditions contained in the PPA to be entered into between NTPC and the WPD.

- III The parties agree that as mentioned in (II) above in the event, the approval of adoption of Tariff, trading margin and the Agreements for procurement of Power, as mentioned above is not given by the Uttar Pradesh Electricity Regulatory Commission /ETF /State Cabinet within the time specified above, this Agreement as well as the Power Purchase Agreement entered into between NTPC and the WPD shall stand cancelled and terminated with no liability of either party to the other or vis a vis the WPD, unless the parties and the WPD mutually agree to extend the time for fulfilling the Conditions Precedent.
- IV The duration of this Agreement shall be coextensive with the duration of the Power Purchase Agreement to be entered into between the NTPC and the WPD for all intent and purposes.
- V Subject to the terms and conditions contained herein, NTPC hereby agrees to sell and make available the electricity procured by NTPC from the 300 MW Wind Power Project to be set up by the WPD at Morda, Samudrawani Tuljapur Osmanabad on the terms and conditions contained in the PPA to be entered into between NTPC and the WPD, as per the initialed PPA (Schedule "A") on a back to back basis.
- VI. UPPCL hereby acknowledge and accept that NTPC is an Intermediary to facilitate the promotion of Wind Power and to purchase and re-sell the electricity to the distribution licensees to enable them to fulfill the Renewable Purchase Obligation and, therefore, the sale of electricity by NTPC to UPPCL under this Agreement shall be entirely on a back to back basis to the purchase of electricity by NTPC from the WPD under the NTPC- WPD PPA, with the intent that there shall be no residual liability on the NTPC towards the WPD which will not be fulfilled by the UPPCL.
- VII. In accordance with the above and except as otherwise specifically provided in this agreement, the rights and obligations of UPPCL under this agreement shall be available and enforceable entirely and effectively on a back to back basis to the rights and

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obligations of the NTPC in the NTPC-WPD PPA, Although NTPC is primarily responsible and in the event NTPC is not in a position to enforce its rights against the WPD or is subject to any obligation to be performed towards WPD, but UPPCL is also entitled to exercise such rights shall not be liable to perform such obligation or shall be entitled to such rights only on a mutatis mutandi basis , without any additional or independent exposure whatsoever to NTPC.

- VIII. NTPC has agreed with the WPD in regard to the payment of money becoming due to WPD under the NTPC – WPD PPA and NTPC shall be liable to discharge the payment obligation in terms of the provisions of the NTPC- WPD PPA. Accordingly, UPPCL agrees to effectively securitize the payment of money becoming due from UPPCL to NTPC as detailed in this Agreement
- IX. The parties agree that in respect of the obligations other than the payment obligation specifically mentioned herein above, in the event UPPCL has any claim against NTPC in regard to the performance of any obligation of NTPC under this Agreement or enforcement of any right of UPPCL against NTPC under this Agreement, the same shall be subject to the ability of NTPC to enforce the corresponding obligations assumed by WPD to NTPC under the NTPC-WPD PPA, NTPC shall not be required to perform and implement the obligations of NTPC or agree to the enforcement of the rights of UPPCL under this Agreement till such time the corresponding obligations under NTPC-WPD PPA is duly implemented by the WPD and in case of monetary obligations the amount is received by NTPC from the WPD. In the event of any such claim arising at the instance of UPPCL, the parties shall discuss on the course of action to be initiated by NTPC against the WPD for enforcement of the corresponding obligation and all proceedings to be initiated by NTPC against the WPD for such enforcement shall be pursued by NTPC in consultation with UPPCL.
- X. The parties hereby agrees that the Liquidated Damages are payable by WPD under the NTPC-WPD PPA for the delay in the commissioning of the Wind Projects and for short supply of the contracted capacity of the Wind Power. The amount of such liquidated damages for delay shall be payable to UPPCL only upon the receipt of the amount from the

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१३-बी/१, सिविली कालो, गोकुली नगर, खजूरवाड़ा-१०

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WPD.UPPCL shall not be entitled to make any deductions towards the claim of liquidated damages against any payment due to NTPC and all such other payments shall be made by UPPCL by the Due Dates, notwithstanding the status of the pending claims on liquidated damages. The Parties agree that as an intermediary, NTPC shall have no legal obligation to pay any amount towards liquidated damages except when the amount of such liquidated damages has been recovered from the WPD by NTPC without any conditions and encumbrances and the amount is available for appropriation by NTPC.

- XI. The parties agree that the various terms contained in the NTPC-WPD PPA such as Scope of Project, Terms of the Agreement, Performance Guarantee, Conditions Subsequent, Obligations of the respective Parties, Construction of the Power Generation Capacity, Synchronization, Commissioning and Commercial Operation, Operation and Maintenance, Purchase and Sale of Wind Power, Measuring and Metering and Dispatch of Power, Billing and Power Accounting and payments, Liabilities, Force Majeure, Events of Default, Termination, Transfer, Change in Law, Indemnity, Insurance, Assignment and Changes, Financing and Bankability, Representations and Warranties, Governing Law, Notices and all other Miscellaneous Terms provided in the NTPC- WPD PPA shall mutatis mutandi apply to this agreement between NTPC and UPPCL.
- XII. The UPPCL shall not be directly responsible for coordinating and dealing with the WPD, State Load Dispatch Centers, Regional Power Committees, and other authorities except the responsibilities and duties assigned by Regulations to UPPCL/SLDC in all respects in regard to declaration of availability, forecasting, scheduling and despatch of Wind Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations. NTPC/NVVN shall be responsible for the activities to be performed under regulations as trader.

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 NTPC 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.

2. 
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“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”	:	shall mean the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 and where ever the context so requires the State Electricity Regulatory Commission referred to in section 82 I 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;
“Bidding Company”		shall refer to such company that has submitted the response in accordance with the provisions of this RfS;
“Bulk Consumer”	:	shall have the same meaning as provided in CERC (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time;
“Business Day”	:	shall mean with respect to WPD and NTPC, a day other than Saturday, Sunday or a statutory holiday, on which the banks remain open for business in Delhi and Uttar Pradesh both;
“Buying Utilities” or “End Procurer”	:	shall mean the distribution utilities of the Uttar Pradesh namely Paschimanchal Vidyut Vitran Nigam Ltd, Meerut, Poorvanchal Vidyut Vitran Nigam Ltd, Varanasi, Madhyanchal Vidyut Vitran Nigam Ltd, Lucknow, Dakshinanchal Vidyut Vitran Nigam Ltd, Agra and Kanpur Electric Supply Authority who entered the PSA (s) with NTPC for purchase of Power; unless otherwise intimated in writing separately;

✓ 07/08/17
 श्री हरमन्दी
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“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 Capacity declared under Commercial Operation at the “Delivery / Inter- connection / Metering Point”;
“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;
“Change in Law”	:	shall have the meaning ascribed thereto in Article 12 of NTPC-WPD PPA;
“Commissioning”	:	shall have the meaning ascribed thereto in Article 5 of NTPC-WPD PPA;
“Commercial Operation Date (COD)”	:	shall mean the date on which the commissioning certificate is issued by the commissioning committee constituted by NTPC/UP/any agency of State or Central Government upon successful commissioning of the full capacity of the Project or the last part capacity of the Project as the case may be;
“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 NTPC-WPD PPA and 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	:	shall mean the period of sixty (60) days or such other longer period as


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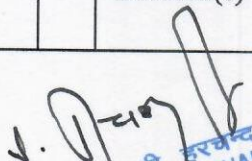

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Period"		the Parties may agree, commencing from the date of issuance of a WPD Preliminary Default Notice or NTPC Preliminary Default Notice as provided in Article 13 of NTPC-WPD PPA and this agreement, for consultation between the Parties to mitigate 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: in the financial year in which the SCD would occur, the Contract Year shall end on the date immediately before the SCD and a new Contract Year shall commence once again from the SCD and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of NTPC-WPD PPA and this agreement shall end on the last day of the Term of NTPC-WPD PPA;
"Contracted Capacity"	:	shall mean ISTS connected 300 MW (AC) contracted with NTPC for supply by the WPD to NTPC at the Interconnection/Metering/Delivery Point from the Wind Power Project for on ward sale to Discom(s) namely UPPCL who have signed the PSA(s) with NTPC for purchase of such Power;
"Day"	:	shall mean a day, if not a Business Day, the immediately succeeding Business Day;
"Delivery / Inter-connection / Metering"	÷	Shall mean the point at 220 kV or above at the CTU Sub Station where the power from the Wind Power Project is injected into the Inter State Transmission System (ISTS). Any cost of building transmission line from Wind Project to this point and Transmission charges and losses up to this point shall be borne by WPD. The UPPCL shall abide by the


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Point		relevant CERC/SERC Regulations, Grid Code, and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised or substituted from time to time.
"Discom(s)" or power distribution company of the State	:	shall mean the distribution utility of the UP State namely UPPCL who shall sign the PSA(s) with NTPC for purchase of Wind Power to be generated and supplied by the WPD as per NTPC-WPD PPA and this agreement;
"Dispute"	:	shall mean any dispute or difference of any kind between NTPC and the WPD, in connection with or arising out of NTPC-WPD PPA or/ and this Agreement including but not limited to any issue on the interpretation and scope of the terms of NTPC-WPD PPA as provided in Article 16 of NTPC-WPD PPA;
"Due Date"	:	shall have the same meaning ascribed thereto in Article 10 of NTPC-WPD PPA;
"Effective Date"	:	shall have the meaning ascribed thereto in Para I of this Agreement;
"Electricity Laws"	:	shall mean the Electricity Act, 2003 and the rules and regulation made there under from time to time along with amendments there to 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 there visions and amendments thereof or where such regional energy accounts/ state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; NTPC reserves the right to choose for many of the above, i.e. JMR/REA, based on the acceptance of same by the Discom(s)


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"Event of Default"	:	shall mean the events as defined in Article 13 of NTPC-WPD PPA and Article 5 of this Agreement;
"Expiry Date"	:	shall mean the date occurring twenty-five (25) years from the Commercial Operation Date subject to that the supply of power shall be limited for a period of 25 years from the Commercial Operation Date unless extended by the Parties as per this Agreement;
"Financing Agreements"	:	shall mean the agreements pursuant to which the WPD has got financing for the Power Project including the loan agreements, 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 NTPC;
"Force Majeure" or "Force Majeure Event"	:	shall have the meaning ascribed thereto in Article 11 of NTPC-WPD PPA and Article 6 of this Agreement;
"Grid Code" / "IEGC" or "State Grid Code"	:	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, 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 UP or any other State Government or Union Territory 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 subdivision of any of them including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
"Interconnection"	:	shall mean the facilities on WPD's side of the


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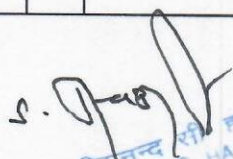

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Facilities"		Interconnection/Metering/Delivery Point for scheduling, transmitting and metering the electrical output in accordance with NTPC-WPD PPA and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of NTPC-WPD PPA;
"Intermediary Procurer"	:	shall mean, NTPC Limited (NTPC)/NTPC Vidyut Vyapar Nigam Ltd (NVVN)
"Invoice" or "Bill"	:	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Late Payment Surcharge"	:	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Law"	:	shall mean in relation to this Agreement, all laws in force in India including Electricity Laws of 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 3 of this Agreement;
"MNRE"	:	Shall mean the Ministry of New and Renewable Energy, Government of India;


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"Month"	:	shall mean a period of thirty (30) days from (and excluding) the date of the event, where specified, else a calendar month;
"Operating Period"	:	shall mean the period commencing from the first part commissioning /SCOD (as applicable), until the last day of the Term of NTPC-WPD PPA or date of earlier termination of NTPC-WPD PPA in accordance with Article 2 of NTPC-WPD PPA;
"Open Access Charges"	:	shall mean the charges levied by the CTU/ RLDC of the State wherein the Wind Power Project is located for the grant of Open Access as defined in Electricity Act 2003 and amended time to time;
"Part Commissioning"	:	shall mean the minimum 50 MW capacity as first and subsequent parts of the Wind Capacity (AC MW) to be commissioned as per Article 5 of NTPC-WPD PPA;
"Party" and "Parties"	:	shall have the meaning ascribed thereto in the recital of this Agreement
"Payment Security Mechanism"	:	shall have the meaning ascribed in Article 3 of this Agreement
"Pooling Substation / Pooling Point"	:	shall mean a point / substation where more than one Wind project may connect to a common transmission system. The losses in the common transmission system up to the Delivery point shall be apportioned to the individual projects for the purpose of billing, based on generation side meter reading i.e. at the Interconnection/Metering/Delivery point of the pooling substation. In such case, it shall be responsibility of the WPD to obtain and furnish the meter reading jointly by the WPD(s), and any competent authority (State Government or Central Government) as applicable which shall be final and binding on all the parties;
"Power Project" or	:	shall mean the Wind power generation facility of Contracted Capacity


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“Project”		of 300 MW, located in the being developed by the WPD at Morda, Samudrawani Tuljapur Osmanabad and having a separate boundary, control system, metering and separate points of injection into the grid at Delivery/Interconnection/ metering point at Designated Substation or in case of sharing of transmission lines, by separate injection at pooling point. This includes all WTGs 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 wind 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 NTPC-WPD PPA;
“Power Purchase Agreement” or “PPA”	:	shall mean the Agreement entered between the WPD and NTPC for selling the power as per the provisions of Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects, issued by Ministry of Power, vide resolution no.23/54/2017-R&R dated 08.12.2017;
“Preliminary Default Notice”	:	shall have the meaning ascribed thereto in Article 13 of NTPC-WPD PPA and Article 5 of this Agreement;
“Project Financing / Arrangements Financial Closure”	:	shall mean arrangement of necessary funds by the Project Developer either by way of commitment of funds by the company from its internal resources and/or tie up of funds through a bank / financial institution by way of sanction of a loan or letter agreeing to finance;
“Prudent Utility	:	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the


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Practices"		purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project; b) the requirements of Indian Law; and the physical conditions at the site of the Power Project;
"RBI"	:	shall mean the Reserve Bank of India;
"RLDC"	:	shall mean the concerned Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
"Rebate"	:	shall have the same meaning as ascribed thereto in Article 2 of this Agreement;
"Rupees", "Rs.", "₹"	:	shall mean Indian rupees, the lawful currency of India;
"Scheduled Commissioning Date" or "SCD"	:	shall mean a date as on 18 months from the Effective Date as defined in NTPC-WPD PPA;
"Wind Power Project"	:	shall mean the power project that uses Wind for conversion into electricity through Wind Turbine Generators being set up by the WPD to provide Power to NTPC as per the terms and conditions of NTPC-WPD PPA;
"Wind Power"	:	shall mean power generated from the Wind Power Project;
WTG		Shall mean set of Wind Turbine Generators used to convert wind


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		energy into Electrical energy connected to electrical power evacuation system
"Tariff"	:	shall have the same meaning as provided for in Article 9 of NTPC-WPD PPA and Article 1 of this Agreement;
"Tariff Payment"	:	shall mean the payments to be made under Monthly Bills as referred to in Article 2 of this Agreement;
"Termination Notice"	:	shall mean the notice given by either Parties for termination of NTPC-WPD PPA in accordance with Article 13 of NTPC-WPD PPA and Article 5 of this Agreement ;
"Term of Agreement"	:	shall have the meaning ascribed thereto in Article 2 of NTPC-WPD PPA;
"Trading Margin"	:	Shall mean margin payable towards the services provided by NTPC/NVVN for sale of Wind power to UPPCL or any other entity, which shall be Rs 0.07/kWh.

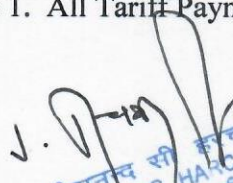
Article 1. APPLICABLE TARIFF

- 1.1** The Tariff applicable for the sale of Wind Power by NTPC to the Discoms under this Agreement shall be the weighted average tariff of the total procurement made by NTPC i.e. Rs 2.80/kWh. In addition thereto a trading margin of Seven (7) Paise/kWh shall be payable by the UPPCL to NTPC which NTPC shall be entitled to appropriate as its income

Article 2. BILLING AND PAYMENT

2.1 General

From the commencement of supply of power by NTPC, the UPPCL shall pay to NTPC the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 1. All Tariff Payments by the UPPCL shall be in Indian Rupees.

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NTPC shall issue to the UPPCL a signed Monthly Bill on the First business day of the month prepared based on provisional wind energy of the preceding month (except for first month which shall be computed based on committed CUF and commissioned capacity of project) and shall include the following:

- i) Adjustment bill against the Provisional Bill(s) based on applicable Energy Account/JMR for the energy supplied in the preceding month(s)
- ii) Late Payment Surcharge if any
- iii) Taxes, duties Levies etc, as applicable

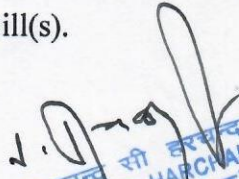
2.2. Payment of Monthly Bills

2.2.1 The UPPCL shall pay the amount payable under the Monthly Bill on or before the Due Date i.e. within 60 days of presentation of bill to such account of NTPC, as shall have been previously notified to the UPPCL in accordance with Article 2.2.2 below

2.2.2. NTPC shall open a bank account at New Delhi ("NTPC's Designated Account") for all Tariff Payments to be made by the UPPCL to NTPC, and notify the UPPCL of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The UPPCL shall also designate a bank account at Lucknow. The UPPCL shall inform NTPC the details of such account ninety (90) Days before the dispatch of the first Monthly Bill. NTPC and the UPPCL shall instruct their respective bankers to make all payments under this Agreement to the 'UPPCL' Designated Account or NTPC's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

2.3 Late Payment Surcharge

In the event of payment of a Monthly Bill by the UPPCL beyond sixty (60) days from the date of presentation of bill, a Late Payment Surcharge shall be payable by the UPPCL to NTPC 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 NTPC through the next/subsequent Monthly Bill(s).


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2.4 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be paid by the NTPC to UPPCL in the following manner subject to valid LC of requisite value as per article 3 is established by beneficiary Discom(s) in favour of NTPC.

- a) A Rebate of 2% shall be payable to the UPPCL for the payments made within a period of 2 Business days of the date of presentation of bills.
- b) Any payments made beyond a period of 2 days of the date of presentation upto thirty (30) days from date of presentation of bill shall be allowed a rebate of 1%.
- c) No Rebate shall be payable on the Bills raised on account of taxes, duties, cess etc'

Article 3. Payment Security Mechanism

(A) Letter of Credit (LC):

- 3.1 The UPPCL shall provide to NTPC, in respect of payment of its Monthly Bills, a single, unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the UPPCL, which may be drawn upon by NTPC in accordance with this Article. The UPPCL shall provide NTPC draft of the Letter of Credit proposed to be provided to NTPC two (2) months before the Scheduled Commissioning Date.
- 3.2. Not later than one (1) Month before the Start of Supply, the UPPCL shall through a scheduled bank at Lucknow open a Letter of Credit in favour of NTPC, 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 105% of amount in the following manner:
 - (i) For the first Contract Year, equal to the estimated average monthly billing;
 - ii) For each subsequent Contract Year, equal to the monthly average billing for the previous Year.

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- 3.3 NTPC 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 provided that there are no outstanding dues.
- 3.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 3.2 due to any reason whatsoever, the UPPCL shall restore such shortfall within seven (7) days.
- 3.5 The UPPCL shall cause the scheduled bank issuing the Letter of Credit to intimate NTPC, in writing regarding establishing of such irrevocable Letter of Credit.
- 3.6 The UPPCL shall ensure that the Letter of Credit shall be renewed not later than thirty (30) days prior to its expiry.
- 3.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by the UPPCL.
- 3.8 If the UPPCL fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 4.1 and 4.2, NTPC may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the 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 the UPPCL;
 - ii) a certificate from NTPC 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;

(B) Collateral Arrangement

- 3.9. As a further support for the UPPCL obligations, on or prior to the expiry of the TPA, the UPPCL and NTPC shall execute Default Escrow Agreement (referred as "Default Escrow Agreement") for the establishment and operation of the Default Escrow Account in favour of NTPC, through which the revenues of the UPPCL shall be routed and used as per the

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terms of the Default Escrow Agreement. The UPPCL and NTPC shall contemporaneously with the execution of the Default Escrow Agreement enter into the Agreement to Hypothecate Cum Deed of Hypothecation, whereby the UPPCL shall agree to hypothecate, Incremental Receivables to the extent as required for the Letter of Credit as per Article 3.2 The Default Escrow Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the "Collateral Arrangement". Provided that the UPPCL shall ensure that NTPC shall have first ranking charge on the Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation.

3.10 UPPCL hereby agrees to provide an alternative payment security arrangement before expiry of the TPA or its extension either by efflux of time or otherwise on assignment of bulk purchase functions to a company not owned or controlled by Govt of Uttar Pradesh in the form of Escrow Arrangement as a back up to the Letter of Credit. Under this arrangement an Escrow Account in favour of NTPC shall be established through which the Receivables of UPPCL shall be routed as per the terms of Escrow Agreement. UPPCL hereby agrees that NTPC will have first charge on Receivables of UPPCL. However, such first ranking charge shall be on the amounts, in excess of amounts, which have already been charged or agreed to be charged prior to the date of the execution of this Agreement. UPPCL agrees to enter into a separate 'Agreement to Hypothecate Cum Deed of Hypothecation' whereby, UPPCLs shall hypothecate Receivables to the extent required for Payment of dues of NTPC by UPPCLs including under this Agreement by creation of first charge in favour of NTPC. These Receivables shall be routed through Escrow Account for payment to NTPC in case of default in payments by UPPCLs. "Receivables" for this purpose shall mean all of the present and future receipts, obligations, monies, claims, bills and any other property whatsoever which may from time to time be derived from or accrue or be offered or due to the UPPCLs in respect of the sale by the UPPCLs to the consumers of electric capacity, energy and / or services or for any other reason whatsoever and all proceeds thereof.

3.11 The Escrow Agreement and Agreement to Hypothecate Cum Deed of Hypothecation shall be established by UPPCLs to the satisfaction of NTPC at least three months before the expiry of the TPA or any extension thereof either by efflux of time or otherwise on assignment of bulk purchase function to a company not owned by Govt of Uttar Pradesh. In

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the event three months before expiry of TPA or its extension thereof, UPPCLs does not sign the 'Escrow Agreement' and 'Agreement to Hypothecate Cum Deed of Hypothecation' or UPPCLs creating any superior charge in favour of any other party on its Receivables, NTPC shall have the right to reallocate part or full contracted capacity of UPPCLs to Third Party(ies). In case of termination of this Agreement or reallocation of capacity due to reasons stated above, UPPCLs shall be liable to pay charges equivalent to average monthly billing of last twelve months for such capacity, till the capacity is reallocated.

Since the payments from UPPCLs are secured as per provisions of TPA, establishment of Escrow Arrangements is not being insisted upon by NTPC presently. UPPCLs and NTPC agree that this Agreement shall deemed to have created a legally binding first charge on UPPCLs, receivables in favour of NTPC. Accordingly, UPPCLs shall not create any encumbrance, charge, and lien or otherwise execute any instrument which in any way affects the first charge over the Receivables. While creating any subsequent charge on its Receivables or agreeing to provide Escrow cover or any other form of payment security to any other entities like energy supplier(s), banks, and financial institutions etc. during the interim period till signing of Escrow Agreement with NTPC, UPPCLs shall duly inform such energy supplier(s), banks, financial institutions etc. of the legally binding first charge on UPPCLs Receivables in favour of NTPC and the first charge of NTPC shall be in preference to any other charge that UPPCLs may create in favour of any other party.

3.12 UPPCLs agrees to ensure that the successor entities of UPPCLs are duly notified of the above arrangements with NTPC and shall be bound by the terms of this Agreement as if they are parties to this Agreement.

3.13 The Default Escrow would come into operation if,

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

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3.14. In the event of the extension of Tri partite Agreement signed between Government of India (GOI), Government of Uttar Pradesh and Reserve Bank of India (RBI), it will not be mandatory for UPPCLs to execute the escrow arrangement till the validity of the extended Tripartite Agreement.

(C) Payment Security Fund

3.15. In addition to provisions contained in Article 3(A) and (B) above, the UPPCLs shall provide Payment Security Fund, which shall be suitable to support payment of at least 3 (three) months' billing, through additional LC

Third Party Sales by NTPC

3.16 Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence of any of the following event(s), NTPC shall be entitled to {but not an obligation to} regulate power supply from any of the NTPC Stations to the UPPCLs;


- i) Default in making payment by the 60th day from the date of presentation of Bill,
- ii) Non-recoupment of LC by the 7th day of its operation.
- iii) Non-availability of LC for operation and for its required value by the 7th day of the Due Date.

3.17. NTPC shall issue the Notice for Regulation of Power Supply on the date above and shall give a notice of 2 days to start the regulation on the 3rd day.

3.18 Regulation of Power Supply would be on pro rata basis i.e., in the ratio of amount due and unpaid to total amount due against the relevant Monthly Bill. In case of shortfall in amount of LC available, the right to regulate shall be in the ratio of shortfall in LC maintained /available to the total amount of LC required.

3.19 In order to avoid any doubts, it is illustrated that:

- i) In the event of a bill amounting to Rs. 25 Crore is unpaid to the extent of Rs. 10 Crore, NTPC would have a right to regulate and sell UPPCL's allocation of the power to third parties to the extent of 40% (i.e. $10/25 \times 100$).


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- ii) If LC required to be opened/ maintained by UPPCLs is to the extent of Rs. 25 Crore and LC opened/maintained/available is to the extent of Rs. 15 Crore only i.e. LC available is short by Rs. 10 Crore, NTPC would have a right to regulate and sell UPPCL's allocation of power to third parties to the extent of 40% (i.e. $10/25 \times 100$).
- 3.20 NTPC shall have the right to divert the 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;

NTPC shall request the concerned RLDC to divert such power to third party as it may consider appropriate.

Provided that such sale of power to third party shall not absolve the UPPCLs from its obligation to pay due amount in full to NTPC for the Wind power as per NTPC-WPD PPA.

- 3.21 Sales to any third party shall cease and regular supply of electricity to the UPPCLs shall commence and be restored within thirty (30) days from the date of clearing all the outstanding dues payable to NTPC under this Agreement.
- 3.22 Further, that the liability of the UPPCL to make the Tariff Payments to NTPC 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 NTPC and WPD for usage by the UPPCL.

ARTICLE 4 - Disputed Bill

- 4.1 If the 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 and binding.
- 4.2 If the 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;


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- ii) its estimate of what the correct amount should be; and
- iii) all written material in support of its claim.
- 4.3 If the NTPC agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 4, the NTPC shall make appropriate adjustment in the next Monthly Bill.
- 4.4 If the NTPC does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 4.2, 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.
- 4.5 Upon receipt of the Bill Disagreement Notice by the UPPCLs under Article 4.4, authorized representative(s) or a director of the board of directors/ member of board of the UPPCL and NTPC shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.
- 4.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 4.4, the matter shall be referred to Dispute resolution in accordance with governing Laws and Dispute resolution in PPA.
- 4.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the UPPCLs 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.

Article 5: EVENTS OF DEFAULT AND TERMINATION

5.1 UPPCL Event of Default

- 5.1.1 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:

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- (i) Any amount subject to Article 4 remains outstanding beyond a period of sixty (60) days after the Due Date and NTPC is unable to recover the amount outstanding from the UPPCL through the Letter of Credit, Payment Security fund and Default Escrow Account; or
- (ii) The UPPCL fails to evacuate power from the Delivery Points for a continuous period of Seven days.
- (iii) if (a) the 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 the 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) the UPPCL repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from NTPC in this regard; or
- (v) except where due to any NTPC 's failure to comply with its material obligations, the UPPCL is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the UPPCL within thirty (30) days of receipt of first notice in this regard given by NTPC .
- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the UPPCL.

5.2 Procedure for cases of UPPCL Event of Default

- 5.2.1 Upon the occurrence and continuation of any UPPCL Event of Default under Article 5.1, NTPC shall have the right to deliver to the UPPCL a notice, stating its intention to terminate


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this Agreement (NTPC Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

- 5.2.2 Following the issue of NTPC Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 5.2.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 5.2.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the NTPC may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the UPPCL
- 5.2.5 Subject to the occurrence and continuation of default by as contained under Article 5.1 and before expiry of time period of 30 days as per Clause 5.2.4,
- 5.2.5.1 Subject to the prior consent of the NTPC, the UPPCL shall novate its part of the PSA to any third party, including its Affiliates,
- 5.2.5.2 In the event the aforesaid novation is not acceptable to NTPC, or if no offer of novation is made by the defaulting UPPCL, then NTPC on expiry of 30 days as provided in article 5.2.4 may terminate the PSA and at its discretion require the defaulting UPPCL to either
- (i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and the 150% (one hundred and fifty per cent) of the adjusted equity to WPD or,


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Shakti Bhawan (Extension)
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- (ii) pay to the WPD, damages, amount equivalent to the last 6 (six) months average billing, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the WPD.

5.3 Termination of back to back agreements

In case of termination of NTPC -WPD PPA, this Agreement shall automatically terminate, Provided that in case of such termination as identified in this Article any pending monetary liabilities of either Party shall survive on the termination of this Agreement.

ARTICLE 11: FORCE MAJEURE

6.1 Definitions

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

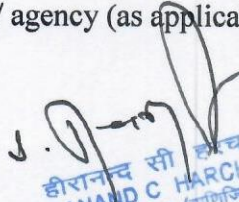
6.2 Affected Party

6.2.1 An affected Party means NTPC or the UPPCL whose performance has been affected by an event of Force Majeure.

6.3 Force Majeure

6.3.1 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


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- 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.
- d) An event of Force Majeure identified under NTPC-UPPCL(s) PSA, thereby affecting delivery of power from WPD to UPPCL(s).

6.4 Notification of Force Majeure Event

6.4.1 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.

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.

6.4.2 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.

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6.5 Duty to Perform and Duty to Mitigate

6.5.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3 of NTPC-WPD PPA and this Article of PSA, 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.

6.6 Available Relief for a Force Majeure Event

6.6.1 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, including but not limited to those specified under Article 4.5 of NTPC-WPD PPA and this Article of PSA;
- 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 Events.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Amendment

7.1.1 This Agreement may only be amended or supplemented by a written agreement between the Parties, with the approval of the Central/State Commission, if necessary. Subject to the


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provisions of RfS Document and keep this Agreement as principle Agreement, both Parties may execute further Agreement on similar terms and conditions.

7.2 Third Party Beneficiaries

7.2.1 This Agreement is solely for the benefit of the Parties, WPD 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.

7.3 Waiver

7.3.1 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 authorized representative of such Party:

7.3.2 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.

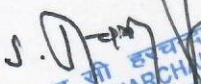
7.4 Confidentiality

7.4.1 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 Party.

7.5 Severability

7.5.1 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.


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Shakti Bhawan (Extension)
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7.6 Notices

- 7.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.
- 7.6.2 If to the UPPCLs, 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 : Chief Engineer PPA
: Uttar Pradesh Power Corporation Ltd., Shakti Bhawan,
: 14 – Ashok Marg, Lucknow – 226 001

Email :ppareuppcl@gmail.com

Telephone No. :0522 2218812


- 7.6.3 If to NTPC, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address below:

(i) Address : ED (Commercial)
NTPC Limited
NTPC Bhawan
SCOPE Complex, Core-5, IInd Floor
7, Institutional Area, Lodhi Road
New Delhi- 110 003

7.7 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 there under, 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.

- 7.8 The duly executed Power Purchase Agreement between NTPC and WPD shall be attached to this Agreement and shall be read along with Agreement as a composite back to back process for Generation and supply of electricity to UPPCL to fulfill the Renewable Purchase


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U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
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Obligations under the provisions of the Electricity Act, 2003 and the Regulations notified there under.

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

[NTPC Limited]

Name :

Designation :

Signature with seal

व. प्रमोद
विरानन्द सी हरचन्दानी
HIRACHANDANI
महाप्रबन्धक (वाणिज्यिक)
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एन.टी.पी.सी. लिमिटेड, गौरी नगर, लखनऊ-20

For and on behalf of

[Uttar Pradesh Power Corporation Ltd.]

Name : Arvind Mittal

Designation : CE

Signature with seal

Arvind Mittal
ARVIND MITTAL
Chief Engineer P.P.A. (Renewable)
U.P. Power Corporation Ltd.
Shakti Bhawan (Extension)
LUCKNOW

1. Witness

Rajeev Ranjan
राजीव रंजन
RAJEEV RANJAN
वरिष्ठ प्रबन्धक (वाणिज्यिक)
Sr. Manager (Commercial)
एन टी पी सी लिमिटेड, उत्तरी क्षेत्र मुख्यालय, लखनऊ
NTPC Limited, Northern Region Headquarters, Lucknow

1. NTPC WPD Signed PPA

2. Witness

CP Mawrya
CP Mawrya
AEC (PRA-R)

SCHEDULE- A