

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition No. : 1536 /2019

Quorum

1. Hon'ble Sri Raj Pratap Singh, Chairman
2. Hon'ble Sri Kaushal Kishore Sharma, Member
3. Hon'ble Sri V. K. Srivastava, Member (Law)

In the matter of:

Seeking approval of standard Wheeling and Banking Agreement for RE Generating Power Plants (except SHP and MSW plants) / Captive Generator.

ORDER

1. As per Regulation 25 of CRE Regulations, 2019, tariff is payable for banked of energy if the plant has an arrangement of banking of energy with distribution licensee. Accordingly, a Petition has been filed by Uttar Pradesh Power Corporation Ltd. in the matter of seeking approval of standard Wheeling and Banking Agreement for RE Generating Power Plants (except SHP and MSW plants) / Captive Generator by Commission, in exercise of the powers conferred upon the Commission under Section 86 (1) (c) and 86 (1) (e) read with relevant provisions of the UPERC CRE Regulations, 2019, UPERC Open Access Regulations, 2019 and relevant provision of UPERC Conduct of Business Regulations, 2019.
2. The Commission issued a Public Notice No. UPERC/Secy/JD(G)/2020/1880 dated January 13, 2020 vide which comments and suggestions were invited on the draft agreement. The public hearing in the matter was conducted on January 28, 2020 in the office of the commission.
3. Based on the comments received from various stakeholders, a modified model BPTA, BPWA and Banking Agreement was prepared by the Commission as the submitted agreement was infringing some of the provisions of the UPERC CRE Regulations, 2019, UPERC Open Access Regulations, 2019 and also the existing BPTA & BPWA. Further, the existing BPTA & BPWA had also become archaic and hence required some changes to be in conformity with the recently notified UPERC CRE Regulations, 2019 and UPERC Open Access Regulations, 2019. Therefore,

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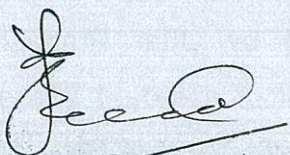
Sham



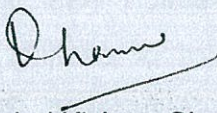
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an attempt was made to recast BPTA & BPWA and to incorporate Banking Agreement to make it a holistic document. Thereafter, the complete set of agreements were put up on the website of the Commission again for inviting comments of all the stakeholders. A Public Notice No. UPERC/Secy/D(DISTB.)/19-2075 dated February 14, 2020 was issued in this regard.

4. Subsequently, comments have been received from various stakeholders on the revised model agreement. Taking into consideration these comments, the model BPTA, BPWA and Banking Agreement has been prepared and approved by the Commission. All previous model agreements concerning the subject stand repealed. This model agreement shall be followed for all future transactions. However, any transaction taking place based on earlier model agreements shall be deemed to be a valid transaction for such period as specified in the earlier model agreements.
5. The Petition is hereby disposed of.



(Vinod Kumar Srivastava)
Member



(Kaushal Kishore Sharma)
Member



(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 05.03.2020



MODEL
BPTA & BPWA
AND
BANKING AGREEMENT

MODEL BULK POWER WHEELING AGREEMENT & BULK POWER TRANSMISSION AGREEMENT & BANKING AGREEMENT

BETWEEN

.....
[enter name of Distribution Licensee]

[Referred to as Party of the First Part]

AND

.....
[enter name of Long Term Open Access
Customer/ Medium Term Open Access
Customer (LTOAC/MTOAC)*]

[Referred to as Party of the Second Part]

AND

.....
[enter name of Transmission Licensee]

[Referred to as Party of the Third Part]

AND

.....
[UPPCL (in case of Banking)]

[Referred to as Party of the Fourth Part]

[Even if the agreement does not require any of the aforementioned parties to be a party of the agreement, still serial number of the parties will remain the same for the purpose of this agreement]

Relevant Parties to the Agreement:

1. Distribution Licensee – In case of BPWA with or without Banking agreement
2. LTOAC/MTOAC – In all agreement
3. Transmission Licensee – In case of BPTA with or without Banking agreement
4. UPPCL – In all cases of Banking agreement

*Strike-through whichever is not applicable at all occurrences in the Agreement. In case LTOAC/MTOAC is Distribution Licensee, clauses on Interconnection, Undertakings, Wheeling of

Energy in the Agreement shall be interpreted accordingly

This **BULK POWER TRANSMISSION AGREEMENT / BULK POWER WHEELING AGREEMENT** (as applicable) is entered into on.....

[enter day] day of [enter month] Two Thousand

[enter year] between..... [enter name of distribution licensee], a company incorporated under the Companies Act, 1956, having its Registered/Head office at (hereinafter called "....." which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns), as party of the First part

and between [Name of Long Term Open Access Customer/ Medium Term Open Access Customer] having its Registered/Head office at (hereinafter called LTOAC/MTOAC as individually "....." which expressions shall, unless repugnant to the context or meaning thereof, include its successors and assigns) as party of the Second part and between [Name of Transmission Licensee] (if transaction involves transmission network) having its Registered/Head office at (hereinafter called as which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) as party of the Third part and between

UPPCL which is the Holding Company of the state distribution licensees, namely, DVVNL, MVVNL, PVVNL, PuVVNL and KESCO (hereinafter referred to as the "Corporation") as party of the Fourth part. [Applicable in case of Banking Agreement with State Distribution Licensee]

Noida Power Company Limited having its registered office located at (hereinafter referred to as the "Corporation") as party of the Fourth part; [Applicable in case of Banking Agreement with NPCL]

And whereas party of the First part is a distribution licensee, within the State of Uttar Pradesh (hereinafter referred to as "the State") and is bestowed with the responsibility to develop, own, operate and maintain an efficient, co-ordinated and economical distribution system in his area of supply in accordance with the provisions contained in the Electricity Act, 2003 (hereinafter referred to as "the Act"); and to provide non-discriminatory open access u/s 42(3) of Electricity Act 2003, to its distribution system for use by any licensee or generating company or consumer permitted under Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof (hereinafter referred to as UPERC Open Access Regulations) on payment of wheeling charge, surcharge and additional surcharge and other charges (as may be applicable) as provided in Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof.

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[enter any one of the following for party of the Second Part]

And whereas Party of the Second Part is a distribution licensee who has entered into agreement(s) for purchase of electricity from generating company(ies) or licensee(s) and/or sale of electricity to licensee(s) situated within and/or outside the State on long/medium term basis as specified in Annexure A; *[...if LTOAC/MTOAC is a licensee]*

or

And whereas Party of the Second Part is a generating company who has entered into agreement(s) for sale of electricity to licensee(s) and/or consumer(s) situated within and/or outside the State on long/medium term basis as specified in Annexure A; *[...if LTOAC/MTOAC is a generating company including Renewable Energy Generator]*

or

And whereas Party of the Second Part is a generating company operating or will operate a plant qualified as 'Captive Generating Plant' under the provisions of the Act and is willing to carry electricity from its captive generating plant to the destination(s) of use at *[enter destinations]* and/or has scheme to sell electricity to licensee(s)/consumer(s) *[enter if applicable]* situated within and/or outside the State and/or outside the State on long/medium term basis as specified in Annexure A; *[...if LTOAC/MTOAC is a generating company operating as captive generating plant]*

or

And whereas Party of the Second Part is a consumer, permitted to seek open access under the provisions of Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof, who has entered into agreement(s) for purchase of electricity from generating company(ies) or licensee(s) situated within and/or outside the State on long/medium term basis as specified in Annexure A; *[...if consumer is permitted as LTOAC/MTOAC]*

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And whereas Party of the Third Part is a Transmission Licensee owning and operating transmission system in the State of Uttar Pradesh, as per its License, and is under a statutory obligation to provide non-discriminatory open access, under the provisions of section 40 (c) of the Electricity Act, 2003 and in accordance with UPERC Open Access Regulations, 2019;

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And whereas Party of the Fourth Part Uttar Pradesh Power Corporation Limited is a Company formed and incorporated in India under the Companies Act, 1956, with its registered office located at Shakti Bhawan Ashok Marg, Lucknow Uttar Pradesh, hereinafter referred to as the "Corporation" (Applicable in case of Banking), which is the Holding Company of the state distribution licensees, namely, DVVNL, MVVNL, PVVNL, PuVVNL and KESCO; [Applicable in case of Banking Agreement with State Distribution Licensee]

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And whereas Party of the Fourth Part Noida Power Company Limited is a Company formed and incorporated in India under the Companies Act, 1956, with its registered office located at
....., hereinafter referred to as the "Corporation"; [Applicable in case of Banking Agreement with NPCL]

And whereas agreement(s) for purchase and/or sale of electricity signed by LTOAC/MTOAC, require exchange of energy upto KW/MW individually between him and specified seller(s) or buyer(s) (strikeout whichever is not applicable), as the case may be, for a fixed or varying quantum of power (MW) at specified point(s) of injection and drawl interfaced with distribution system of party of the First part or interfaced with transmission system of party of Third Part;

And whereas LTOAC/MTOAC is desirous to avail long/medium term open access to distribution system of party of the First part for wheeling of electricity and/or Transmission System of party of Third Part for transmission of

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electricity between point(s) of injection and drawl in accordance with Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof; as detailed in Annexure-A;

And whereas LTOAC/MTOAC and Party of the First Part and/or Party of the Third Part have agreed to comply with such obligations, duties, time schedules, instructions or any other directions as set out by STU in Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof;

And whereas party of the First Part and/or Party of the Third Part has agreed to undertake wheeling and/or transmission of electricity from the point(s) of injection to point(s) of drawal, as detailed in Annexure-A, through distribution and/or transmission system built, maintained and operated by it and as strengthened from time to time on mutually agreed terms and conditions;

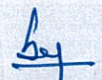
And whereas LTOAC/MTOAC has agreed to comply with installation of ABT compatible meters at point(s) of injection and drawal and meet all requirements of communication as mandated by STU;

And whereas LTOAC/MTOAC has agreed to make payment strictly as per provisions of Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof;

And whereas LTOAC/MTOAC has agreed to ensure compliance of directions issued by party of the First Part and/or party of the Third Part through any instrument prior to or after grant of long/medium term open access;

And whereas a generating facility of ____ MW has been setup at _____ and is desirous to supply ____ MW to its captive users as per details in Annexure-A of this agreement;

And whereas the party of the First part and/or party of the Third part and party of the Fourth part have as per their letters dated given their consent for wheeling and/or transmission and banking [banking in the case of



Solar, Wind, Captive Generating Plant, Cogeneration only] subject to the Terms and Conditions as set out in this agreement.

NOW THEREFORE in consideration of the foregoing premises and mutual agreements, covenants and conditions set forth herein, party of the First Part and/or Party of the Third Part and Party of the Fourth Part (in case of Banking) and LTOAC/MTOAC i.e. Party of the Second Part do hereby agree to the contents of Part-1 (BPTA & BPWA) and Part II (Provisions related to Banking Agreement) in case of availing banking facility.

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PART I
PROVISIONS RELATED TO
BPTA & BPWA

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DEFINITIONS

Any Words and expressions used in this Agreement shall have the same meaning as defined in the Electricity Act 2003, Electricity Rules 2005, UPERC CRE Regulations 2019, UPERC Open Access Regulations 2019, UPERC Grid Code, UPERC Supply Code or any other UPERC Regulation.

A. INTERCONNECTION

1. The LTOAC/MTOAC shall be connected with the network of the Transmission/Distribution Licensee in accordance with the connectivity agreement under the provisions of UPERC Grant of Connectivity to intra-State Transmission System Regulations, 2010. In case the above regulations do not specify connectivity standards for a particular voltage level, the same shall be in accordance with Grid Code, Supply Code or any other applicable UPERC Regulations or CEA standards.
2. Exchange of power shall be in accordance with connectivity agreement under the provisions of UPERC Grant of Connectivity to intra-State Transmission System Regulations, 2010 and UPERC Open Access Regulations, 2019, details of which are to be specified in Annexure A. Provided the system upto injection point and subsequent to drawal point shall be operated and maintained by LTOAC/MTOAC
3. The LTOAC/MTOAC shall install, at its own cost, protection equipment viz. protection system, communication system or similar equipment for the protection of its own equipment as well as equipments of the Transmission/Distribution Licensee. LTOAC/MTOAC shall obtain the approval of the Transmission/Distribution Licensee for the specifications of such equipment and shall furnish the test reports, to the Transmission/Distribution Licensee, as may be required.
4. The LTOAC/MTOAC shall get its facilities and/or equipment inspected by the Transmission/Distribution Licensee before commencement of wheeling

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and/or banking and/or transmission and annually thereafter. Further, the LTOAC/MTOAC shall obtain the following approvals:

- a) Approval of the Electrical Inspectorate for the purpose of electrical safety
- b) Synchronization approval from the Transmission/Distribution Licensee.
- c) Written approval / concurrence for wheeling and/or banking and/or transmission of injected energy shall be in accordance with clauses 4.1(iii) & 4.2(ii) of Schedule A of UPERC Open Access Regulations, 2019 before synchronization.

Provided that if the approval/Concurrence is not made within the specified time limit of above provisions, then it shall be deemed as approved.

5. The LTOAC/MTOAC shall ensure that the metering and protection facility be, open on notice for inspection by the authorized representatives of the concerned Transmission/Distribution Licensee.
6. LTOAC/MTOAC shall give written notice of at least fifteen days in advance to the STU/Transmission Licensee/Distribution Licensee before the commercial operation date where no system strengthening is involved. However, if system strengthening is involved, then the timelines will be in accordance with clause 5.4(iii) of Schedule A of UPERC Open Access Regulations, 2019. The same shall also be intimated in writing to the UPSLDC.
7. The Transmission/Distribution Licensee shall not be liable for losses or damages, if any, consequent to any line outage prior to injection point or subsequent to drawal point, for any reason whatsoever, due to which power is not evacuated.

B. UNDERTAKINGS

1. Obligations of the [Name of LTOAC] / [Name of MTOAC]:

- I. The LTOAC/MTOAC at all times shall have statutory approvals, clearances, and permits as set out in Annexure-B of this agreement. Further, LTOAC/MTOAC shall undertake to establish, operate & maintain

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its own system in accordance with the Act, State Grid code, Distribution code and other applicable regulations, Rules, Codes and Standards abiding prudent utility practices

- II. The LTOAC/MTOAC shall be liable to pay all applicable charges in accordance with UPERC Open Access Regulations, 2019
- III. The LTOAC/MTOAC shall pay any applicable taxes, cess, duties or levies imposed by the Government or Competent Authority from time to time.
- IV. The LTOAC/MTOAC shall furnish, when required, any data necessary for the system studies conducted by the Corporation/ Transmission/ Distribution Licensee.
- V. The LTOAC/MTOAC shall establish LC and make payment of bills as per UPERC Open Access Regulations, 2019.
- VI. LTOAC/MTOAC shall comply with instructions/directions of State/Area Load Dispatch Centre.

2. Obligations of Transmission/Distribution Licensee

The *[Name of Transmission Licensee]/ [Name of Distribution Licensee]* shall:

- i. Abide by the State Grid code, Distribution code and other applicable regulations, Rules, Codes and Standards.
- ii. Shall own, operate and maintain its transmission/distribution system and shall develop additional transmission/distribution system from time to time in order to maintain an efficient, co-ordinated and economical transmission/distribution system in accordance with the provisions of the Act, Rules and Regulations in force. Such system may also be used by LTOAC/MTOAC in synchronism with inter-State transmission system, as the case may be, for conveyance of contracted capacity under open access between specified point(s) of injection and drawl as detailed in Annexure A.
- iii. shall endeavour to maintain reliability of power except in case of occurrences or situations beyond its control for which distribution/transmission licensee shall not be held responsible and LTOAC/MTOAC agrees to indemnify distribution/transmission licensee on that account.

- iv. shall the have right to take measures to prevent imminent damage to any equipment installed in its distribution/transmission system and LTOAC/MTOAC agrees for curtailment of supply, if any, that occurs due to such measures taken up by distribution/transmission licensee. However, distribution/transmission licensee agrees to notify LTOAC/MTOAC about such occurrence, in advance if planned, otherwise after occurrence in case of emergency. Provided distribution/transmission licensee shall ensure to take remedial measures to prevent or avert repetition of such occurrences in future.
- v. The Transmission/Distribution Licensee shall not impose any restrictions on the operation of LTOAC/MTOAC except for reasons of safe operation of the grid.
- vi. The Transmission/Distribution Licensee shall not be liable to pay any compensation for any damage caused to any system of LTOAC/MTOAC resulting from parallel operation with the grid.

C. METERING

1. Installation, periodical testing, calibration, maintenance of meters, checking and other related aspects (for both main and check meters) shall be undertaken in accordance with Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 and amendments thereof read with provisions specified in the U.P. Electricity Grid Code
2. In case any tampering of metering cubicle or energy meters is detected or observed at injection or drawal points, the Transmission/Distribution Licensee shall have the right to withdraw the Wheeling facilities and/or Banking facility to the LTOAC/MTOAC subject to the 30 days notice period to the defaulting entity to file its response. The Transmission/Distribution Licensee shall give in writing the reasons for withdrawal of wheeling and/or Banking facility.

D. WHEELING OF ENERGY:

1. Since approval of open access is granted prior to signing BPTA/BPWA, accordingly the transaction with its quantum of power along with parties to

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exchange stands approved at the time of signing BPTA. Any addition or deletion in the list of consumers shall be deemed approved by the transmission/distribution licensee provided the transferred power capacity is within the earlier power quantum. Provided that no supplemental agreement shall be required to be signed, for such addition or deletion of the consumers.

2. Subject to UPERC Regulations/Orders, the energy injected by the generation facility under wheeling shall be charged first to the consumption of LTOAC/MTOAC. In case of captive consumption the residual energy at the end of settlement period, as per UPERC CRE Regulations, 2019 and its amendments from time to time, if any, in the case of wind/ solar energy, shall be deemed to have been purchased by the Transmission/Distribution Licensee in whose jurisdiction the project is located and paid by such Transmission/Distribution Licensee as per Regulation 31(a)(v) of UPERC CRE Regulations 2019. In other cases the residual energy shall be settled as per the provisions of imbalance charges in UPERC Open Access Regulations, 2019.
3. In the event of system constraints, conditions prescribed in Regulation 7 of UPERC Open Access Regulations, 2019 shall be adhered to.
4. The Transmission/Distribution Licensee reserve the right to withdraw the facility of wheeling and/or banking either wholly or partly in case of any breach of conditions of this agreement or under force majeure conditions. In case of establishment of any breach of condition of this agreement the Transmission Licensee / Distribution Licensee shall grant 30 days curing period. If the party cures the breach Wheeling and/or banking shall be restored otherwise it shall be withdrawn. In such an event, Transmission/Distribution Licensee shall not be liable to pay any compensation or damages to the LTOAC/MTOAC.

E. ENERGY ACCOUNT

1. The State energy accounts including amendments, if any, issued by SLDC shall form the basis of billing and shall be binding on LTOAC/MTOAC. State energy accounts shall be prepared by SLDC, as provided in the procedure of UPERC Open Access Regulations, 2019. In case no date is specified in the procedure of UPERC Open Access Regulations, 2019, it shall be prepared

latest by 3rd day of the month (if 3rd day is a holiday, the next working day will be applicable).

2. In the event of delay in receiving meter readings or because of any other reason, whatsoever, SLDC will issue provisional State energy accounts as prescribed in procedures of Open Access Regulations. In case no date is specified in the procedure of UPERC Open Access Regulations, 2019, it will be prepared by 3rd day of the month (if 3rd day is a holiday, the next working day will be applicable). However, final State energy account shall be issued positively by 10th of the month.

F. CHARGES

1. For the purpose of Open Access, the charges shall be as per UPERC Open Access Regulations, 2019 or other applicable Orders of the Commission.
2. However, The Generating Facility shall be permitted to import power from the grid for startup, maintenance and other allied purposes duly intimating the period for which such supply is required. In such cases, the actual energy drawn from the grid, as recorded by the import meter, shall be charged in accordance with the Rate Schedule for HV-2 consumer category as provided in the Tariff Order of the Commission. For this purpose, there shall be deemed to be an existing connectivity agreement between the Discom & the generating company irrespective of the voltage level at which such generator is connected.
3. The infirm energy injected during the period from trial operation date after synchronization up to the commercial operation date shall be deemed to be sold to the Transmission/Distribution Licensee in whose jurisdiction the project is located and shall be paid for by such Transmission/Distribution Licensee at the rate specified in Regulation 16 (b) of UPERC CRE Regulations, 2019.
4. Loss of Energy in wheeling and/or transmission shall be calculated as per the loss levels fixed by the Commission, from time to time, in its Tariff Order.

G. BILLING AND PAYMENT

1. Preparation of Energy Account, Billing by STU and payment by LTOAC/MTOAC shall be done in accordance with Regulation 31.1, 31.2, 31.3 and 31.4 of the UPERC Open Access Regulations, 2019. The

customer shall pay charges directly to STU within Fifteen days from receipt of such bill.

2. The payment shall be made by electronic transfer or by bank draft drawn in favor of the officer so notified by STU.
3. The payment of bills by LTOAC/MTOAC shall be done in full even if there appears to be an error and the disputed amount shall be dealt in accordance to clause 4 below.
4. In case of dispute, LTOAC/MTOAC shall file a written objection with *STU/ Distribution Licensee/ Transmission Licensee* preferably within 30 (thirty) days of presentation of the bill, giving following particulars:
 - i) Items disputed, with full details/data and reasons of dispute, and
 - ii) Amount disputed against each item.

STU/ Distribution Licensee/ Transmission Licensee shall resolve the above dispute(s) with LTOAC/MTOAC within 30 (thirty) days.

There will be no additional surcharge applicable on the disputed amount of bills during the said period of dispute resolution.

H. ARBITRATION

1. The Parties hereby agree to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith.
2. All disputes or differences between the Parties arising out of or in connection with this Agreement shall, as far as possible, be settled through mutual negotiations.
3. Each Party shall designate in writing and communicate to the other Party its own representative, who shall be authorized to resolve any dispute arising out of this Agreement.
4. If the designated representatives are unable to resolve a dispute under this Agreement within thirty (30) days after such dispute arises, then it shall be referred to SPC of GRC as stipulated in UPERC Open Access Regulation, 2019. If SPC or GRC is unable to resolve the dispute in next 45 days, or if

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SPC or GRC is not in existence, the parties shall refer the same to UPERC for adjudication.

In case the Commission decides for arbitration, the Arbitration shall be conducted in accordance with the provisions of Arbitration and Conciliation Act, 1996 and its amendments thereof and any statutory modifications thereto. The Arbitrator shall give a speaking and reasoned award. The venue of the Arbitration proceedings shall be at Lucknow.

5. Notwithstanding the existence of any disputes and differences, the parties hereto shall continue to perform their respective obligations under this Agreement and/or as directed by the Commission by an order made in the proceedings during the course of dispute.

I. FORCE MAJEURE

1. In the event of Force Majeure conditions like war, mutiny, riot, earthquake, hurricane, strike, tempest, accident to machinery, affecting the wheeling of power, the Transmission/Distribution Licensee shall have no obligation to Wheel and/ or Bank the energy as per this agreement. However, they shall make all reasonable efforts to restore normalcy within 30 (thirty) days and if the same is not possible, this agreement will be treated as temporarily suspended for the period in which Force Majeure conditions continue including aforementioned 30 days.
2. During the period in which Force Majeure conditions prevail, Transmission/Distribution Licensee shall not be liable to pay any compensation or damage or any claims, whatsoever, for any direct or indirect loss that may be suffered by the LTOAC/MTOAC on account of wheeling/ banking of Electricity not being performed during the period.

J. IMPLEMENTATION OF THE AGREEMENT

All discretions to be exercised and directions, approvals, consents and notices to be given and actions to be taken under these presents, unless otherwise expressly provided herein, shall be exercised and given by the

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signatories to this Agreement or by the authorised representative(s) that each party may nominate in this behalf and notify in writing to the other party by Registered Post/Speed Post. Any other nomination of authorised representative(s) and/or changes in designation shall be informed likewise in writing to/by the LTOAC/MTOAC within one month of signing of the Agreement. Notwithstanding any nomination, the Director (.....) [*Name of distribution licensee*] and/or [*Name of transmission licensee*] or his authorised representative shall be authorised to act for and on behalf of [*Name of distribution licensee*] and/or [*Name of transmission licensee*]. Any changes in designations/registered office address shall be intimated in writing to all concerned parties.

K. NOTICE

Any notice, communication, demand, or request required or authorized by this Agreement shall be in writing and shall be deemed properly given upon the date of receipt, if delivered by hand or sent by courier, if mailed by registered post, if sent by fax when dispatched (provided if the sender's transmission report shows the entire fax to have been received by the recipient and only if the transmission was received in legible form).

L. EFFECTIVE DATE AND DURATION OF AGREEMENT

This Agreement shall become effective upon the execution and delivery thereof by the Parties hereto, and unless terminated pursuant to other provisions of the Agreement, shall continue to be in force for such time for which Open Access is provided subject to grant of Open Access for the period of renewal.

M. EVENTS OF DEFAULT

LTOAC/MTOAC's Default: The occurrence of any of the following events at any time during the term of this Agreement shall constitute an Event of Default by the LTOAC/MTOAC:

1. Failure or refusal by the LTOAC/MTOAC to perform any of its obligations agreed under this Agreement.
2. Failure by the Generating Facility to generate and inject and failure by LTOAC/MTOAC to wheel and/or transmit energy continuously for a period of six months in a Financial Year, as the case may be.
3. Non-payment of charges as specified in this agreement within the time specified in clause G(1) of this Agreement.

N. TERMINATION FOR LTOAC/MTOAC DEFAULT:

1. Upon the occurrence of any event of default as set out in clause M(1) and M(2) above, the Transmission/Distribution Licensee may deliver a Default Notice to the LTOAC/MTOAC in writing, which shall specify in reasonable detail the event of default giving rise to the default notice and call upon the LTOAC/MTOAC to cure the same within 30 days from the date of notice.
2. In case the LTOAC/MTOAC fails to cure the default(s) notified in the above Notice within 30 (thirty) days of the notice, the Transmission/Distribution Licensee shall be entitled to terminate this Agreement with immediate effect.
3. Upon termination of this agreement, the Transmission/Distribution Licensee shall stand discharged of all its obligations undertaken under this Agreement. However, the Parties shall fulfill the payment obligations arising out of this Agreement prior to the date of termination.

O. NON-PAYMENT OF BILLS AND NON-ESTABLISHMENT OF LC

1. In case the payment of any bill for charges payable under the Agreement is delayed by LTOAC/MTOAC, distribution/transmission licensee shall levy late payment surcharge as per rate specified in the orders of the Commission or UPERC Open Access Regulations, 2019.
2. LTOAC/MTOAC will make all efforts to open BG within a reasonable period. In the event of failure to establish/enhance BG within a reasonable period or alternatively if any bill remains unpaid in absence of BG for a period exceeding two months from the date of issue of the bill, distribution/transmission licensee shall inform SLDC to discontinue/regulate

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wheeling of electricity to LTOAC/MTOAC. SLDC at its own discretion may not consider to schedule such transaction or may cancel scheduling of already scheduled transaction or may not entertain any application of such customer in future until default is cured.

P. MISCELLANEOUS PROVISIONS

1. **Waivers:** Any failure on the part of a Party to exercise and any delay in exercising any right set out hereunder for a period exceeding three years shall operate as a waiver thereof. No waiver by a Party of any right hereunder with respect to any matter or default arising in connection with this Agreement shall be considered as a waiver with respect to any subsequent matter of default.
2. **Limitation, Remedies and Damages:** Neither Party shall be liable to the other for any consequential, indirect or special damages to persons or property whether arising in tort, contract or otherwise, by reason of this Agreement or any services performed or undertaken to be performed hereunder.
3. **Severability:** Any provision of this Agreement, which is prohibited or unenforceable under any law, shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity, enforceability or legality of such other provisions.
4. **Amendments:** This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by the authorized representatives of concerned Parties and approved by the Commission. However, the Commission shall be entitled to modify/alter the conditions of this contract [agreement] suo-moto, to redress the difficulties being faced, if any.
5. **Assignment:** The LTOAC/MTOAC shall not assign this Agreement or any portion hereof without the prior written consent of the Corporation/ Transmission/Distribution Licensee and approval of the Commission. Provided further that any assignee shall expressly assume in writing the

assignor's obligations arising under this Agreement prior to the assignment.

6. Entire Agreement, Appendices:

a) This Agreement constitutes the entire agreement between Corporation, Transmission/Distribution Licensee and the LTOAC/MTOAC, concerning the subject matter hereof. The annexures, attachments and exhibits, if any, are hereby made an integral part of this Agreement and shall be fully binding upon the Parties.

b) In the event of any inconsistency between the text of the Articles of this Agreement and the annexures, attachments or exhibits, if any, hereto or in the event of any inconsistency between the provisions and particulars of one appendix, attachment or exhibit and those of any other appendix, attachment or exhibit, Corporation/ Transmission/Distribution Licensee and the LTOAC/MTOAC shall mutually consult to resolve the inconsistency.

c) All previous model agreements concerning the subject stand repealed. However, any transaction taking place on the basis of earlier model agreements shall be deemed to be a valid transaction for such period as specified in the earlier model agreements.

7. Further Acts and Assurances: Each of the Parties after convincing itself agrees to execute and deliver all such further agreements, documents and instruments, and to do and perform all such further acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement and to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their authorized representatives and copies delivered to each Party, as of the day and year first above stated.

PART II
PROVISIONS RELATED
TO
BANKING AGREEMENT

by.

Part – II Banking Agreement

BANKING (applicable in case of Banking of Power)

1. The banked energy shall be settled as per UPERC CRE Regulations, 2019 and its amendments in respect of generators allowed by the Commission.
2. The Transmitted or wheeled energy together with energy being banked or withdrawn against earlier banked energy, in any time block, shall be limited to the capacity of open access, as has been applied by LTOAC/ MTOAC.
3. The Distribution Licensee, in whose jurisdiction the Generating Facility is situated, shall pay at the tariff as per Regulation 31(a)(v) or Regulation 31(b)(vi) of UPERC CRE Regulations 2019, whichever is applicable, of the CRE Regulations, 2019 for the banked energy remaining unutilized at the end of every settlement period, subject to the settlement of banking charges as prescribed in Regulation 31(a)(vi) of the aforesaid Regulations.
4. The Banking as well as withdrawal of banked energy shall be subject to day ahead scheduling only at the Point of Injection of Power. However, the captive generating facility (including renewable captive generators) may supply banked power to its users in accordance with UPERC Open Access Regulations, 2019 and UPERC CRE Regulations 2019 & payment of all applicable charges as per Open Access Regulations, 2019 after adjusting the banking charges in accordance with UPERC CRE Regulations 2019, in case, withdrawal of power is not coinciding with the point of injection.
5. The power withdrawn by Renewable Energy Generating Power Plants (except for SHP and MSW plants), as ascertained by SEMs readings, which is not against the banked power, shall be treated as sale and shall be charged in accordance with the Rate Schedule for HV-2 consumer category as provided in the Tariff Order of the Commission.
6. Banking facility shall not be allowed to outside state (Interstate) generators.
7. Subject to UPERC Regulations/Orders, the energy injected by the generation

facility shall first be adjusted towards the banked energy. After such adjustment, the balance energy shall be adjusted as per UPERC Open Access Regulations, 2019.

8. Unless a provision under Part-I of the agreement is exclusively associated with Wheeling/ Transmission, all remaining provisions of Part-I shall also be applicable in case of Part-II of the agreement i.e. Banking Agreement.

by

For and on behalf of

[enter name of
Distribution Licensee]

.....

(Signature with Name,
Designation Address and
Seal)

WITNESS

1.

(Signature with Name
and Address)

2.

(Signature with Name
and Address)

For and on behalf of

[enter name of
LTOAC/MTOAC]

.....

(Signature with
Name, Designation
Address and Seal)

WITNESS

1.

(Signature with Name
and Address)

2.

(Signature with Name
and Address)

For and on behalf of

[enter name of
Transmission
Licensee]

.....

(Signature with Name,
Designation Address
and Seal)

WITNESS

1.

(Signature with Name
and Address)

2.

(Signature with Name
and Address)

For and on behalf of

[UPPCL in case of
Banking]

.....

(Signature with
Name, Designation
Address and Seal)

WITNESS

1.

(Signature with Name
and Address)

2.

(Signature with Name
and Address)

[Strike through whichever is not applicable]

by

ANNEXURE-A

Injection Entity

1. Name of entity
2. Status of entity (RE-Captive/ RE-Non-Captive/ Co-Generation/ Non-RE-Captive/ Non-RE-Non-Captive)
3. Utility in which it is embedded
4. Interface with transmission or distribution system (as the case may be)
 - i) Name of sub-station
 - ii) Voltage level
 - iii) Name of licensee

Drawee Entity

1. Name of entity
2. Status of entity (Captive/ Non-Captive)
3. Utility in which it is embedded
4. Interface with transmission or distribution system (as the case may be)
 - i) Name of sub-station
 - ii) Voltage level
 - iii) Name of licensee

Long Term/ Medium Term Open Access Details

1. Date/Month of commencement of the open access
2. Period of open access
3. Duration of open access (Time block)
4. Capacity (KW/MW) at point of Injection

by

ANNEXURE-B

PERMITS, CLEARANCES AND APPROVALS

1. Permission for Grant of Connectivity and Approval of Open Access.
2. Synchronization approval and Commissioning report from Transmission/ Distribution Licensee.
3. Wheeling and Banking approval by the nodal agency
4. Approval of the Electrical Inspector, Government of Uttar Pradesh for Commissioning of the transmission line for evacuation of power from the project to the injection point/ substation.
5. Approvals required under any law for the time being in force.