BATTERY ENERGY STORAGE SALE AGREEMENT
FOR
SALE OF 265 MW/ 500 MWh
OF
BATTERY ENERGY STORAGE SYSTEM (BESS) CAPACITY
ON LONG TERM BASIS

BETWEEN

SJVN LIMITED

And

[Insert the name of the Buying Entity]

This Power Sale Agreement is made on the …….. day of ……… of 2024 at………,

Between

SJVN Limited, a company incorporated under the Companies Act 1956, having its registered office at Shakti Sadan, CHQ, Shanan, Shimla-171006 (HP) and Liaison Office / Expediting office at office Block, Tower-1, 6th Floor, NBCC Complex, East Kidwai Nagar, New Delhi-110023 (hereinafter referred to as "SJVN", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assignees) as a Party of the first part.

And

……………………………, a company incorporated under the Companies Act 1956 / the Companies Act 2013, having its registered office at ……………………………………………… (hereinafter referred to as "**Buying Entity/ Buying Utility**" **or "………………**" 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.

SJVN and Buying Entity are individually referred to as 'Party' and collectively referred to as 'Parties'

WHEREAS:

A. The Ministry of Power, Government of India has issued Viability Gap Funding (VGF) Scheme for development of Battery Energy Storage Systems (BESS) supported through Power System Development Fund (PSDF) along with its Operational Guidelines, vide Office Memorandum F. No. 48/15/07/2025-NRE SECTION dated 9th June,2025 and subsequent amendments issued by Ministry of Power. Vide the above Scheme, VGF has been provided to the state of Haryana @ Rs. 18 Lakh/MWh for development of 500 MWh BESS capacity as per the Operational Guidelines of the Scheme (**VGF Scheme supported through PSDF**).

B. The Ministry of Power, Government of India has issued State Component of Scheme for Viability Gap Funding (VGF) for development of Battery Energy Storage Systems (BESS) along with its Operational Guidelines, vide Office Memorandum F. No. 42-26/1/2022-NRE (Pt III) dated 9th October ,2024 and subsequent amendments issued by Ministry of Power. Under the above Scheme, VGF has been provided to the state of Haryana @ Rs. 18 Lakh/MWh for development of 30 MWh BESS capacity as per the Operational Guidelines of the Scheme (**State Component of Scheme for VGF)**.

C. The State of Haryana, through **Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)** has appointed SJVN Limited as Implementing Agency/Intermediator Procurer for implementation of 265 MW/530 MWh Standalone Battery Energy

Storage Systems (BESS) in the state of Haryana, comprising 250 MW/500 MWh capacity of BESS under **VGF Scheme supported through PSDF** and 15 MW/30 MWh capacity under **State Component of Scheme for VGF** for the complete tenure of the project i.e. 12 years.

D. The Ministry of Power (MoP), Government of India has issued "Guidelines for Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services" vide Gazette Notification CG-DL-E-11032022-234077 dated 10th March,2022.

E. SJVN had initiated a Tariff Based Competitive Bid Process for **Selection of BESS Developer for setting up of 265 MW/530 MWh Standalone Battery Energy Storage Systems (BESS) in the state of Haryana under Viability Gap Funding (VGF) Schemes under Tariff-Based Competitive Bidding** on the terms and conditions contained in the Request for Selection (hereinafter referred to as `RfS') issued Delhi/REIA/2025/ BESS-2 dated 24.07.2026 by SJVN vide RfS No. SJVN/CC- including its subsequent amendments and clarifications, if any. Entire 100% of awarded project capacity of 265 MW/ 530 MWh MWh under aforementioned RfS shall be procured by SJVN.

F. SJVN has signed/will sign Battery Energy Storage Purchase Agreements (BESPAs) with the Battery Energy Storage Developers (BESSDs) selected under the RfS mentioned herein below (hereinafter referred to as "BESSDs") for procurement of ……….. MW / ……. MWh of Contracted Capacity of BESS Power selected under the provisions of Request for Selection (RfS No. SJVN/CC-Delhi/REIA/2026/ BESS-2 dated 24.07.2026 and subsequent amendment (if any) based on the above Guidelines, on a long- term basis, as indicated at Schedule-B of PSA.

G. Buying Entity has agreed to purchase BESS capacity from the SJVN under the above RfS and accordingly, SJVN has agreed to sign Battery Energy Storage Purchase Agreements (BESPAs) with BESSD(s) for procurement of ……….. MW /…… MWh Grid Connected BESS Capacity on a long-term basis, as indicated at Schedule-B of BESSA (s). Copy of the BESPA (s) shall be submitted by SJVN to Buying Utility within thirty (30) days of the signing of the BESPA(s) and such BESPA(s) shall become integral part of this Agreement (SJVN-Buying Entity BESSA).

H. Subject to the terms and conditions contained herein, SJVN hereby agrees to sell and make available the electricity procured by SJVN from the BESSDs on the terms and conditions contained in the BESPA (s) to be entered into between SJVN and the BESSDs, as per the initialed BESPA (Schedule-A) on a back-to- back basis, to Buying Entity.

I. Buying Entity hereby acknowledge(s) and accept(s) that SJVN is only an Intermediary Procurer / Bid Implementing Agency (BIA) and is facilitating the purchase and resale of electricity generated from Grid Connected BESS Capacity and therefore, cannot assume independently, any obligation, financial or otherwise, either to the BESSD(s) or to Buying Entity(ies), (unless otherwise specifically provided in the BESPA or the BESSA as the case may be), except on a back-to-back basis, namely, that whatever obligation is enforced by the BESSD under the BESPA against SJVN, Buying Entity shall be bound to fulfil the obligation on a back-to-back basis towards SJVN and similarly, whatever rights that Buying Entity(ies) may claim under this Agreement against SJVN, shall be subject to due enforcement of the corresponding rights on a back-to-back basis by SJVN against BESSD (s), without an independent obligation on the part of SJVN.

J. Pursuant to the aforesaid objective, the Parties are desirous of entering into a Battery Energy Storage Sale Agreement ("BESSA") i.e. a definitive agreement, regarding purchase of Power from the Project under above mentioned RfS Document. Pending execution of the necessary agreements and other relevant documents in relation to the transaction contemplated herein, the Parties wish to execute this BESSA setting out the respective obligations of the Parties and the steps necessary to complete the transactions contemplated herein. The Parties have accordingly agreed to enter into this BESSA to record their understanding and agreement with regard to the purchase of power to be generated from the Project and in respect to the matters incidental or ancillary thereto, upon the terms and conditions set out herein below.

K. The damages/dues recovered by SJVN by encashing the PBG/POI/Insurance Surety Bond (ISB), upon the default of the BESSD (s) under the BESPA (s), shall be dealt as per the applicable guidelines / Regulations / Rules etc. issued by Govt. of India.

The Parties have accordingly agreed to enter into this BESSA to record their understanding and agreement with regard to the purchase of power to be generated from the Project and in respect to the matters incidental or ancillary thereto, upon the terms and conditions set out herein below.

NOW, THEREFORE, IN CONSIDERATION OF THE 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 SJVN/Buying Entity as the case may be, shall obtain the order of the Appropriate Commission adopting the tariff and approving the procurement of the Contracted Capacity on the terms and conditions contained in this agreement read with the terms and conditions contained in the PPA to be entered into between SJVN and the BESSD (s). The Trading Margin shall be applicable as per Article-1 of this Agreement.

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 120 days after the Effective Date of the BESPA, SJVN and/or the Buying Entity shall obtain adoption of tariff from Appropriate Commission, on the terms and conditions contained in this Agreement read with the terms and conditions contained in the BESPA entered into between SJVN and the BESSD. The Parties agree that in the event the order of adoption of tariff as mentioned above is not issued by the Appropriate Commission within the time specified above, this shall entail appropriate extension of time in Financial Closure deadline and scheduled commissioning date to the BESSDs, corresponding to the delay (beyond 120 days of Effective Date of BESPA) in adoption by the Appropriate Commission, till the date of adoption by the Appropriate Commission. The terms and conditions of the agreement is valid, subjected to the approval of HERC. In the case of non-approval from HERC, no party shall be liable in any manner.

III The duration of this Agreement shall be co-extensive and co-terminus with the duration of the Battery Energy Storage Purchase Agreement (BESPA) to be entered into between the SJVN and the BESSD (s) for all intent and purposes.

IV Subject to the terms and conditions contained herein, SJVN hereby agrees to sell and make available the BESS storage capacity procured by SJVN from the……… MW / ……….. MWh BESS Capacity to be set up by the BESSD (s) on the terms and conditions contained in the BESPA (s) to be entered into between SJVN and the BESSD (s), as per the initialed BESPA (Schedule-A) on a back-to- back basis, to Buying Entity.

V Buying Entity hereby acknowledges and accepts that SJVN is an Intermediary to facilitate the promotion BESS Capacity and to purchase and re-sell the Capacity to the Buying Entity (ies) to enable them to fulfill the energy demand / Renewable Purchase Obligation / Energy Storage Obligations / BESS Capacity and, therefore, the sale of BESS Capacity by SJVN to Buying Entity under this Agreement shall be entirely on a back-to-back basis to the purchase of BESS Capacity by SJVN from the BESSDs under the SJVN-BESSD BESPA, with the intent that there shall be no residual liability on the SJVN towards the BESSD (s) which will not be fulfilled by the Buying Entity.

In accordance with the above and except as otherwise specifically provided in this agreement, the rights and obligations of Buying Entity under this agreement shall be available and enforceable entirely and effectively on a back-to-back basis to the rights and obligations of the SJVN in the SJVN-BESSD BESPA (s) and in the event SJVN is not in a position to enforce its rights against the BESSD or is subject to any obligation to be performed towards BESSD (s), Buying Entity shall 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 SJVN.

VI Except as otherwise specifically provided in this agreement, Buying Entity acknowledges and accepts that the terms and conditions of the SJVN-BESSD BESPA(s) shall mutatis mutandi apply to this Agreement between the parties. Buying Entity agrees to correspondingly fulfill, on back-to-back basis, all the obligations assumed by SJVN towards BESSD (s). Buying Entity further agrees, acknowledges and accepts that as an Intermediary, SJVN is not assuming any obligation to Buying Entity over and above the obligation which the BESSD (s) shall duly performs under the SJVN- BESSD BESPA(s).

VII SJVN has agreed with the BESSD (s) in regard to the payment of money becoming due to BESSD (s) under the SJVN-BESSD BESPA(s) and SJVN shall be liable to discharge the payment obligation in terms of the provisions of the SJVN-BESSD BESPA(s). Accordingly, Buying Entity agrees to effectively securitize the payment of money becoming due from Buying Entity to SJVN as detailed in this Agreement to enable SJVNI to make onward payment to the BESSD under SJVN-BESSD BESPA (s).

VIII The parties agree that in respect of the obligations other than the payment obligation specifically mentioned herein above, in the event Buying Entity has any claim against SJVN in regard to the performance of any obligation of SJVN under this Agreement or enforcement of any right of Buying Entity against SJVN under this Agreement, the same shall be subject to the ability of SJVN to enforce the corresponding obligations assumed by BESSD (s) to SJVN under the SJVN-BESSD BESPA(s). SJVN shall not be required to perform and implement the obligations of SJVN or agree to the enforcement of the rights of Buying Entity under this Agreement till such time the corresponding obligations under SJVN-BESSD BESPA(s) is duly implemented by the BESSD(s) and in case of monetary obligations the amount is received by SJVN from the BESSD(s). In the event of any such claim arising at the instance of Buying Entity, the parties shall discuss on the course of action to be initiated by SJVN against the BESSD(s) for enforcement of the corresponding obligation and all proceedings to be initiated by SJVN against the BESSD(s) for such enforcement shall be pursued by SJVN in consultation with Buying Entity.

IX The parties hereby agree that the penalties / Liquidated damages are payable by BESSD(s) under the SJVN-BESSD BESPA(s) for any shortfall in performance requirement of BESS Capacity provided under Article 4.6.2 of the BESPA from the contracted capacity of the BESS Capacity. The amount of such compensation shall be as determined as per the manner and methodology specified in the BESPA and such amount shall be passed on to the Buying Entity is offset for all potential costs associated with shortfall in performance requirement under the BESPA. Buying Entity shall not be entitled to make any deductions towards the claim of penalties against any payment due to SJVN and all such other payments shall be made by Buying Entity by the Due Dates, notwithstanding the status of the pending claims on penalties. The Parties agree that as an intermediary, SJVN shall have no legal obligation to pay any amount towards penalties except when the amount of such penalties has been recovered from the BESSD(s) by SJVN without any conditions and encumbrances and the amount is available for appropriation by SJVN.

X The parties agree that the various terms contained in the SJVN–BESSD BESPA(s) such as Scope of Project, Term of the Agreement, Conditions Subsequent, Construction & Development of the Project, Performance Guarantee, Performance Security, Obligations of the respective Parties, Synchronization, Commissioning and Commencement of Supply of power, Operation and Maintenance, Purchase and Sale of Solar Power with ESS, Metering, Dispatch and Scheduling of Power, Billing and Power Accounting, 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 etc. provided in the SJVN- BESSD BESPA(s) shall mutatis mutandi apply to this agreement between SJVN and Buying Entity.

XI The Buying Entity shall be responsible for coordinating and dealing with the BESSD(s), Regional Load Dispatch Centers, State Load Dispatch Centers, Regional Power Committees and other authorities as applicable and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the BESSD(s) and Buying Entity are the Grid connected entities and SJVN as intermediary procurers/BIA is not a Grid connected entity in respect of the BESS Capacity contracted under this Agreement.

XII The Buying Entity undertakes to file petition before SERC seeking necessary approval for procurement of electricity and Contracted Capacity from SERC, under this BESSA within one month from signing of BESPA(s), whichever is later.

XIII The Buying Entity shall be responsible for obtaining Grid Access as per the prevalent Regulations. The Buying Entity shall ensure that they obtain the Grid Access prior to Scheduled Date of Commissioning (SCoD) or actual Date of Commissioning (CoD) under the BESSA, whichever is earlier. In case of failure to obtain the grid access by the above deadline, all the charges pertaining to supply of power (including but not limited to Power Curtailment Charges (Equivalent to deemed energy) due to merit order dispatch, DSM charges, etc.) shall be borne by Buying Entity.

ARTICLE-1: APPLICABLE TARIFF

1.1 The Tariff applicable for the sale of BESS Capacity by SJVN to the Buying Entity under this Agreement shall be the Tariff as applicable for payment by SJVN to BESSD under the terms of the BESPA between SJVN and the BESSD (Individual BESSDs tariff as per schedule B) fixed for entire term of agreement at delivery point and in addition thereto a trading margin of 7 paise / kWh as the case may be and any taxes and duties including GST (if applicable) for making BESS capacity available to the Buying Entity under this Agreement, shall be payable by the Buying Entity to SJVN over and above of the Applicable Tariff under BESPA, which SJVN shall be entitled to appropriate as its income.

1.2 As per provisions of the BESPA(s), the BESSD(s) are permitted for full as well as part commissioning of the Project even prior to the SCSD. In case of early part/full commissioning of the Project(s) prior to SCSD, Buying Entity shall have the first right of refusal and Buying Entity may purchase the power at the Applicable tariff as per the BESPA(s) plus SJVN's Trading Margin of 7 paise / kWh.

ARTICLE-2: BILLING AND PAYMENT

2.1 General

2.1.1 The Parties acknowledge and accept that the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Central Government in exercise of the power conferred by Sub-section (1) of Section176 of the Electricity Act, 2003 and its amendments (if any) shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of BESSD(s), power not requisitioned by the Buying Entity, the order of payment and adjustment towards late payment surcharge and indemnification. In case of any inconsistency in the Guidelines and/or the provisions of this Agreement, with the provisions of the above Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 will supersede and be applicable and govern the terms and conditions of this Agreement. The above shall apply both in regard to the present agreement as well as on mutatis mutandi and back-to-back basis to the BESPA(s). The Rules referred to herein above being statutory shall, to the extent applicable, supersede any provisions in the BESPA(s) and BESSA which are inconsistent or contrary to the provisions of the Rules.

2.1.2 Subject to the above, from the commencement of availability of BESS capacity by SJVN, the Buying Entity shall pay to SJVN the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 1. All Tariff Payments by the Buying Entity shall be in Indian Rupees.

2.1.3 SJVN shall issue to the Buying Entity a signed Monthly Bill every month either through e-mail or any other means on any business day based on provisional BESS Capacity of the preceding month (except for first month which shall be computed based on Contracted capacity of project as appropriated under this Agreement). However, hard copy of the bill will also be sent by the SJVN afterwards. The monthly bill shall also include the following:

(i) Monthly bill / Adjustments bill against the Provisional Bills may be raised based on the BESS capacity for the power supplied in the preceding months, the final adjustments in bill if any may be done on the basis of the final REA / amended REA/ SEA along with Debit/Credit Note.

(ii) Amount payable on account of shortfall in performance requirement as per BESPA

(iii) Late Payment Surcharge if any

(iv) Taxes, duties Levies etc, as applicable.

(v) Change in Law if any as applicable

2.2 Payment of Monthly Bills

2.2.1 The Buying Entity shall pay the amount payable under the Monthly Bill/Supplementary Bill on or before the Due Date i.e. within 45 days of presentation of bill within official hours, to such account of SJVN, as shall have been previously notified to the Buying Entity in accordance with Article 2.2.2 below.

2.2.2 SJVN shall open a bank account at New Delhi ("SJVN's Designated Account") for all Tariff Payments to be made by the Buying Entity to SJVN and notify the Buying Entity of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The Buying Entity shall also designate a bank account at ………..... (The Buying Entity's Designated Account) for payments to be made by SJVN to Buying Entity, if any. The Buying Entity shall inform SJVN the details of such account ninety (90) days before the dispatch of the first Monthly Bill. SJVN and the Buying Entity shall instruct their respective bankers to make all payments under this Agreement to the Buying Entity' Designated Account or SJVN'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:

a) Subject to Article 2.1, 2.2, in the event of payment of a Monthly Bill by the Buying Entity beyond the Due Date, a Late Payment Surcharge (LPS) shall be payable by the Buying Entity to SJVN on the outstanding payment, at the base rate of Late Payment Surcharge applicable for the period for the first month of default. The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent (50 bps) for every month of delay provided that the Late Payment Surcharge shall not be more than three (3) percent higher than the base rate at any time.

   "Base rate of Late Payment Surcharge" means the marginal cost of funds-based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds-based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify. Provided, that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

   The parties acknowledge and accept that the Electricity (Late Payment Surcharge and related matters) Rules, 2022 notified by the Central Government in exercise of the power conferred by Subsection (1) of Section

176 of the Electricity Act, 2003 shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of BESSD(s), power not requisitioned by the Discom, the order of payment and adjustment towards late payment surcharge and indemnification. The above shall apply both in regard to the present agreement as well as on mutatis mutandi and back to back basis to the BESPA(s). The LPS Rules referred to hereinabove being statutory shall, to the extent applicable, supersede any provisions in this PSA and the BESPA(s) which are inconsistent or contrary to the provisions of the Rules.

The Late Payment Surcharge shall be claimed by SJVN through the subsequent monthly bill. All payments by the Buying Entity to SJVN for power procured from it shall be first adjusted towards Late Payment Surcharge and thereafter, towards monthly charges, starting from the longest overdue bill.

Order of payment and adjustment towards Late Payment Surcharge - All the bills payable by the Buying Entity to SJVN for the energy procured from it, shall be time tagged with respect to the date and time of submission of the bill and the payment made by the Buying Entity shall be adjusted first against the Late Payment Surcharge and thereafter the oldest bill and then to the second oldest bill and so on, so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid for.

b) If the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

2.4 Rebate

For payment of any Bill including Supplementary Bill on or before Due Date, the following Rebate shall be paid by the SJVN to Buying Entity in the following manner:

a) A Rebate of 1.5% shall be payable to the Buying Entity for the payments made within a period of 5 days of the date of presentation of bills through e- mail.

b) Any payments made beyond a period of 5 days upto and including the **30th** Day from the date of presentation of bills through email, shall be allowed a rebate of 1%.

c) Any payments made beyond a period of **30 days** upto and including the Due date from the date of presentation of bills through email, no rebate shall be allowed.

d) No Rebate shall be payable on the Bills raised on account of Change in Law (except in case of annuity tariff model being implemented, where rebate will be applicable), taxes, duties, cess etc., Late Payment Surcharge and transmission & scheduling related charges, RLDC/SLDC charges, CTU/STU charges, open access charges etc.

e) The bill receipt date shall be considered as zero date.

Illustration – For the invoice received through e-mail on the 1st January, the Due Date shall be the **15th February** considering the bill receipt date as zero date and 45th day as the Invoice Due Date.

2.5 Payment Security Mechanism

(A) Letter of Credit (LC):

2.5.1 The Buying Entity shall provide to SJVN, 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 Buying Entity, which may be drawn upon by SJVN in accordance with this Article. The Buying Entity shall provide SJVN draft of the Letter of Credit proposed to be provided to SJVN two (2) months before the Scheduled Commissioning Date (SCD)

2.5.2 Not later than one (1) Month before the Scheduled Commissioning Date (SCD), the Buying Utility shall through a scheduled bank at……………open a Letter of Credit in favour of SJVN, 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 renewed annually for an amount equal to:

i) equal to 110% of the estimated average monthly billing; for the first Contract year;

ii) equal to 110% of the average of the monthly billing of the previous Contract Year, for each subsequent Contract Year.

2.5.3 SJVN shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and shall not make more than one drawl in a Month provided that there are no outstanding dues.

2.5.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 2.5.2 due to any reason whatsoever, the Buying Entity shall restore such shortfall within seven (7) days of receipt of such information from SJVN.

2.5.5 The Buying Entity shall cause the scheduled bank issuing the Letter of Credit to intimate SJVN, in writing regarding establishing of such irrevocable Letter of Credit and any of the changes therein.

2.5.6 The Buying Entity shall ensure that the Letter of Credit shall be renewed not later than its expiry.

2.5.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by the Buying Entity.

2.5.8 If the Buying Entity fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 2.5.3 and 2.7 SJVN may draw upon the Letter of Credit and accordingly the bank shall pay without any reference or instructions from the Buying Entity, 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 Buying Entity;

ii) a certificate from SJVN 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 as per the provision of this PSA;

OR

(B) State Government Guarantee

The Buying Utility shall extend the State Government Guarantee, in a legally enforceable form, such that there is adequate security, both in terms of payment of energy charges and termination compensation if any [for the purpose of this clause, the Tri-Partite Agreement (TPA) signed between Reserve Bank of India, Central Government and State Government shall qualify as State Government Guarantee covering the security for payment of energy charges]. SJVN shall ensure that upon invoking this guarantee, it shall at once, pass on the same to the BESSD (s)/SPG(s), to the extent the payments to the BESSD (s)/SPG(s) in terms of the BESPA(s) are due.

It is hereby clarified that the State Government guarantee shall be invoked only after SJVN has been unable to recover its dues under the PSA by means of the Letter of Credit and the Payment Security Fund, if any.

2.6 Third Party Sales by SJVN

2.6.1 Notwithstanding anything to the contrary contained in this Agreement, SJVN shall be entitled to but not obligated to regulate availability of BESS Capacity to the Buying Entity in case of Default in making payment by the 30th day after the Due Date of the Buying Entity. SJVN shall issue the Notice for Regulation of Power Supply on the date above and shall give a notice of 15 days to start the regulation on the 16th day thereafter.

2.6.2 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 order to avoid any doubts, it is illustrated that:

In the event of a bill amounting to Rs. 25 Crore is unpaid to the extent of Rs. 10 Crore, SJVN would have a right to regulate and sell Buying Utility's allocation of the power to third parties to the extent of 40% (i.e. 10/25x100). SJVN/BESSD (s)/SPG 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;

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

Provided that such sale of BESS Capacity to third party shall not absolve Buying Entity from its obligation to pay in full to SJVN for the obligation for the purchase of Power as per Schedule-A & B of this Agreement and any other outstanding payment liability of Buying Entity as per this Agreement.

The rights of SJVN under this clause is without prejudice to other rights provided under the Agreement.

2.6.3 The gains from the diversion and sale of such BESS Capacity to third party, which shall be the difference between selling price of such power in the power exchange and the expense borne for such power sale including energy charges, transmission charges; other incidental charges and shall be adjusted in accordance with Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 and subsequent amendments thereof and the deficit if any shall be made good by the Buying Entity.

2.6.4 Sale to any third party shall cease and regular supply of electricity to the Buying Utility shall commence and be restored within five (5) days from the date of clearing all outstanding dues payable to SJVN for the Power under this Agreement.

2.6.5 Further, the liability of the Buying Entity to make the Tariff Payments to SJVN 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 BESSD(s) for usage by the Buying Entity.

2.6.6 Further, in such case, Buying Entity shall have the unconditional obligation to provide and facilitate all necessary clearances and support for the evacuation of power to the third party to whom the power is diverted and further to bear any and all incremental charges and losses including but not limited to application fee, connectivity/GNA/T-GNA, open access, ISTS charges & Losses, transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC. These obligations are assumed by the Buying Entity as being necessarily arising out of the failure to draw the power generated and duly discharge the payment obligation arising therefrom (applicable in case of STU connected Projects).

2.7 Disputed Bill

2.7.1 If the Buying Entity does not dispute a Monthly Bill or a Supplementary Bill raised by the other Party within fifteen (15) days of receiving such Bill, the same shall be taken as conclusive and binding.

2.7.2 If Buying Entity disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 100 % of the undisputed invoice amount and 75% of the disputed amount within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:

i) the details of the disputed amount;

ii) its estimate of what the correct amount should be; and

iii) all written material in support of its claim.

2.7.3 If the SJVN agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 2.7.2, the SJVN shall make appropriate adjustment in the next Monthly Bill. In such a case excess amount shall be refunded by SJVN to Buying Entity along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the Buying Entity and up to and including the date on which such payment has been received as refund. Similarly, in case, an amount becomes payable by the Buying Entity to SJVN from the disputed amount in the invoice after the dispute is resolved, then the same shall be paid along with interest at the same rate as Late Payment Surcharge, which shall be applied from the Due Date.

2.7.4 If SJVN does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 2.7.2 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.

2.7.5 Upon receipt of the Bill Disagreement Notice by the Buying entity under Article 2.7.4, authorized representative(s) or a director of the board of directors/ member of board of the Buying entity and SJVN shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

2.7.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 2.7.4, the matter shall be referred to Dispute resolution in accordance with governing Laws and Dispute resolution in BESPA(s).

2.7.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the Buying entity shall, without prejudice to its right to Dispute, be under an obligation to make payment of 100 % of the undisputed invoice amount and 75% of the disputed amount in the Monthly Bill.

2.8 Quarterly and Annual Reconciliation

2.8.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to quarterly reconciliation and adjustment, if any, within thirty (30) days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation and adjustment, if any, at the end of each Contract Year within thirty (30) days thereof to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

2.8.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the Buying Utility and SJVN shall jointly sign such reconciliation statement. After signing of a reconciliation statement, the SJVN shall make appropriate adjustments in the following Monthly Bill, with Surcharge/Interest, as applicable., Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or from the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16 of BESPA(s).

2.9 Contracted Capacity & penalty for shortfall

2.9.1 The provisions of Article 4.6 of the BESPA shall be applicable mutatis mutandis to this Agreement. BESSD, in any Contract Year except for the Contract Year ending on 31st March immediately after COD of the Project, shall not be obliged to supply / make available any BESS capacity beyond / over and above Contracted Capacity. After the declaration of UCOD / COD, Charging power for charging of the BESS Capacity shall be scheduled and supplied by the Buying Entity. In no case, Buying Entity shall demand / schedule any energy in excess of 85% of the energy scheduled considering minimum round-trip efficiency of the BESS being 85%. Schedule of charging and Discharging will be as per extant regulations / provisions.

Further, during a Day, Buying Entity shall not ask for / schedule any BESS capacity / Energy in excess of 02 (two) Operational Cycle i.e. 02(two) cycles of charge and discharge of 02 (two) hours each. Provided that, Buying Entity may, at its discretion, utilize the BESS by splitting each discharge cycle in maximum two sessions at rated power with minimum continuous duration of one hour in one session, subject to condition that total scheduled discharge of energy from BESS as demanded by the Buying Entity shall be limited to 85% of the energy supplied by the Buying Entity.

2.9.2 Subsequent to commissioning of the Project, for any Contract Year, the BESSD shall be required to maintain and demonstrate the following performance parameters:

a) Minimum Annual Average Availability of 95%: During any Contract Year for the Contracted Capacity, BESSD shall be required to maintain minimum annual average availability of 95%. Annual Average Availability shall be calculated as per methodology given in the RfS.

In case of shortfall in meeting the above criteria, the BESSD shall be levied liquidated damages for such shortfall and shall duly pay such damages to SJVN. Amount of such liquidated damages shall be twice the Capacity Charges (Capacity Charges shall mean Applicable Tariff as defined under Article 9 of the BESPA) for the capacity not made available.

The Minimum Annual Average Availability as specified above, shall however be relaxable by Buyer to the extent of grid non-availability for evacuation which is beyond the control of the BESSD (as certified by the SLDC/RLDC) and / or upon occurrence of Force Majeure event as identified in BESPA (and occurrence of such Force Majeure event(s) has been mutually agreed) and affecting availability and supply of Contracted Capacity.

b) Round Trip Efficiency: The BESSD shall maintain AC to AC roundtrip efficiency (RtE) of 85% for the system on monthly basis. Calculation of Round-Trip Efficiency shall be as per the methodology specified in RfS. The BESSD shall be liable for Liquidated Damages to the off-taker, if any, on account of excess conversion losses, based on the following conditions:

i) For RtE < 70%, there shall be a liquidated damage levied @ 1.5 times of the APPC tariff of last financial year applicable to the Buying Entity, levied upon excess conversion losses considering system RtE = 85%;

ii) For 70% ≤ RtE < 85%, there shall be a liquidated damage levied @ the APPC tariff of last financial year applicable to the Buying Entity, levied upon excess conversion losses considering system RtE = 85%.

2.9.3 BESSD shall be liable to pay compensation under the SJVN-BESSD to BESPA for any shortfall in performance requirement of BESS Capacity provided under Article 4.6.2 of the BESPA from the contracted capacity. The amount of such compensation shall be as determined as per the manner and methodology specified in the BESPA and such amount shall be passed on to the Buying Entity to offset for all potential costs associated with shortfall in performance requirement under the BESPA.

The lower limit i.e. min. monthly availability of the BESS being 95% i.e., however be relaxable to the extent of grid non-availability for evacuation which is beyond the control of the BESSD (as certified by the SLDC/RLDC). Further, no compensation shall be applicable in case of non-meeting of performance requirement as stipulated in BESPA in events of Force Majeure identified under BESPA with SJVN, affecting scheduling of BESS capacity.

2.10 Payment of Supplementary Bill

2.10.1 SJVN may raise a "Supplementary Bill" for payment on account of:

i) Change in Law as provided in Article 12 of BESPA(s), or
ii) Payment under Article 2.11 and other charges, if any.
iii) Any subsequent revision in energy account by concerned RLDC/SLDC, as applicable.

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

2.10.2 Buying Entity shall remit all amounts due under a Supplementary Bill raised by the SJVN to the SJVN's Designated Account by the Due Date.

2.10.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 2.3.

2.11 Compensation For Offtake Constraints:

2.11.1 <u>Compensation due to reduced offtake by the Procurer</u>

BESSD shall not be eligible for any compensation in case of reduced offtake of power (less than the contracted capacity) by the Buying Entity. However, for such cases also, the BESSD shall be liable to receive Applicable Tariff as per the provisions of BESPA and Buying Entity shall make such payment as per provisions of this Agreement.

ARTICLE- 3: EVENTS OF DEFAULT AND TERMINATION

3.1 Buying Entity Event of Default

3.1.1 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 Buying Entity Event of Default:

(i) Any amount (with respect to a Monthly Bill or a Supplementary Bill) subject to Article 2.7 remains outstanding beyond a period of ninety (90) days after the Due Date and SJVN is unable to recover the amount outstanding from the Buying Entity through the Letter of Credit, Payment Security Fund and; or

(ii) The Buying Entity fails to evacuate/off take power from the Delivery Points for a continuous period of one year.

(iii) if (a) the Buying Entity 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 Buying Entity, or (c) the Buying Entity 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 Buying Entity will not be a Buying Entity 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 Buying Entity and expressly assumes all obligations of the Buying Entity under this Agreement and is in a position to perform them; or

(iv) the Buying Entity repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from SJVN in this regard; or

(v) except where due to any Buying Entity's failure to comply with its material obligations, the Buying Entity is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the Buying Entity within thirty (30) days of receipt of first notice in this regard given by SJVN.

(vi) Occurrence of any other event which is specified in this Agreement to be a material breach/ default of the Buying Entity.

3.2 Procedure for cases of Buying Entity Event of Default

3.2.1 Upon the occurrence and continuation of any Buying Entity Event of Default under Article 3.1, SJVN shall have the right to deliver to the Buying Entity a notice, stating its intention to terminate this Agreement (SJVN Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

3.2.2 Following the issue of SJVN 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.

3.2.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.

3.2.4 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 SJVN may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the Buying Entity.

3.2.5 Subject to the occurrence and continuation of default by as contained under Article 3.1 and before expiry of time period of 30 days as per Clause 3.2.4,

3.2.6 Subject to the prior consent of the SJVN, the Buying Entity shall novate its part of the PSA to any third party, including its Affiliates within the period of 210 days beyond the period as per 3.2.4, In this case, the Procurer shall pay amount equivalent to 3 (three) months of energy billing based on the declared availability, or balance BESPA, period, whichever is less, for its contracted capacity, with the Project assets being retained by the BESSD, and exit from the BESPA/BESSA.

3.2.7 In the event the aforesaid novation is not acceptable to SJVN, or if no offer of novation is made by the defaulting Buying Entity, then SJVN on expiry of 30 days as provided in article 3.2.4 may terminate the BESSA and at its discretion require the defaulting Buying Entity 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 110% (one hundred and ten per cent) of the adjusted equity to BESSD less Insurance Cover, if any as per BESPA, or
ii) pay to the BESSD, damages, amount equivalent to the last 6 (six) months average billing, or balance BESPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the BESSD.

3.2.8 Further, in the event of termination of BESPA(s), any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall also be borne by the Buying Entity.

3.3 Termination due to Force Majeure

If the Force Majeure Event or its effects continue to be present beyond a period of 180 days; either Party shall have the right to cause termination of the Agreement. In case neither party terminates the Agreement under this clause, the Agreement shall stand terminated on the expiry of twelve (12) months of the continuation of the Force Majeure event without any further liability to either Party from the date of such termination unless the parties mutually agree to extend the Agreement for the further period.

3.4 Termination of back-to-back agreements

In case of termination of SJVN-BESSD BESPA(s), this Agreement shall automatically terminate to the extent of relevant SJVN-BESSD BESPA(s) Capacity. 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. In the event of termination of BESPA(s)/BESSA, any damages or charges payable to the STU/ CTU, for the connectivity of the Project, shall be borne by the entity due to whose failure, the termination was triggered.

ARTICLE-4: MISCELLANEOUS PROVISIONS

4.1 Amendment

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

4.2 Third Party Beneficiaries

4.2.1 This Agreement is solely for the benefit of the Parties, BESSD(s) 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.

4.3 Waiver

4.3.1 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.

4.3.2 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.

4.4 Confidentiality

4.4.1 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.

4.5 Severability

4.5.1 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.

4.6 Notices

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

4.6.2 If to the Buying Entity, 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:

Name :
Designation :
Address :
Email :
Fax. No. :
Tele. No. :

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

Name :
Designation :
Address : SJVN Limited, 6th Floor, Plate-B, NBCC Office Block Tower-1, East Kidwai Nagar, New Delhi-110023
Email : sjvn.reia@sjvn.nic.in
Fax. No. :
Tele. No. :

4.7 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.

4.8 The duly executed BESPA(s) between SJVN and BESSD(s) shall be attached to this Agreement and shall be read along with Agreement as a composite back-to-back process for BESS Capacity - to fulfill the Renewable Purchase Obligations or demand under the provisions of the Electricity Act, 2003 and the Regulations notified thereunder.

4.9 Not Used

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.

<table>
<tr><td>For and on behalf of
[SJVN]</td><td>For and on behalf of
[.......................]</td></tr>
<tr><td>Signature with seal</td><td>Signature with seal</td></tr>
<tr><td>Witness</td><td>Witness</td></tr>
<tr><td>Witness</td><td>Witness</td></tr>
</table>

SCHEDULE-A

SJVN-BESSD (s) BESPA(s)

SCHEDULE-B

(List of BESS Developers)