

Description	: CONTRACT - 22A(a)(i)
First Party	: Wana Adeel Abad [36502-1328298-9]
Second Party	: Azeem Arif [33100-1094252-3]
Agent	: Muhammad Umer Aulakh [34102-0107486-5]
Stamp Duty Paid by	: Azeem Arif [33100-1094252-3]
Issue Date	: 20-Oct-2020, 10:46:53 AM
Paid Through Challan	: ZQ20695F911F6332
Amount in Words	: One Thousand Two Hundred Rupees Only

Please Write Below This Line

**Power Purchase Agreement for Establishment of 300 KW Solar Power Generation Facility on BOT Basis at COMSATS UNIVERSITY ISLAMABAD, Sahiwal Campus, Sahiwal.**

This **AGREEMENT**, is made at Islamabad in duplicate on this 22 day of October, 2020 by and between:

**M/s DCH SOLAR GIGA PVT LTD**, a Private company limited by share incorporated under the companies act, 2017 with its registered address 56-B sector C commercial area near grand mosque, Bahria Town Lahore, Pakistan represented by its General Manger, (hereinafter called the "Seller", which expression shall, where the context so admits or requires, include its successors, agents and assigns) on the First Part; and

**COMSATS University Islamabad (CUI)**, Islamabad, a leading public sector university, established under a statute having seven campuses in different cities including Sahiwal campus under the administrative control of the Ministry of Science and Technology with its principal campus at Park Road, Tarlai Kalan, Islamabad (hereinafter referred to as the "Buyer" which expression shall where the contents admit include its successors in office, executors, administrators, authorized representatives and permitted assigns of the Second Part.

**WHEREAS**, the Buyer has the right to purchase electrical energy under applicable laws and regulations of the Pakistan; and

**WHEREAS**, the Seller has the right to sell independently produced electrical energy to Buyer; and







**WHEREAS:** The Seller will own and operate the power plant for 20 years and will be engaged in the production of Electricity.

**WHEREAS,** the Seller plans to build, commission, own and operate a 300 KW Nameplate Capacity Solar Photovoltaic Plant at COMSATS University Islamabad, Sahiwal campus (hereinafter called the "Facility"); and

**WHEREAS,** the Seller wishes to sell to the Buyer, and the Buyer wishes to purchase from the Seller, the electrical energy to be produced at the Facility, all pursuant to the terms and conditions as set forth in this Agreement.

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS**

**"Agreed Form"** in relation to any document means the form of the document agreed by the Seller and the Buyer and initialed by them for the purposes of identification;

**"Agreement"** means this Power Purchase Agreement, as may be amended, modified, supplemented or replaced from time to time;

**"Annual Energy"** means the energy produced by the Seller for the Buyer at the Power Delivery Point in a Year as per Schedule 3 (Annual Calculated Energy);

**"Applicable Law"** means any statute, law, treaty, rule, regulation or other legislation (including subordinated or delegated legislation), directive or policy (including any condition applying to a Consent) of any Governmental Authority having jurisdiction in respect of the Project or any party to this Agreement;

**"Bank Guarantee"** means a revolving payment security to be arranged by the Buyer through a reputable Bank in favour of the Seller within 30 days of signing of this Agreement pursuant to Section 8 (Security of Payment) and in a form acceptable to Seller;

**"Bank Guarantee Required Amount"** means PKR 3,659,504; (Three Million Six Hundred Fifty Nine Thousand Five Hundred Four Pakistani Rupees.

**"Capacity"** means maximum contracted electric power at any point in time, measured in MW, at the Delivery Point ;

**"Check Meter"** has the meaning ascribed to that term in the Grid Code, the location of which is to be agreed between the Seller and Buyer;

**"Commercial Operation Date"** or "COD" means the date that the Seller notifies the Buyer the Facility is Commissioned and Available to produce Energy;

**"Commissioning Notice"** means in relation to the Facility the notice to be given by the Seller to the Buyer;

**"Commissioning Period"** means, in relation to the Facility, the period from and including the date that the Seller gives in the Commissioning Notice up to the time of the Commercial Operation Date;

**"Commissioned"** in relation to the Facility means that it has started feeding in the Energy at the connection point and has been notified by the Seller to the Buyer by way of providing the Commissioning Notice to the Buyer and the term "Commissioning" shall be construed accordingly;

**"Conditions Precedent"** means the conditions precedent Section 4 (Conditions Precedent);







**"Consents"** mean any consent, license, approval, permit, no objection certificate or any other authorization of whatsoever nature which is required to be granted by any Governmental Authority for the purposes of the Project, including without limitation the ownership, construction, development and operation thereof;

**"Contracted Capacity"**: means the nameplate of the Facility being 300kW;

**"Construction Contract"** means the agreement or agreements to be entered into by the Seller for the design, manufacture, construction and Commissioning of the Project;

**"Construction Contractor"** means the party or parties to the Construction Contract other than the Seller;

**"Contracted Annual Energy"** has the meaning ascribed to it Section 2-d (Contracted Annual Energy);

**"Delivery Point"** means the physical point at which the Facility is connected to and at which the Seller delivers Energy to the Buyer as shown in the line diagram set out in Schedule 4 (Delivery Point);

**"Due Date"** in relation to any Invoice means the fifth (5th) day after the Invoice is received by the Buyer (or, if that day is not a Working Day, the immediately following Working Day);

**"Effective Date"** The Effective Date of this Power Purchase Agreement which is the date when the final project design is signed by both the Seller and the Buyer and its after signing of this power Purchase Agreement.

**"End Date"** shall mean the last day of the twentieth (20th) anniversary of the Commercial Operation Date, when the project shall be handed over free of charge to the Buyer;

**"Energy"** means active power measured in KWh or MWh, as applicable;

**"Energy Charge"** has the meaning ascribed to it in Section 6(Pricing);

**"Events of Default"** has the meaning ascribed to it in Section 17(Events of Default);

**"Existing Dispute"** has the meaning ascribed to it in Section 21 (Settlement of Disputes);

**"Facility"** has the meaning ascribed to it in the Preamble;

**"Force Majeure Event"** has the meaning ascribed to it in Section 11(Force Majeure);

**"Government"** means the Government of the Pakistan;

**"Governmental Authority"** means the Parliament of Pakistan or any ministry, statutory body or office, authority (including any regional, state, local or municipal authority) or division thereof or any quasi-governmental or independent regulatory body or any agency, inspectorate or corporation (other than the Buyer) owned, affiliated, operated, overseen, appointed or controlled by the Government of Pakistan, or any sub-division thereof (including any regional or local authority), or acting pursuant to authority granted to it by the Laws of Pakistan;

**"Grid Code"** means the prevailing National Electricity Grid Code of Pakistan;

**"Installation Date"** shall mean the date referred to in Section 5 on which all the Conditions Precedent are met;

**"Invoice"** has the meaning ascribed to it in Section 7 (Billing and Payment);

**"Invoice Dispute Notice"** has the meaning ascribed to it in Section 8 (Dispute and Payment);

**"kW"** means a kilowatt or one thousand watts (1,000 watts);



**"kWh"** means a kilowatt-hour;

**"Laws"** means any national, provincial or local law, orders, rules, regulations, bye-laws, statutory orders, statutory reversionary orders, executive orders, policies, judicial decisions, notifications, administrative decisions or other similar directives made pursuant thereto, or legally binding instructions, policies, guidelines, codes (industry or otherwise) or standards issued by any Governmental Authority, as any of them may be amended from time to time;

**"Laws of Pakistan"** means all Laws that apply in Pakistan;

**"Levelized Cost of Energy"** means the average rate of PKR11.08 per kilowatt-hour (kWh) excluding taxes for the entire Concession period. The payment schedule is attached at Schedule 5.

**"Main Meter"** has the meaning ascribed to the location which is agreed between the Seller and Buyer pursuant to the Connection Agreement;

**"Maximum Annual Energy"** means the maximum Annual Energy (expressed as MWh) that Seller expects to deliver to the Buyer pursuant to Schedule 3;

**"Minimum Annual Energy"** means the minimum Annual Energy (expressed as MWh) that Seller agrees to deliver to the Buyer pursuant to Schedule 3

**"Month"** means one calendar month;

**"MW"** means one thousand kW;

**"MWh"** means one megawatt-hour or one thousand kilowatt-hours;

**"Nameplate Capacity"** means installed generation capacity (expressed in kW or MW) of the Facility as defined by the generation equipment manufacturer;

**"Natural Event"** means each of the following events or circumstances occurring for whatever reason where such event is the predominant cause of the inability of a Party to perform, or causes a Party to have Increased Costs or Decreased Costs;

- (a) acts of God (including lightning, fire earthquake, flood, storm, floods, , tidal wave and);
- (b) epidemic, plague; and
- (c) explosion or chemical contamination (or than resulting from a Political Event);

**"PKR"** means the lawful currency of the Islamic Republic of Pakistan and the term **"PKR"** shall be construed accordingly;

**"Party"** or **"Parties"** means the entities executing this Agreement;

**"Power"** means electric power measured in kW or MW, as applicable;

**"Project"** means the ownership, development, design, financing, insurance, construction, commissioning, operation and maintenance of the Facility;

**"Quarter"** means a period of three consecutive calendar Months in a Year;

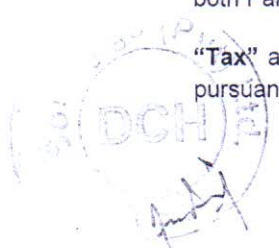
**"Scheduled Commercial Operation Date"** shall mean not later than one year after the Effective Date;

**"Scheduled Outage"** means, from and after the Commercial Operation Date, a planned interruption or reduction of the Capacity of the Facility that has been scheduled;

**"Seller Force Majeure"** means a Force Majeure that affects the Seller;

**"Signature Date"** shall be the date on which the Agreement is signed by the representatives of both Parties;

**"Tax"** all forms of taxation, duties, imposts, levies and rates whenever imposed and applicable pursuant to the Laws of Pakistan and the term **"Taxes"** shall be construed accordingly;





**"Tax Authority"** means any government, or other fiscal, revenue, customs or excise authority, body or official involved in the imposition, collection or assessment of Tax in Pakistan

**"Term"** shall mean the period of time starting at the COD of the Agreement and ending at the twentieth (20th) anniversary of the Commercial Operation Date

**"Total Electricity Charge"** has the meaning given in Section 6(Pricing);

**"Unscheduled Outage"** means, from and after the Commercial Operation Date, an interruption or reduction of the Capacity of the Facility that is not planned or a Scheduled Outage;

**"Working Day"** means any day of the week other than a Saturday, Sunday and or a Public Holiday on which banking institutions are required by law to remain closed in Pakistan; and

**"Year"** means each full 12-month period following the Commercial Operation Date.

Terms not otherwise defined in this Section 1 but defined elsewhere shall have the meanings ascribed to such terms in this Agreement.

## 2. SCOPE OF AGREEMENT

### a. Sale and Purchase of Energy

From and after the Commercial Operation Date and until the expiry or earlier termination of this Agreement, the Seller shall supply and deliver Energy to the Buyer and the Buyer shall receive and purchase 100% of the Energy produced and delivered by the Seller to the Delivery Point on the terms and conditions established by this Agreement.

The total time for completion of the project is 26 (Twenty Six) weeks from the Effective Date of the agreement. Furthermore, the vendor will be required to complete the process of net metering in 6 months after the commissioning of the project. Failure to do so will result in 25% deduction in the monthly bill of vendor. For the time between commissioning and net metering, the vendor shall be liable to switch off the system on weekends or as instructed by CUI, Sahiwal campus. The CUI, Sahiwal campus shall only pay for the electricity produced during working days during this time.

### b. Commissioning

Prior to the Commercial Operation Date, the Seller shall inform the Buyer regarding commissioning test period. The Buyer shall purchase the Energy produced during the commissioning period and pay the Seller under the terms established by this Agreement

### c. Delivery Point(s)

The Energy supplied under this Agreement shall be delivered at the Delivery Point(s). The ownership of and the risk of loss to the Energy delivered in accordance with this Agreement shall pass from the Seller to the Buyer at the Delivery Point(s).

### d. Contracted Annual Energy

- i. The Parties agree that the Contracted Annual Energy under this Agreement shall be in accordance with Schedule 3 (Annual Calculated Energy).
- ii. The Buyer shall have made all commercially reasonable efforts to receive the produced Energy;
- iii. This notwithstanding, the Parties acknowledge that in the first Year of operation starting from the Commercial Operation Date the actual Energy supplied by the Seller may be less than the Minimum Annual Energy.

### e. Components to be installed

The components shall be installed not less than the specifications mentioned in the tender document. Approval of the Buyer would be mandatory prior to installation of the components.



### 3. TERM OF AGREEMENT

Subject to Section 4, this Agreement shall be binding on the Parties hereto and upon the occurrence of Effective Date thereof, and it shall continue in force for a period of twenty (20) years from the Commercial Operation Date until the End Date unless extended in accordance with its terms.

### 4. CONDITIONS PRECEDENT TO START OF INSTALLATION OF PROJECT

The obligations in Sections 4.a (The Seller Conditions Precedent) and Sections 4.b (The Buyer Conditions Precedent) shall be binding on the Parties from the Signature Date to reach the Effective Date. Each Party shall use all reasonable endeavors to satisfy the Conditions Precedent for which it is responsible prior to Installation Date. A Party for whose benefit a Condition Precedent is given may waive the requirement for the satisfaction of that Condition Precedent prior to the Installation Date. Any such waiver shall be made in writing and signed by the Party giving the waiver. The Parties shall jointly certify the achievement of the Installation Date within five (5) Business Days after the occurrence of same.

#### a. The Seller Conditions Precedent

- i. The Seller shall have received the agreed Delivery point and final approved design of the solar system from Buyer;
- ii. The Seller shall have received the unconditional Agreement from Buyer regarding exclusive right to use the rooftop and other installation sites if required at Buyer location for 20 years.
- iii. The Seller shall have received the irrevocable Revolving Bank Guarantee from Buyer in accordance with this Agreement;
- iv. The Seller shall have received from the Buyer a written notice confirming that the Installation Date has occurred.

#### b. The Buyer Conditions Precedent

- v. The Buyer shall have received final design of the solar system from Seller;
- vi. The Buyer shall have received list of components to be installed;
- vii. The Buyer shall have received the schedule 3 (Annual Calculated Energy)
- viii. The Buyer shall have received the written notice from the Seller confirming that the Installation Date has occurred.
- ix. The Buyer shall receive the proposed delivery point and designs of the Solar System from the Seller.

### 5. COMMISSIONING AND COMMERCIAL OPERATION DATE

#### a. Buyer Cooperation

The Buyer shall cooperate with the Seller so as to enable the Seller to Commission the Facility in accordance with this Section 5 (Commissioning and Commercial Operation Date) and, in particular will, subject to any constraints on connection, assist in managing the interface with the concerned authorities in respect of the connection for Net metering and otherwise facilitate in terms of dispatch or providing the requisite load to the extent reasonably required by the Seller for such purposes.

#### b. Commercial Operation Date

The Facility shall be commissioned and the Commercial Operations Date shall occur within five (5) Working Days following the issuance of the Commissioning Notice by the Seller.



## 6. PRICING

### a. Total Energy Charge

The Total Energy Charge shall be the product of the agreed Levelized Cost of Energy and the Energy generated from the Facility and delivered to the Buyer at the Delivery Point(s) in kWh. The Total Energy Charge shall be invoiced monthly in the PKR to the Buyer and payable in PKR. The Energy Charge shall be exclusive of General Sales Tax (if applicable).

## 7. BILLING AND PAYMENT

### a. Billing Procedure

- i. Each Month, commencing with the Month following the Month in which the Commercial Operation Date occurs, the Seller shall submit an invoice (an "Invoice") to the Buyer or its designated agent by the 5th day of that Month in relation to the amounts due in respect of the preceding Month. The Invoice shall be paid within five working days of issuance.
- ii. The Invoice shall contain reasonably details set forth in Schedule 1 (Pro-Forma Invoice), including Total Energy Charge payable in PKR.
- iii. The Invoice shall apply any required GST charge or other applicable taxes applicable at the time of invoicing in respect of such invoice.

### b. Billing Dispute

- i. In the event that any or all amounts in an Invoice are disputed by the Buyer, the Buyer shall submit a justification for such dispute, including details of the basis for the dispute and the portion of the Invoice that is subject to such dispute, in writing (an "Invoice Dispute Notice") to the Seller prior to the Due Date for such Invoice.
- ii. If the Buyer does not issue a valid Invoice Dispute Notice prior to the Due Date of an Invoice, Buyer shall be required to pay that Invoice, but may subsequently issue an Invoice Dispute Notice within Ten (10) days from the Due Date, and if Buyer has not issued an Invoice Dispute Notice within such time such invoice shall be considered correct and complete and conclusive between the Parties in the absence of fraud or manifest error.
- iii. The Parties shall use their respective reasonable endeavors to resolve any dispute identified in an Invoice Dispute Notice as soon as reasonably practicable. In the event that within five (05) days of the delivery of a valid Invoice Dispute Notice the dispute regarding the Invoice is not resolved between the Parties, the Seller or the Buyer may refer the dispute to be resolved by arbitration pursuant to Section 21 (Settlement of Disputes)
- iv. If the Expert resolves that the amount disputed in the Invoice Dispute Notice is due and payable, the Expert shall confirm this in writing and the Buyer shall pay the amount within 21 days.

### c. Billing Error

- i. In the event that there is an error in the amounts billed in any Invoice submitted by the Seller, such error shall be rectified by the Seller within twenty one (21) days of the determination thereof.
- ii. Any erroneous amount paid to the Seller by the Buyer as a result of a billing error shall be refunded to the Buyer within twenty one (21) days. Any amount not paid by the Buyer to the Seller as a result of a billing error shall be invoiced by the Seller and paid by the Buyer within twenty one (21) days of receipt of such invoice.

### d. Payment



- i. The Total Energy Charge will be invoiced monthly in PKR and will be payable in PKR.
- ii. All amounts payable under this Agreement shall be paid on or before the Due Date to such account of the Seller as shall have been previously notified to the Buyer. If part of an Invoice is disputed by the Buyer pursuant to Section 7.b (Billing Dispute), the Buyer shall pay the undisputed amount of the Invoice on the Due Date.
- iii. Unless required by the Laws of Pakistan, all amounts payable under this Agreement shall be made free and clear from, and without any set-off, deduction or withholding on account of, any amount or Taxes.
- iv. The Seller shall be entitled to charge the Buyer interest at the Default Rate for any payment due to Seller from the Buyer that is overdue (i.e. beyond the Due Date) for at least fifteen (15) days.

## 8. SECURITY OF PAYMENT

If the CUI defaults in payment of electricity bills for consecutive three months, the Seller would have the right to encash the revolving Bank guarantee. The Seller shall add charges for dismantling of equipment in due amount to calculate the total claim against CUI.

## 9. STANDARD OF PERFORMANCE

### a. In performing its obligations under this Agreement the Seller undertakes:

- i. to operate and maintain the Facility in all material respects in accordance with the Prudent Utility Practices;
- ii. to operate and maintain the Facility in all material respects in accordance with the Prudent Utility Practices;
- iii. to maintain all Consents and approvals necessary for the Seller to fulfill its obligations under this Agreement;
- iv. to provide such assistance and information as the Buyer may reasonably require in connection with the Facility;

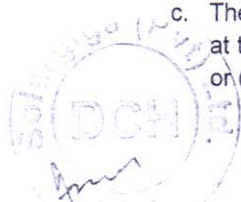
### b. In performing its obligations under this Agreement the Buyer undertakes:

- i. to maintain all Consents and approvals necessary for the Buyer to fulfill its obligations under this Agreement; and
- ii. to provide such assistance and support as the Seller may reasonably require in connection with the Seller's applications for net metering.

- c. The Parties will establish policies and procedures to maintain smooth operations, including in cases of Emergencies, and will periodically review and update such policies and procedures as required.

## 10. CONTINUITY OF SUPPLY

- a. The Seller shall stand ready to supply Energy in a continuous manner during the Term under conducive climatic conditions (of solar radiation), and shall do so in accordance with terms of this Agreement.
- b. The Seller, and Buyer use all reasonable efforts to remove or to assist in removing the cause of any interruption in the supply of Energy from the solar system with the minimum of delays, and, as soon as practicable, after the removal of any such cause, to resume or normalize the supply of Energy under the terms of this Agreement.
- c. The Seller shall have the right at all times to discontinue the supply of Energy to the Buyer at the Delivery Point(s) (a) without notice for the purpose of safe-guarding life or property, or (b) if instructed to do so by relevant DISCO, or (c) due to Seller Force Majeure Event; or





(d) upon giving 72 hours' notice for the purpose of maintenance, replacement or repair of the apparatus, equipment or works of the Seller. The Seller shall, where relevant, use its reasonable endeavours to ensure that all such interruptions shall be rectified as soon as reasonably practicable and, when possible, in coordination with the Buyer.

## **11. FORCE MAJEURE**

### **a. Definition of Force Majeure**

For the purposes of this Agreement, a "Force Majeure Event" means any circumstance, event or condition (or combination thereof) beyond the reasonable control, directly or indirectly, of the affected party ("Affected Party") but only to the extent that:

- i. Such circumstance, event or condition cannot be prevented, avoided or overcome by the Affected Party;
- ii. such circumstance, event or condition prevents the performance by the Affected Party of its obligations under or pursuant to this Agreement (save for payment obligations);
- iii. the Affected Party has taken all commercially reasonable precautions, due care and measures to prevent, avoid or overcome the effect of such circumstance, event or condition on its ability to perform the applicable obligation under this Agreement and to mitigate its consequences; and
- iv. such circumstance, event or condition is not the direct or indirect result of a material breach or failure by the Affected Party to perform the applicable obligation under this Agreement and shall include the following events or circumstances to the extent that they satisfy the preceding definitions:
  - a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, military or other usurpation of power, blockade, embargo, political revolution;
  - b) insurrection, civil commotion, sabotage or act of terrorism, after the signature Date;
  - c) an act of God including but not limited to lightning, earthquakes, volcanic activity, floods, storms;
  - d) epidemics, plagues or quarantines

### **b. Duty to Report Force Majeure Event**

The Affected Party, when claiming relief for a Force Majeure Event under this Section 11 (Force Majeure), shall notify the other Party in writing of the occurrence of a Force Majeure Event as soon as reasonably practicable/without any delay, and in any event within seven (7) days after the Affected Party becomes aware of its occurrence and that Force Majeure Event would be likely to have an impact on its performance of its obligations under this Agreement.

### **c. Any notice pursuant to Section 11.b (Duty to Report Force Majeure) shall set out full particulars of:**

- i. the nature of the events or circumstances constituting the Force Majeure Event which is the subject of any claim for relief under this Agreement;
- ii. the effect which such Force Majeure Event is having or is expected to have on the Affected Party's performance of its obligations under this Agreement; and
- iii. the measures which the Affected Party is taking, or proposes to take, to mitigate the impact of the Force Majeure Event.

### **d. For so long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with progress reports describing:**



- i. the measures which the Affected Party is taking, or proposes to take, to mitigate the impact of the Force Majeure Event; and
- ii. such other information as the other Party may reasonably request about the Affected Party's claim.

**e. Duty to Mitigate**

- i. For so long as an event of Force Majeure which is the subject of any claim under this Agreement is continuing, the Affected Party shall take such steps as are reasonably practicable in accordance with the Prudent Utility Practices to minimize the duration and severity of the impact of such Force Majeure Event and to restore the Affected Party's ability to perform its obligations under this Agreement as soon as reasonably practicable following the cessation of such Force Majeure Event.
- ii. With respect to the Seller only, if a Force Majeure Event occurs that impacts the Seller, such event may be invoked only with respect to the part of the Facility not so affected if it is capable of independent or partial operation in accordance with Prudent Utility Practice.

**f. Consequences of Force Majeure Events**

If the Affected Party claims relief in respect of a Force Majeure Event in accordance with this Section 11 (Force Majeure), then the Affected Party shall be deemed not to be in breach of its obligations under this Agreement to the extent that the events or circumstances constituting such Force Majeure Event prevent, delay or impede the Affected Party from performing such obligations.

**g. Extension of Long Stop Dates and Term**

Where an event of Force Majeure affecting the Buyer or the Seller (or any contractor or sub-contractor of the Seller of any tier), a breach by the Buyer of this Agreement, a breach by DISCO or other party that affects the Seller:

- i. Before the Long Stop Installation Date, the Scheduled Commercial Operation Date or the Long Stop Commercial Operation Date (or any of them), the respective dates which have not then occurred shall be revised on a week for week basis to new dates which reflect the period of delay in achieving the Installation Date, the Scheduled Commercial Operation Date or the Long Stop Commercial Operation Date resulting from such Force Majeure or breach of this Agreement;
- ii. after the Commercial Operation Date, the Term shall be extended on a day for day basis to the extent of delay resulting from such Force Majeure or breach of this Agreement.

**12. INSURANCE**

The Seller shall, and shall cause its Construction Contractor and O&M Contractor at their sole cost and expense, obtain and maintain, in full force and effect all typical and reasonable insurance policies with a level of cover being that as generally acting in accordance with Prudent Utility Practice, with such insurances being available on commercially reasonable terms, such insurance policies being placed with reputable insurance companies;

**13. ENERGY MEASUREMENT**

- a. The parties agree that the measurement of Energy from the Facility shall be done at delivery point(s).
- b. At the same metering point, one set of power meters of Seller (Principal Meter) and one set of power meters of the Buyer (Check Meter) shall be installed. The Principal meter and the Check Meter shall be clearly marked. During the operation of this Agreement, neither party can change the Principal or Check Meters without the other's prior approval. In normal instance, the Parties shall take the meter reading data of the Principal Meter as the basis of electricity calculation. The metering data





of the Check Meter will be used for cross-checking the readings of the Principal Meter, or in substitution for the Principal Meter when it becomes defective. The Principal Meter and the Check Meter shall be installed at the same metering point and the same metering circuit, and have the same accuracy levels and same inspection term.

- c. The accuracy of the measuring equipment shall be verified by a recognized independent authority at five (5) years intervals or whenever deemed necessary. The Seller shall give the Buyer written notice of the time and date of the verifications to be performed not less than five (5) days prior thereto. The Buyer shall have the right to participate in the verifications of the measurement devices.
- d. The point of measuring for billing purposes shall be at the Delivery Point(s). If the equipment for measuring at Delivery Point(s) is connected at a location other than the Delivery Point, the readings shall be corrected to give results such as would be obtained by instruments connected at the Delivery Point(s) and the corrections procedures shall be agreed upon by the Seller and the Buyer.
- e. The measurement device used for billing shall have at any time two seals, one installed by Buyer and the other installed by the Seller.
- f. Either Party shall have the right to request to test any measuring equipment in the presence of a representative of the other Party by giving to the other Party thirty (10) days prior notice in writing of the Party's desire to test the measuring equipment.
- g. The Party whose equipment is found to be defective shall within a reasonable time repair or replace and re test any meter or measuring equipment found after such verification to be defective.
- h. The technical alteration of the metering system can only be made after being approved in writing by both parties.

#### 14. METER READINGS

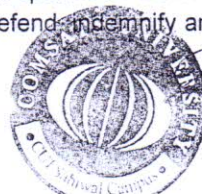
- a. The Buyer is entitled to reading the meters with the Seller at the end of each month at 12:00 PST or at a time agreed upon by the Parties for calculation of the electrical energy delivered.
- b. The records from the meters dated and duly signed in three original copies shall be taken and kept by the Seller, the Buyer.
- c. The records shall be kept and maintained by the Seller and the Buyer for at least five (5) years following the delivery of an Invoice.
- d. The date of the meter reading will be extended in case of holidays to the immediately following business day.
- e. If any one Party does not arrive for the meter reading within two hours after agreed time in Section 14.a the other party can proceed and read the meters, and such reading would be considered as consented by the Seller and the Buyer, which shall be used for Invoicing for that Month.
- f. In the event that the representative of the Buyer is not present, the Seller shall read the meters which would be counter checked by the Buyer at a later date.

#### 15. ADJUSTMENT OF MEASUREMENT DEVICES

In the event it is determined that the reading from any measuring devices has been inaccurate, the Party who owns such inaccurate devices shall correct the inaccuracy and adjust the readings of the affected devices and the appropriate billing correction shall be reflected in the next regular Monthly invoice delivered hereunder.

#### 16. INDEMNIFICATION AND LIABILITY

- a. A Party establishing or alleging a claim based on breach of contract, warranty, tort or otherwise arising out of or in connection with this Agreement shall be under a duty to take commercially reasonable efforts to mitigate the loss which has occurred, provided that it can do so without unreasonable inconvenience or unreasonable cost.
- b. Subject to the provisions of this Agreement specified hereunder, to the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the





other Party and affiliated companies, and those with whom it may be associated in a joint venture, and the directors, employees and agents of any of the foregoing, from and against any loss, damage, claim, suit, fine, liability, other cost of litigation and judgment thereon, arising out of breach of or non-compliance with this Agreement, personal injury or death in connection with the construction, operation and maintenance of the Facility, except to the extent that the breach, non-compliance, injury, death or damage is caused by the negligence and/or omission of the entity otherwise indemnified. To the event the injury or damage results from joint or concurrent negligent or intentional acts or omissions of the Parties, each Party shall be liable under this indemnification in proportion to its relative degree of fault.

- c. The other Party shall have the right, but not the duty, to participate in the defence of any such claim or suit.
- d. Any Party shall, as soon as practicable after receiving notice of any suit brought against it, deliver to the other Party, full particulars within its knowledge thereof and shall render all reasonable assistance requested by any Party in the defence of such suit.

## **17. EVENTS OF DEFAULT**

### **a. Defaults by the Seller**

If the Seller fails to supply the energy to the Buyer to the extent that over a period of continuous 12 Months, the aggregate energy supplied to the Buyer corresponds to less than 75% Availability over the same period, then the Seller shall be deemed to have defaulted under the Agreement. The Seller shall not be in default if the non-delivery of electricity or a shortfall in contracted annual energy is attributed to the following:

- i. Unavailability of the Grid;
- ii. Any failure or event of default or causes attributable to the Buyer;
- iii. Force Majeure;
- iv. Major maintenance
- v. Adverse weather patterns which significantly affect irradiation beyond a variation of up to 5% (unsettling point). Proposed maximum 5% variation from the calculated energy produced is allowed.

### **b. Defaults by the Buyer**

If the Buyer fails to pay for Energy delivered at the Delivery Point(s) within the time frame stipulated in this Agreement which is no payment of energy bills for three months, then the Buyer shall be deemed to have defaulted under the Agreement.

### **c. Consequences Upon Default**

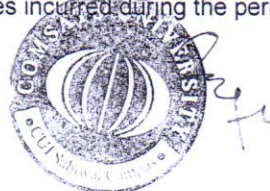
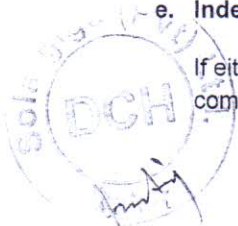
Once a default has occurred by either Buyer or Seller, the non-defaulting party has the right to request in writing that the other Party to remedy the default. After receipt of the notice of default, the defaulting party shall take immediate measures to remedy the default.

### **d. Penalty on the Seller**

The seller shall complete the project in stipulated time or apply for time extension with due justification. If the seller fails to complete the project in stipulated or extended time, then the Buyer shall have the right to impose penalty on the Seller for a maximum value of PKR 3,000,000. The Buyer can impose penalty of an amount equal to the average proposed energy output from solar system per day for the number of delayed days and upto a maximum value of 3,000,000 PKR. If the Seller backs out of the Project, maximum penalty shall be imposed.

### **e. Indemnification upon Default**

If either Party defaults, the other Party has the right to seek indemnification and request for compensation for all reasonable out of pocket losses incurred during the period of default.





## 18. TERMINATION

- a. This Agreement shall terminate on the End Date, which is 20 years after Commercial operation Date or as provided elsewhere in this Agreement.
- b. Termination upon default of the Seller
  - i. Upon the Seller's failure to remedy the default within the determined period, the Buyer may terminate this Agreement.
  - ii. Default on the part of the Seller shall not relieve the Buyer from the obligation of payments for Energy effectively supplied, less an amount equivalent to the Supplier's liabilities to the Buyer as a result of Seller's default.

### c. Termination upon default of the Buyer

If the CUI defaults in payment of electricity bills for consecutive three months, the Seller would have the right to encash the bank guarantee. The Seller shall calculate charges for dismantling of equipment in due amount to calculate the total claim against CUI. The remaining balance shall be returned to CUI prior to shifting of Solar Power Plant from the premises of CUI, Sahiwal.

### d. The termination upon other Grounds

Either Party shall have the right to terminate this Agreement upon the occurrence of the following:

- i. The other Party applies to be declared bankrupt or is in liquidation;
- e. Upon termination of this Agreement, the Parties shall agree on the appropriate compensation to a deserving Party. A defaulting Party shall not be entitled to any compensation. The applicable compensation shall consider the following:
  - i. The cost imposed on the other Party due to the default
  - ii. The willingness of the Buyer to purchase the Facility; and
  - iii. Any other factor deemed prudent for consideration by the Parties.
- f. In either case of termination the notice period in writing shall be of 6 months

## 19. WAIVERS

- a. Any waiver by the Seller or the Buyer shall be limited to the particular instance and shall not be deemed to waive any other right or remedy, or extend to any other matter under this Agreement or in any other way affect the validity of this Agreement.
- b. No delay or forbearance by either Party in exercising any right, power, privilege or remedy provided by law or under this Agreement shall operate to impair or be construed as a waiver of such right, power, privilege or remedy.
- c. Any waiver must be in writing, or if that is not practicable under exigent circumstances, reduced to writing as soon as practicable and delivered to the other party in the same manner as a Notice.

## 20. GOVERNING LAW

The governing law of this Agreement shall be the Laws of Islamic Republic of Pakistan and the courts in Islamabad shall exercise their jurisdiction in case of any controversy arising out of this Agreement..

## 21. SETTLEMENT OF DISPUTES

### a. Amicable Settlement

- i. If any dispute shall arise between the Parties hereto in connection with any matter arising out of this Agreement, the Parties shall use their best efforts to resolve the dispute and shall continue to deliver and receive Energy during such time.
- ii. If the dispute is not settled within the first 60 days after one Party declares in writing to the other the existence of the dispute, any of the Parties may declare in writing its intention to solve the dispute by means of arbitration.





**b. Arbitration**

- i. In the event a dispute remains unresolved for 30 days, the same shall be settled in accordance with the Arbitration Act, 1940, and judgment upon the award rendered by the arbitrators may be entered in any court in Islamabad having jurisdiction thereof:
- ii. The language of the arbitration shall be English.
- iii. The arbitral award and consequential orders shall be final, conclusive and binding on the Parties.
- iv. To the extent possible, the Parties shall continue to carry on with their obligations during the arbitration process.

**22. ASSIGNMENT**

- a. This Agreement can be assigned or sub-contracted by the Seller to a third party under the condition that the assigned party is obliged to fulfil the terms agreed in this agreement. However, the approval of the Buyer is mandatory.
- b. In case of assigning to the third party, to whom the Seller shall assign completely or partially its obligations under this agreement, then the Buyer shall only be obliged to the terms of this agreement.
- c. The Seller shall inform the Buyer in writing within 30 days of transfer of its rights to a third party under this agreement.

**23. AMENDMENTS**

- a. This Agreement and any of its provisions may not be amended except by mutual agreement of the Parties in writing.
- b. If any provisions of this Agreement or part thereof is rendered void, illegal or unenforceable in any respect under any law:
  - i. the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby;
  - ii. In the event that any part of this agreement is declared invalid or illegal or unenforceable, the Parties shall agree to amend this agreement so as to maintain as near as possible its original intent and effect.
- c. If the Seller or the Buyer believes it is necessary to amend this Agreement to reflect a Change in Law each Party, at its own cost, shall promptly negotiate in good faith new provisions to accommodate such Change in Law whilst maintaining as near as possible the original intent and effect of this Agreement.
- d. In the event that amendments are required, the Parties hereby agree to execute a separate amendment which will become a part of this Agreement and fully enforceable under the terms and conditions of this Agreement.

**24. SEVERABILITY**

If any provision of this Agreement is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original provision. If the remainder of this Agreement is not materially affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

**25. RELATIONSHIP OF THE PARTIES**

- a. It is expressly understood that the Buyer, on the one hand, and the Seller, on the other hand, intend by this Agreement to establish the relationship of independent contractors, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership between them or their respective successors in title.





- b. Neither the Buyer, on the one hand, nor the Seller, on the other hand, shall have any authority to create or assume, in the name or on behalf of the other Party, any obligation, expressed or implied, nor to act or purport to act as the agent or the legally empowered representative of the other Party hereto for any purpose whatsoever.

## 26. ENTIRE AGREEMENT

This Agreement contains and expressly refers to the entire agreement between the Parties with respect to its subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the Parties with respect to its subject matter and each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking by the other Party.

## 27. NOTICES

- a. All notices hereunder, including service of processes in relation to any legal proceedings commenced under this Agreement, shall be in writing and may be delivered or sent by registered mail or facsimile to the recipient at the address, and marked for the attention of the person, specified in Section 27 (Notices) and any such notice shall be deemed to have been duly given as follows:
- when delivered by hand, upon delivery at the address of the relevant Party, or when sent by registered mail, fourteen (14) days after the date of posting;
  - when sent by facsimile, upon confirmation of uninterrupted transmission by a transmission report provided that any notice given by facsimile shall be confirmed by a letter sent by hand or registered post, but without prejudice to the original facsimile notice if received in accordance with this Section
- b. The notice details of each Party for the purposes of this Agreement are:

### To the CUI (During Construction Phase)

Engr. Rao Zeeshan  
Senior Engineer (Electrical)  
P&D and HRD, Principal Seat  
COMSATS University Islamabad,  
Islamabad.

### To the CUI (During Operation and Maintenance Phase)

Rana Adeel Abad  
Deputy Registrar  
COMSATS University Islamabad,  
Sahiwal Campus.

### To the Seller:

The General Manager  
DCH Solargiga (Pvt.) Ltd  
3rd Floor 56-B, Sector C Commercial Area near Grand Mosque,  
Bahria Town Lahore, Pakistan

A Party may notify the other Party of a change in its notice details specified in Section 27 (Notices) and such notification shall be effective on the date specified in the notice or the date which is ten (10) days after the notice is given, whichever is the later.





IN WITNESS WHEREOF the parties hereto have hereunto caused this Agreement to be signed on their behalf by their authorized representatives on the day and year first above written..

**SIGNED, SEALED AND DELIVERED on behalf of**

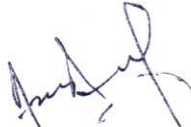
DCH Solargiga (Pvt) Ltd

Name: Mr. Azeem Arif

Title: Asst. General Manager

CNIC: 33100-1094252-3

In the presence of witness:

  
22/10/2020



Name M. Umar Fulaikh  
Address Bhacra Town Lahore  
Occupation/Title Finance Manager

**SIGNED, SEALED AND DELIVERED on behalf of**


Comsats University Islamabad

Name: Prof. Dr. Saleem Farooq Shaukat

Title: Director, COMSATS University Islamabad, Sahiwal Campus

CNIC: 35202-2727926-7

In the presence of witness:

  
22/10/2020



Name Rao Zeshan Aziz  
Address COMSATS University Islamabad  
Occupation/Title Senior Engineer



# SCHEDULE 1 PRO-FORMA MONTHLY INVOICE

From:

DCH SOLARGIGA (Pvt) Ltd.  
3rd floor 56-B Sector C commercial area  
Bahria Town Lahore, Pakistan

To:

Comsats University Islamabad

Invoice for [Insert Month and Year]

Invoice No.:

Invoice Date:

Invoice Due Date:

Line	PARAMETERS	UNIT	AMOUNT
a	Monthly Energy Delivery	KWh	
b	Specified Feed-In-Tariff (as agreed in PPA)	PKR/KWh	

TOTAL ELECTRICITY CHARGE			
c	Monthly Energy Charge (a X b)	PKR	
d	Applicable Taxes	PKR	
e	GST	PKR	-
TOTAL ENERGY CHARGE of THIS MONTH (OCT)		PKR	PKR
Add: OUTSTANDING BALANCE (September)		PKR	PKR
Deduct: ELECTRICITY CHARGE PAID THIS MONTH (OCT)		PKR	PKR
TOTAL ELECTRICITY CHARGE PAYABLE		PKR	PKR

INTEREST ON OVERDUE PAYMENT			
G	Amount of Overdue Payment	PKR	
ADD: INTEREST PAYABLE PRIOR BALANCE		PKR	PKR
Deduct: INTEREST PAID THIS MONTH		PKR	PKR
TOTAL INTEREST PAYABLE		PKR	PKR

ADDITIONAL AND DEDUCTABLE			
Additional: [Details Here]		PKR	
Deductible: [Details Here]		PKR	
TOTAL AMOUNT PAYABLE		PKR	

ATTACHMENT:

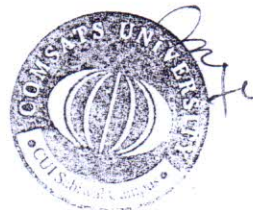
1. Meter Reading for [Insert Month and Year]





## SCHEDULE 2 - BANK GUARANTEE

To be provided and agreed by both Parties



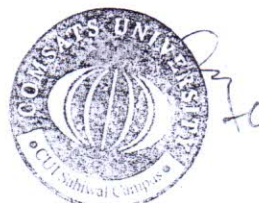


### SCHEDULE 3: ANNUAL CALCULATED ENERGY

Expected Electricity Output		
Year	Units Produced (kWh)	
1	451,500	
2	450,146	
3	448,795	
4	447,449	
5	446,106	
6	444,768	
7	443,434	
8	442,103	
9	440,777	
10	439,455	
11	438,136	
12	436,822	
13	435,512	
14	434,205	
15	432,902	
16	431,604	
17	430,309	
18	429,018	
19	427,731	
20	426,448	
<b>Total</b>	<b>20</b>	<b>8,777,219</b>

**Note:**

- From Year 2 of operation of the power plant after COD, the seller shall provide the annual calculated energy to the Buyer at the beginning of every single Year, not later than 10th of the first Month of the ensuing Year, starting after the first anniversary of the COD.
- The above figures are indicative and would be confirmed after Capacity Testing at Commercial Operation Date





#### SCHEDULE 4: DELIVERY POINT

The Delivery Point is shown in the Single-line Diagram below: TO BE PROVIDED



# SCHEDULE 5: Agreed Price of Electricity to be paid by Buyer

## Payment Schedule

Year	Units Produced (kWh)	Unit Price (PKR)	Cost of Unit (PKR)
1	451,500	16.00	7,224,000
2	450,146	16.00	7,202,328
3	448,795	16.00	7,180,721
4	447,449	16.00	7,159,179
5	446,106	16.00	7,137,701
6	444,768	16.00	7,116,288
7	443,434	16.00	7,094,939
8	442,103	16.00	7,073,655
9	440,777	16.00	7,052,434
10	439,455	16.00	7,031,276
11	438,136	6.00	2,628,818
12	436,822	6.00	2,620,932
13	435,512	6.00	2,613,069
14	434,205	6.00	2,605,230
15	432,902	6.00	2,597,414
16	431,604	6.00	2,589,622
17	430,309	6.00	2,581,853
18	429,018	6.00	2,574,108
19	427,731	6.00	2,566,385
20	426,448	6.00	2,558,686
Total	20	8,777,219	97,208,639

Average Unit Price

11.08

Both Parties agreed that the Buyer shall purchase electricity at a unit Price of 16 PKR for first 10 year of operation and 6 PKR during second 10 years of operation.





SCHEDULE 6  
SAMPLE BILLING METER READING SHEET

STATION  
DATE  
REPORT No:

SERVICE METER									
Metered Qty	Previous Dial Reading	Current Dial Reading	Current Energy Supplied	Previous Energy Supplied	Cumm. Energy Supplied	Previous Max. Demand	Current Max. Demand	Previous P.F.	Current P.F.
KWh									
KVARh									
KVAh									
CHECK METER									
KWh									
KVARh									
KVAh									

Reading Team:

Prepared By:

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
(DCH SOLARGIGA (Pvt) Ltd)

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
(DCH SOLARGIGA (Pvt) Ltd)

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
(COMSATS)

Approved By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
(Plant manager - (DCH SOLARGIGA (Pvt) Ltd))

Approved By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Signature: \_\_\_\_\_



SCHEDULE 7  
INDICATIVE PROJECT MILESTONES  
To be Provided





SCHEDULE 8  
SITE LAYOUT

