Power Purchase Agreement

for

Procurement of Power on Long Term Basis from Coal based Thermal Power Station to be setup near Talwandi Sabo at village Banawala, Distt.: Mansa, Punjab, India

between

Punjab State Electricity Board
(the Procurer)

And

Talwandi Sabo Power Limited
(the Seller)

(As per Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensee)

Long Term PPA (25 years)

TABLE OF CONTENTS

1ARTICLE 1: DEFINITIONS AND INTERPRETATION 6
2ARTICLE 2 : TERM OF AGREEMENT 22
3ARTICLE 3 : CONDITIONS SUBSEQUENT TO BE SATISFIED BY THE SELLER AND THE PROCURER 23
4ARTCLE 4 : DEVELOPMENT OF THE PROJECT 29
5ARTICLE 5 : CONSTRUCTION 36
6ARTICLE 6 : SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION 39
7ARTICLE 7 : OPERATION AND MAINTENANCE 43
8ARTICLE 8: CAPACITY, AVAILABILITY AND DISPATCH 44
9ARTICLE 9: METERING AND ENERGY ACCOUNTING 47
10ARTICLE 10: INSURANCES 48
11ARTICLE 11 : BILLING AND PAYMENT 49
12ARTICLE 12 : FORCE MAJEURE 60
13ARTICLE 13 : CHANGE IN LAW 66
14ARTICLE 14 : EVENTS OF DEFAULT AND TERMINATION 69
15ARTICLE 15 : LIABILITY AND INDEMNIFICATION 74
16ARTICLE 16: ASSIGNMENTS AND CHARGES 78
17ARTICLE 17: GOVERNING LAW AND DISPUTE RESOLUTION 80
18ARTICLE 18 : MISCELLANEOUS PROVISIONS 82
1. SCHEDULE 1: NAME AND DETAILS OF THE PROCURER 87
1A.SCHEDULE 1A: SITE 88
2SCHEDULE 2: INITIAL CONSENTS 89
3SCHEDULE 3: CALCULATION OF 'X' DAYS 90
4SCHEDULE 4: FUNCTIONAL SPECIFICATION 91
5SCHEDULE 5: COMMISSIONING AND TESTING 92
7 SCHEDULE 7: TARIFF 95
9.SCHEDULE 9: ESCALATION INDEX 102
10 SCHEDULE 10: REPRESENTATION AND WARRANTIES 103
11 SCHEDULE 11: QUOTED TARIFF 105

13. SCHEDULE 13: CONTRACTED CAPACITY 106
14. SCHEDULE 14: CAPITAL STRUCTURE SCHEDULE 107
15. SCHEDULE 15: FORMAT OF THE PERFORMANCE GUARANTEE... 108
16. SCHEDULE 16: SELECTED BID 110

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भारत INDIA

INDIA NON JUDICIAL

पंजाब PUNJAB

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This Agreement is made on the 01 day of September 2008

Between

Punjab State Electricity Board, a Board established under The Electricity (Supply) Act, 1948, having its Head office at The Mall, Patiala – 147 001, Punjab, India (hereinafter reffered to as the Procurer, which expression unless repugnant to the context or meaning thereof shall be deemed to include its successors, and permitted assigns) of the first part;

and

Talwandi Sabo Power Limited, a company incorporated under the Companies Act, 1956, having its registered office at PSEB Building, The Mall, Patiala – 147 001, Punjab, India, (hereinafter referred as the Seller, which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns) of the other part

(the Procurer and Seller are individually referred as Party and collectively as the Parties)

Whereas:

A. The Procurer has identified the Project namely, Talwandi Sabo Thermal Power Project , to be set up near Talwandi Sabo at village Banawala, Distt:

01/09/08

Mansa, Punjab, India based on domestic coal on the land provided by the Govt. of Punjab, details of which are as set out in the Schedule 1A.

B. The Authorised Representative has completed the initial studies as contained in Project Report; to obtain Initial Consents required for the Project which are set out in Part 1 of Schedule 2 and are to be made available to the Seller on the Effective Date.

C. In accordance with the Competitive Bidding Guidelines (as defined hereunder), the Authorised Representative, had initiated a competitive bidding process through issue of RfQ and RfP for selecting a Successful Bidder to build, own, operate and maintain the Project .

D. Pursuant to the said bidding process, Sterlite Energy Limited, has been identified by the Authorised Representative, as the Selected Bidder to construct the Project for a Contracted Capacity (as defined hereunder) of 1841.4 MW and sale and supply of electricity in bulk therefrom to the Procurer in accordance with the terms of this Agreement.

E. As envisaged in the RfP, the Parties have agreed to sign this Power Purchase Agreement setting out the terms and conditions for the construction, operation and maintenance of the Project, sale of Contracted Capacity and supply of electricity by the Seller to the Procurer.

F. All the other RfP Project Documents have been executed by the Procurer and the Seller simultaneously with the signing of this Agreement.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the Parties as follows:

1 ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under, including those issued/framed by Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time.

The following terms when used in this Agreement shall have the respective meanings, as specified below:

"Act" or "Electricity Act 2003"	means the Electricity Act 2003 or any amendments made to the same or any succeeding enactment thereof;
"Agreed Form"	means, in relation to any document, the form of the said document most recently agreed to by the Parties and initialled by them for identification;
"Agreement" or "Power Purchase Agreement" or "PPA"	means this document including its recitals and Schedules;
"Appropriate Commission"	means the Central Electricity Regulatory Commission constituted under the Electricity Act, 2003; or such other succeeding authority or commission as may be notified by Government of India from time to time;
"Contracted Capacity"	means the Contracted Capacity allocated to the Procurer as provided in Schedule 13 hereof, subject to adjustment as per the terms of this Agreement;
"Authorised Representative"	shall mean Talwandi Sabo Power Limited , the body corporate authorised by the Procurer to carry out the Bid Process for the selection of the Successful Bidder on their behalf.
"Availability Based Tariff" or "ABT"	Shall mean all the regulations contained in the Central Electricity Regulatory Commission (terms and conditions of Tariff) Regulations, 2004, as amended or revised from time to time, to the extent applied as per the terms of this Agreement;
"Availability Factor" or "Availability"	shall have the meaning ascribed thereto in ABT (provided that in place of Installed capacity and Normative auxiliary consumption it shall be Contracted Capacity).
"Available Capacity"	shall have the meaning ascribed thereto in ABT;

"Bid"	shall mean Non-Financial Bid and Financial Bid submitted by the Selected Bidder, in response to the RfP, in accordance with the terms and conditions of the RfP;
"Bid Documents" or "Bidding Documents"	means the RfQ and RfP along with all its attachments and any amendments thereto or clarifications thereof.
"Bid Deadline"	shall mean the last date for submission of the Bid in response to the RfP, specified in Clause 2.8.1 of the RfP;
"Bidding Guidelines" or "Competitive Bidding Guidelines"	shall mean Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees, issued by Ministry of Power, Government of India under The Electricity Act, 2003 on January 19, 2005 and as amended from time to time till Bid Deadline;
"Bill Dispute Notice"	means the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
"Business Day"	means with respect to Seller and the Procurer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in the State in which the concerned Procurer's registered office is located;
"Capacity Charge" or "Capacity Charges"	shall have meaning ascribed thereto in Schedule 7;
"Capacity Notice"	shall have the meaning ascribed thereto under ABT or the Grid Code;
"Capital Cost"	means the lower of the following: (a) actual capital cost of the Project on a relevant date which shall not be later than the Commercial Operation Date of the Power Station, as certified by the auditors appointed jointly by the Seller and Procurer; or (b) total cost of the Project as set forth in the Financing Agreements, provided that Capital Cost shall always exclude cost overruns arising due to a Seller Event of Default, or portions of costs due to events for which compensation has been received by Seller from the Procurer or Insurers or Third Parties; Provided further that the Capital Cost in relation to a Unit shall be the total Project Cost allocated in proportion to the Contracted Capacity of the said Unit.
"Capital Structure Schedule"	shall mean sources of finance used to finance the Capital Cost as provided in the Financing Agreements;

"Central Transmission Utility" or "CTU"	shall have the meaning ascribed thereto in the Electricity Act, 2003;
"CERC"	means the Central Electricity Regulatory Commission, as defined in the Electricity Act, 2003, or its successors;
"Change in Law"	shall have the meaning ascribed thereto in Article 13.1.1;
"Commercial Operation Date" or "COD"	means, in relation to a Unit, the date one day after the date when the Procurer receives a Final Test Certificate of the Independent Engineer as per the provisions of Article 6.3.1 and in relation to the Power Station shall mean the date by which such Final Test Certificates as per Article 6.3.1 are received by the Procurer for all the Units;
"Commissioning" or "Commissioned" with its grammatical variations	means, in relation to a Unit, that the Unit or in relation to the Power Station, all the Units of the Power Station have passed the Commissioning Tests successfully;
"Commissioning Tests" or "Commissioning Test"	means the Tests provided in Schedule 5 herein;
"Commissioned Unit"	means the Unit in respect of which COD has occurred;
"Construction Contractor/s"	means one or more main contractors, appointed by the Seller to design, engineer, supply, construct and commission the Project;
"Construction Period"	means the period from (and including) the date upon which any Construction Contractor is instructed or required to commence work under the Construction Contract up to (but not including) the Commercial Operation Date of the Unit in relation to a Unit and of all the Units in relation to the Power Station;
"Consultation Period"	means the period, commencing from the date of issue of a Seller Preliminary Default Notice or a Procurer Preliminary Default Notice as provided in Article 14 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances
"Contract Year"	means the period beginning on the Effective Date (as defined hereunder) and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that : (i) in the financial year in which Scheduled COD of the first Unit would have occurred, a Contract Year shall end on the date immediately before the Scheduled COD of the first Unit and a new Contract Year shall begin once again from the Scheduled Commercial Operation Date of the first Unit and end on immediately succeeding March 31 and provided

further that

(ii) the last Contract Year of this Agreement shall end on the last day of the term of this Agreement;

Provided that for the purpose of payment, the tariff will be the Quoted Tariff for the applicable Contract Year as per Schedule 11;

"Contracted Capacity" means

a) (i) for the first Unit, 613.8 MW; (ii) for the second Unit, 613.8 MW; and (iii) for the third Unit,613.8 MW, rated net capacity at the Interconnection Point, and in relation to the Power Station as a whole means 1841.4 MW rated net capacity at the Interconnection Point as mentioned in the Selected Bid.

b) in case the Seller exercises its option as per Article 3.1.1A, the rated net capacity expressed in MW of each Unit and Power Station, up to the maximum of the Contracted Capacity demanded in the RfP. .

or

such rated capacities as may be determined in accordance with Article 6.3.4 or Article 8.2 of this Agreement;

"Control Centre" or "Nodal Agency" means the RLDC or SLDC or such other load control centre designated by the Procurer from time to time through which the Procurer shall issue Dispatch Instructions to the Seller for the Power Station;

"Debt Service" means the amounts which are due under the Financing Agreements by the Seller to the Lenders, expressed in Rupees (with all amounts denominated in currencies other than Rupees being converted to Rupees at the Reference Exchange Rate, the selling rate in Rupees for the Foreign Currency on the relevant day, as notified by the State Bank of India as its TT Rate at 12:00 noon on the Notice to Proceed);

"Declared Capacity" In relation to a Unit or the Power Station at any time means the net capacity of the Unit or the Power Station at the relevant time (expressed in MW at the Interconnection Point) as declared by the Seller in accordance with the Grid Code and dispatching procedures as per the Availability Based Tariff;

"Declared Price of Land" means the amount as mentioned in the RfP by the Procurer, at which the identified land for the Site will be transferred to the Seller;

"Delivery Point " or "Interconnection Point" means the points of delivery specified in Schedule 8 for fulfilling the obligation of the Seller to deliver the Contracted Capacity to the Procurer;

"Direct Non-Natural Force Majeure Event"	shall have the meaning ascribed thereto in Article 12.3(ii)(1).
"Dispute"	means any dispute or difference of any kind between a Procurer and the Seller or between the Procurer and the Seller, in connection with or arising out of this Agreement including any issue on the interpretation and scope of the terms of this Agreement as provided in Article 17;
"Dispatch Instruction"	means any instruction issued by the Procurer through the respective SLDC and RLDC to the Seller, in accordance with applicable Grid Code and this Agreement;
"Due Date"	means the thirtieth (30th) day after a Monthly Bill or a Supplementary Bill is received and duly acknowledged by any Procurer (or, if such day is not a Business Day, the immediately succeeding Business Day) by which date such bill is payable by the said Procurer;
"Effective Date"	means the date of signing of this Agreement by the Parties;
"Electricity Laws"	means the Electricity Act, 2003 and the rules and regulations made thereunder from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Electrical Output"	means the net electrical output of the Power Station at the Delivery Point, as expressed in kWh;
"Emergency"	means a condition or situation that, in the opinion of the Procurer or RLDC or SLDC or the agency responsible for operating and maintaining the Interconnection and Transmission Facilities or the transmission company, as the case may be, poses a significant threat to the Procurer's or the said agency's or transmission company's ability to maintain safe, adequate and continuous electricity supply to its customers, or seriously endangers the security of persons, plant or equipment;
Energy Charges	Shall have the meaning ascribed to this term under Schedule 7;
"Expiry Date"	means the 25th anniversary of the Commercial Operation Date of the Power Station. For the avoidance of doubt, in case the COD of the Power Station occurs on June 1, 2013, then the 25th anniversary of the Scheduled COD of the Power Station shall occur on June 1, 2038, i.e. in the Contract Year 2038-39;
"Final Test Certificate"	Means a) a certificate of the Independent Engineer certifying and accepting the results of a Commissioning Test/s in accordance with Article 6.3.1 of this Agreement; or

b) a certificate of the Independent Engineer certifying the result of a Repeat Performance Tests in accordance with Article 8.2.1 of this Agreement;

"Financial Closure" or "Financial Close"	Means the execution of all the Financing Agreements required for the Project and fulfilment of conditions precedents and waiver, if any, of any of the conditions precedent for the initial draw down of funds there under;
"Financing Agreements"	means all the loan agreements, notes, indentures, security agreements, letters of credit and other documents relating to the financing of the Project on or before the COD of the Power Station, as may be amended, modified, refinanced or replaced from time to time, but without in anyway increasing the liabilities of the Procurer therein;
"Force Majeure"	shall have the meaning ascribed thereto in Article 12.3;
"Forced Outage"	shall have the meaning ascribed thereto in Grid Code;
"Fuel"	means primary fuel used to generate electricity namely, domestic coal ;
"Fuel Supply Agreements"	means the agreement(s) entered into between the Procurer and the Fuel Supplier for the purchase, transportation and handling of the Fuel, required for the operation of the Power Station. In case the transportation of the Fuel is not the responsibility of the Fuel Supplier, the term shall also include the separate agreement between the Procurer and the Fuel Transporter for the transportation of Fuel in addition to the agreement between the Procurer and the Fuel Supplier for the supply of the Fuel;
"Functional Specifications"	means the technical requirements and parameters described in Schedule 4 of this Agreement and as provided in Grid Code relating to the operation, maintenance and dispatch of any Unit and the Power Station;
"Grid Code" or "IEGC"	means any set of regulations or codes issued by Appropriate Commission as amended and revised from time to time and legally binding on the Sellers' and Procurer's governing the operation of the Grid System or any succeeding set of regulations or code;
"Grid System"	means the Interconnection and Transmission Facilities and any other transmission or distribution facilities through which the Procurer supply electricity to its customers or the transmission company transmits electricity to the Procurer;
"Independent Engineer"	means an independent consulting engineering firm or group appointed by the Procurer) and the Seller to carry out the functions in accordance with Article 4.7.1 and Article 6, Article 12 and Article 8 herein.

provided that separate Independent Engineer may be appointed for the purposes of Article 4.7.1, Article 6, Article 12 and Article 8;

provided further that the separate Independent Engineer may be appointed for each financial year for the purposes of Article 8, and in such case, such Independent engineer shall be appointed at least ninety (90) days prior to the beginning of the financial year.

"Indirect Non-Natural Force Majeure Event"	Shall have the meaning ascribed thereto in Article 12.3(ii)(2).
"Indian Governmental Instrumentality"	means the GOI, Government of Punjab and any ministry or, department or board or agency other regulatory or quasi-judicial authority controlled by GOI or Government of the State where the Procurer and Project are located and includes the Appropriate Commission;
"Initial Consents"	Shall mean the consents listed in Schedule 2;
"Initial Performance Retest Period"	shall have the meaning ascribed thereto in Article 6.3.3 of this Agreement;
"Interconnection Facilities" or "Interconnection and Transmission Facilities"	Means the facilities on the Procurer's side of the Interconnection Point for receiving and metering Electrical Output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers and associated equipment, relay and switching equipment and protective devices, safety equipment and, subject to Article 9, the Metering System required for the Project. The Interconnection Facilities also include the facilities for receiving power at the Delivery Point where the transmission line from the Power Station Switchyard end is injecting power into the transmission network (including the dedicated transmission line connecting the Power Station with the transmission/CTU network) ;
"Invoice" or "Bill"	means either a Monthly Tariff Invoice, a Supplementary Invoice or a Procurer Invoice;
"Late Payment Surcharge"	shall have the meaning ascribed thereto in Article 11.3.4;

"Law"	means, in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include all rules, regulations, decisions and orders of the Appropriate Commission ;
"Lenders"	means the banks, other financial institutions, multilateral agencies, RBI registered non banking financial companies, mutual funds and agents or trustees of debenture / bond holders, including their successors and assignees, who have agreed as on or before COD of the Power Station to provide the Seller with the senior debt financing described in the Capital Structure Schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned: Provided that, such assignment or transfer shall not relieve the Seller of its obligations to the Procurer under this Agreement in any manner and shall also does not lead to an increase in the liability of the Procurer;
"Letter of Credit" or "L/C"	shall have the meaning ascribed thereto in Article 11.4.1;
"Meters" or "Metering System"	Means meters used for accounting and billing of electricity in accordance with Central Electricity Authority (Installation and Operations of Meters) Regulations, 2006, Grid Code and ABT, as amended from time to time;
"Maintenance Outage"	shall have the meaning as ascribed to this term as per the provisions of the Grid Code.
"MCR"	means gross Power Station or Unit Maximum Continuous Rating as defined in the Grid Code;
"Month"	Means a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Monthly Bill" or "Monthly Invoice"	Means a monthly invoice comprising Capacity Charges (applicable after COD of the first unit) and Energy Charges, including incentive and penalty, as per Schedule 7 hereof;
"Notice to Proceed" or "NTP"	Means the date on which the Seller shall fulfill the condition as contained in Article 3.1.2 (iii) of this Agreement in accordance with the provisions of this Agreement.

"Natural Force Majeure Event"	Shall have the meaning ascribed thereto in Article 12.3(i).
" Non-Natural Force Majeure Event"	Shall have the meaning ascribed thereto in Article 12.3(ii).
"Normative Availability"	Means equal to eighty per cent (80%) Availability at the Delivery Point on Contract Year basis. This shall be aligned to the level specified in the tariff regulations of the Central Electricity Regulatory Commission (CERC) prevailing at the time of the Bid process .
"Operating Period"	in relation to the Unit means the period from its COD and in relation to the Power Station the date by which all the Units achieve COD, until the expiry or earlier termination of this Agreement in accordance with Article 2 of this Agreement;
"O&M Contract" or "O&M Contracts"	Means the contract/s entered into by the Seller with the Operator or Operators, if any;
"Operating Procedures"	Shall have the meaning ascribed thereto in Grid Code;
"Operator" or "Operators"	Means one or more contractors appointed as operator of power generation facilities of the Power Station pursuant to an O&M contract, if any;
"Party" and "Parties"	Shall have the meaning ascribed thereto in the recital to this Agreement;
"Performance Guarantee"	Means the irrevocable unconditional bank guarantee, submitted and to be submitted by the Seller or by the Selected Bidder on behalf of the Seller to the Procurer from a bank mentioned in Annexure 12 of the RfP, in the form attached hereto as Schedule 15, in accordance with Article 3 of this Agreement and which shall include the additional bank guarantee furnished by the Seller under this Agreement;
"Performance Test "	Means the test carried out in accordance with Article 1.2 of Schedule 5 of this Agreement;
"Preliminary Default Notice"	Shall have the meaning ascribed thereto in Article 14 of this Agreement;
"Power Station"	Means the: (a) domestic coal based power generation facility comprising of any or all the Units; (b) any associated fuel handling, treatment or storage facilities of the power generation facility referred to above;

(c) any water supply, treatment or storage facilities required for the operation of the power generation facility referred to above;

(d) the ash disposal system including ash dyke;

(e) township area for the staff colony; and

(f) bay/s for transmission system in the switchyard of the power station,

(g) all the other assets, buildings/structures, equipments, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility;

whether completed or at any stage of development and construction or intended to be developed and constructed as per the provisions of this Agreement.

"Project" means the Power Station undertaken for design, financing, engineering, procurement, construction, operation, maintenance, repair, refurbishment, development and insurance by the Seller in accordance with the terms and conditions of this Agreement;

"Project Documents" Mean

a) Construction Contracts;
b) Fuel Supply Agreements including the Fuel Transportation Agreement;
c) O&M contracts;
d) RfP and RfP Project Documents; and
e) any other agreements designated in writing as such, from time to time , jointly by the Procurer and the Seller;

"Prudent Utility Practices" means the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment of the type specified in this Agreement and which practices, methods and standards shall be adjusted as necessary, to take account of:

a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Project;
b) the requirements of Indian Law; and

c) the physical conditions at the Site;

"Quoted Capacity Charge"	Shall mean the sum total of Quoted Non Escalable Capacity Charge and Quoted Escalable Capacity Charge;
"Quoted Energy Charge"	Shall mean the Charge derived from the Net Quoted Heat Rate (kCal/kWhr) ;
"Quoted Non Escalable Capacity Charge"	shall have the meaning as ascribed thereto in Schedule 11;
"Quoted Escalable Capacity Charge"	shall have the meaning as ascribed thereto in Schedule 11;
"Quoted Net Heat Rate"	shall have the meaning as ascribed thereto in Schedule 11;
"Quoted Tariff"	Shall mean the sum total of Quoted Energy Charges and Quoted Capacity Charge;
"Repeat Performance Test "	Shall have the meaning ascribed thereto in Article 8.1 of this Agreement;
"Revised Scheduled COD"	Shall have the meaning as ascribed thereto in Article 3.1.2 **(viii) and (ix).**
"RPC"	Means the relevant Regional Power Committee established by the Government of India for a specific Region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that Region;
"RBI"	Means Reserve Bank of India;
"Regional Energy Accounts" or "REA"	Means as defined in the Grid Code and issued by the relevant RPC secretariat or other appropriate agency for each Week and for each Month (as per their prescribed methodology), including the revisions and amendments thereof;
"RLDC"	Means the relevant Regional Load Dispatch Centre as defined in the Electricity Act, 2003, in the region in which the Project is located;
"RfP"	shall mean Request for Proposal dated 18.1.2008 along with all schedules, Annexures and RfP Project Documents attached thereto, issued by the Procurer/Authorised Representative and shall include any modifications, amendments or alterations thereto.
RfP Project Documents	shall mean the following documents to be entered into in respect of the Project, by the parties to the respective agreements:

a) PPA;
b) Default Escrow Agreement;

c) Agreement to Hypothecate cum Deed of Hypothecation;
d) Share Purchase Agreement and
e) any other agreement(s) designated as such, from time to time by the Procurer/Authorised Representative;

"RfQ" shall mean the Request for Qualification document issued by Talwandi Sabo Power Limited for Tariff Based Bidding Process for Procurement of Power on Long-Term Basis from Power Station to be setup near Talwandi Sabo at village Banawala, Distt. Mansa, Punjab and shall include any modifications, amendments or alterations thereto and clarifications issued regarding the same;

"Rupees" or "Rs." Means the lawful currency of India;

"SBAR" means the prime lending rate per annum applicable for loans with one (1) year maturity as fixed from time to time by the State Bank of India. In the absence of such rate, any other arrangement that substitutes such prime lending rate as mutually agreed to by the Parties;

"Selectee" means a new company (i) proposed by the Lenders pursuant to Schedule 17 hereof and approved by the Procurer (ii) or proposed by the Procurer in accordance with Schedule 17 hereof and approved by the Lenders, for substituting the Seller for the residual period of the PPA by amendment of the PPA or by execution of a fresh PPA in accordance with the terms and conditions contained in the said Schedule.

"Selected Bid" means the Bid of the Selected Bidder as accepted by Procurer or its Authorised Representative, copy of which is attached herewith and marked as Schedule 16;

"Selected Bidder" or "Successful Bidder" shall mean the Bidder selected pursuant to the RfP to set up the Project and supply electrical output therefrom to the Procurer through the Seller as per the terms of PPA and other RfP Project Documents;

"SERC" means the State Electricity Regulatory Commission, as defined in the Electricity Act, 2003, or its successors;

"Scheduled COD" or "Scheduled Commercial Operation Date" **means (i) for the first Unit, 31st August 2012; (ii) for the second Unit, 31st December 2012;and (iii) for the third Unit, 30th April 2013 or such other dates from time to time, specified in accordance with the provisions of this Agreement;**

"Scheduled Connection Date"	Shall mean the date falling 210 days before the Scheduled COD of first Unit;
"Scheduled Energy" or "Scheduled Generation"	Means scheduled generation as defined in the ABT;
"Scheduled Outage"	shall have the meaning ascribed to this term as per the provisions of the Grid Code;
"Scheduled Synchronisation Date"	means in relation to a Unit, the date, which shall be maximum of one hundred and eighty (180) days prior to the Scheduled COD of the respective Unit;
"Settlement Period"	means the time block for issue of daily generation and drawal schedules as provided in ABT;
"Share Purchase Agreement" or "SPA"	shall mean the Share Purchase Agreement to be executed between the shareholders of the Talwandi Sabo Power Limited and the Successful Bidder for the purchase of one hundred (100%) per cent of the shareholding of the Talwandi Sabo Power Limited by the Successful Bidder on the terms and conditions as contained therein;
"Site"	means the land over which the Project will be developed as provided in Annexure 1A;
"SLDC"	means the relevant State Load Dispatch Centre as defined in the Electricity Laws, in the State where the Procurer's registered office is located;
"State Transmission Utility" or "STU"	shall have the meaning ascribed thereto in the Electricity Act 2003;
"Supplementary Bill"	Means a bill other than a Monthly Bill raised by any of the Parties in accordance with Article 11;
"Tariff Payment"	Means the payments under Monthly Bills as referred to in Schedule 7 and the relevant Supplementary Bills;
"Tariff"	Means the tariff as computed in accordance with Schedule 7;
"Tested Capacity"	in relation to a Unit, or the Power Station as a whole (if all the Units of the Power Station have been Commissioned) means the results of the most recent Performance Test or Repeat Performance Test carried out in relation to the Power Station in accordance with Article 6, Article 8 and Schedule 5 of this Agreement;
"Termination Notice"	shall mean the notice given before termination of this Agreement in

	accordance with relevant clauses of this Agreement
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2.1;
"Total Debt Amount"	Means the sum of the following amounts, expressed in Rupees (with all amounts denominated in currencies other than Rupees being converted to Rupees at the Reference Exchange Rate, the selling rate in Rupees for the Foreign Currency on the relevant day, as notified by the State Bank of India as its TT Rate at 12:00 noon on the date of issuance of Substitution Notice by the Lenders (a) the principal amount of the senior debt incurred by the Seller (as per the terms of the Financing Agreements) to finance the Project according to the Capital Structure Schedule which remains outstanding on the date of issuance of Substitution Notice by the Lender after taking account of any senior debt repayments which could have been made out of the Monthly Tariff Payments received by the Seller on or before the date of issuance of Substitution Notice by the Lender as per the terms provided in the Financing Agreements ; and (b) all accrued interest and financing fees payable under the Financing Agreements on the amounts referred to in (a) above from the date of the Capacity Charge payment (as specified in paragraph 1.2 of Schedule 7 hereof) immediately preceding the date of issuance of Substitution Notice by the Lender or, if the Capacity Charges have not yet fallen due to be paid, from the most recent date when interest and financing fees were capitalised, and (c) if this Agreement is terminated during the Construction Period, any amounts owed to the Construction Contractor for work performed but not paid for under the Construction Contract (other than amounts falling due by reason of the Seller's default);
"Unit"	Means one steam generator, steam turbine, generator and associated auxiliaries of the Power Station based on Supercritical Technology (if applicable);
"Unscheduled Interchange" or "UI"	shall have the meaning ascribed thereto in Rule 24 of the CERC (Terms and Conditions of tariff) Regulations 2004 as amended or revised from time to time;
"Week"	means a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
"Wheeling Charges" or "Transmission Charges"	Are the charges paid by the Procurer to the CTU or STU or any other agency for the transfer of power from the Power Station switchyard end to the Procurer's network.

1.2 Interpretation

Save where the contrary is indicated, any reference in this Agreement to:

1.2.1 A "Recital", an "Article", a "Schedule" and a "paragraph/Clause" shall be construed as a reference to a Recital, an Article, a Schedule and a paragraph/clause respectively of this Agreement.

1.2.2 An "affiliate" of any party shall mean a company that either directly or indirectly controls or is controlled by or is under common control of the same person which controls the concerned party; and control means ownership by one company of at least twenty six percent (26%) of the voting rights of the other company.

1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (1,00,000);

1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect.

1.2.5 "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

1.2.6 A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests.

1.2.7 The "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors.

1.2.8 Words importing the singular shall include the plural and vice versa.

1.2.9 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented.

1.2.10 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time.

1.2.11 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.

1.2.12 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part.

1.2.13 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.

1.2.14 All interest payable under this Agreement shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days.

1.2.15 The words "hereof" or "herein", if and when used in this Agreement shall mean a reference to this Agreement.

1.2.16 The contents of Schedule 16 shall be referred to for ascertaining accuracy and correctness of the representation made by the Seller in Article 2.6 of Schedule 10 hereof.

2 ARTICLE 2 : TERM OF AGREEMENT

2.1 Effective Date and Term of Agreement

This Agreement shall come into effect from the Effective Date. This Agreement shall be valid for a term commencing from the Effective Date until the Expiry Date ("Term of Agreement") unless terminated earlier pursuant to Article 2.2. Upon the occurrence of the Expiry Date, this Agreement shall, subject to Article 18.9, automatically terminate, unless mutually, extended by all the Parties on mutually agreed terms and conditions, atleast one hundred and eighty (180) days prior to the Expiry Date, subject to approval of the Appropriate Commission, as necessary.

2.2 Early Termination

This Agreement shall terminate before the Expiry Date:

i. if either the Procurer or Seller exercises a right to terminate, pursuant to Article 3.3.2, Article 3.3.3, Article 3.3.3A, Article 4.5.3, . Article 14.4.5 or Schedule 10 of this Agreement or any other provision of this Agreement; or
ii. in such other circumstances as the Seller and the Procurer may agree, in writing.

2.3 Terminal Price payment

2.3.1 Not applicable

2.4 Survival

2.4.1 The expiry or termination of this Agreement shall not affect accrued rights and obligations of the Parties under this Agreement, including the right to receive Liquidated Damages as per the terms of this Agreement, nor shall it affect any continuing obligations for which this Agreement provides, either expressly or by necessary implication, the survival of, post its expiry or termination.

2.5 Lead Procurer Not applicable

2.5.1
2.5.2
2.5.3

3 ARTICLE 3: CONDITIONS SUBSEQUENT TO BE SATISFIED BY THE SELLER AND THE PROCURER

3.1 Satisfaction of conditions subsequent by the Seller and the Procurer

3.1.1 Prior to the Effective Date, the Seller or the Selected Bidder, on behalf of the Seller, have provided to the Procurer, the Performance Guarantee from any of the banks in the list of banks provided in the RfP, of an aggregate amount of Rupees 150.00 Crore (Rupees One Hundred Fifty Crore) only Subject to Article 3.4, the Performance Guarantee shall be initially valid till three (3) Months after the Scheduled COD of the Power Station and which shall be extended from time to time to be valid up to three (3) Months after the actual COD of the Power Station. In case the validity of Performance Guarantee is expiring before the validity period specified in this Article, the Seller shall at least thirty (30) days before the expiry of the Performance Guarantee replace the Performance Guarantee with another Performance Guarantee or extend validity of existing Performance Guarantee which is valid and in force till the validity period specified in this Article.

3.1.1A The Seller shall have the option to change the Unit configuration after the Effective Date till NTP provided that Seller submits the undertaking that the changed Unit configuration meets all the conditions specified in Format 3 of Annexure 6 of RfP and the changed Unit configuration meets all Functional Specifications. Any additional cost arising out of the changed Unit configuration shall be to the account of the Seller and no adjustment in the Tariff will be permitted.

3.1.2 The Seller agrees and undertakes to duly perform and complete the following activities within (i) 12 Months from the Effective Date or (ii) 14 Months from the date of issue of Letter of Intent, whichever is later, unless such completion is affected due to the Procurer's failure to comply with its obligations under Article 3.1.2A of this Agreement or by any Force Majeure event or if any of the activities is specifically waived in writing by the Procurer :

i) the Seller shall have received the Initial Consents as mentioned in Schedule 2, either unconditionally or subject to conditions which do not materially prejudice its rights or the performance of its obligations under this Agreement ;

ii) not applicable;

iii) the Seller shall have

a) awarded the Engineering, Procurement and Construction contract ("EPC contract) or main plant contract for boiler, turbine and generator ("BTG"),

for the Project and shall have given to such contractor an irrevocable notice to proceed ; and

b)The Seller shall have sent a written notice to the Procurer indicating the Contracted Capacity and Gross Capacity for the each Unit and for the Power Station as a whole expressed in MW and furnished the undertaking as per Article 3.1.1A.

c)

1) in case the Project is proposed to be developed on the books of the Bidder, he shall have completed the execution and delivery of the Financing Agreements for at least twenty five percent (25%) of the debt required for the Project as certified by the Lender/Lead Lender; or

2) in case the Seller develops the Project on a non recourse basis, Seller shall have achieved Financial Closure;

iv. the Seller shall have made available to the Procurer the data with respect to the Project for design of Interconnection Facilities and Transmission Facilities, if required;

v. the Seller shall have finalised the specific delivery point for supply of power in consultation with the Procurer;

vi. the Seller shall have taken the possession of the land for the Power Station and have paid the remaining Declared Price of the Land, if any to the State Government authority acquiring the land,

vii. The Seller shall have provided an irrevocable letter to the Lenders duly accepting and acknowledging the rights provided to the Lenders under the terms of this Agreement and all other RfP Project Documents.

viii. where the Seller has not exercised its option to change Unit configuration the Seller shall have sent a written notice to the Procurer indicating that

a) the Scheduled COD shall be as per the original Scheduled COD i.e (i) for the first Unit, 31st August 2012; (ii) for the second Unit, 31st December 2012; and (iii) for the third Unit, 30th April 2013 or

b) that it intends to prepone the Scheduled COD to be (i) for the first Unit, [Insert Date]; (ii) for the second Unit, [Insert Date]; (iii) for the third Unit, [Insert Date] and so on till last Unit] (hereinafter referred to as "Revised Scheduled COD"). Provided that, the Revised Scheduled COD of any Unit shall not be earlier than [Insert months] months from the NTP

ix) In case where the Seller has exercised its option to change Unit configuration, the Seller shall have sent a written notice to the Procurer indicating the Scheduled COD of each Unit and Power Station. Provided that, the Scheduled COD of any Unit so intimated shall not be earlier than [Insert months] months from the NTP. Provided further that the Scheduled COD of the Ist Unit and Scheduled COD of the Power Station shall not be later than the Scheduled COD given in the Selected Bid.

3.1.2A The Procurer shall ensure that the following activitiy is completed within the time period mentioned below:

Obtaining order of the Appropriate Commission adopting the Tariff under Section 63 of the Electricity Act, 2003, within six months of the Effective Date.

3.1.3 Joint responsibilities of the Procurer and the Seller

The Procurer and Seller shall jointly appoint the Independent Engineer for the purposes of carrying out the functions as specified in Article 4.7.1, Article 6, Article 8 and Article 12, herein within a period of eight (8) months from the Effective Date.

3.2 Progress Reports

The Seller and the Procurer shall notify one another in writing at least once a Month on the progress made in satisfying the conditions in Articles 3.1.2, 3.1.2A and 3.1.3.

3.3 Consequences of non-fulfillment of conditions under Article 3.1

3.3.1 If any of the conditions specified in Article 3.1.2 is not duly fulfilled by the Seller even within three (3) Months after the time specified under Article 3.1.2, then on and from the expiry of such period and until the Seller has satisfied all the conditions specified in Article 3.1.2, the Seller shall be liable to furnish to the Procurer additional weekly Performance Guarantee of **Rs.7,42,50,000 (Rupees Seven Crore Forty Two lakhs fifty thousand)** within two (2) business days of expiry of every such week. Such additional Performance Guarantee shall be provided to the Procurer in the manner provided in Article 3.1.1 and shall become part of the Performance Guarantee and all the provisions of this Agreement shall be construed accordingly. The Procurer shall be entitled to hold and/or invoke the Performance Guarantee, including such increased Performance Guarantee, in accordance with the provisions of this Agreement.

3.3.2 Subject to Article 3.3.3 and 3.3.3A, if:

(i). fulfilment of any of the conditions specified in Article 3.1.2 is delayed beyond the period of three (3) Months and the Seller fails to furnish any additional Performance Guarantee to the Procurer in accordance with Article 3.3.1 hereof; or

(ii). the Seller furnishes additional Performance Guarantee to the Procurer in accordance with Article 3.3.1 hereof but fails to fulfil the conditions specified in Article 3.1.2 for a period of eight (8) months beyond the period specified therein.

the Procurer or Seller shall have the right to terminate this Agreement by giving a Termination Notice to the Seller / Procurer in writing of at least seven (7) days.

If the Procurer or the Seller elect to terminate this Agreement in the event specified in the preceding paragraph of this Article 3.3.2, the Seller shall be liable to pay to the Procurer an amount of Rupees 200 Crore (Rs Two Hundred Crore) only as liquidated damages. The Procurer shall be entitled to recover this amount of damages by invoking the Performance Guarantee to the extent of Rupees 200 Crore (Rupees Two Hundred Crore only) and shall then return the balance Performance Guarantee, if any, to the Seller. If the Procurer is unable to recover said the amount of Rupees 200 Crore (Rupees Two Hundred Crore) only or any part thereof from the Performance Guarantee the amount not recovered from the Performance Guarantee, if any, shall be payable by the Seller to the Procurer within ten (10) days from the end of eight (8) Months period from the due date of completion of conditions subsequent.

It is clarified for removal of doubt that this Article shall survive the termination of this Agreement.

3.3.3 In case of inability of the Seller to fulfil the conditions specified in Article 3.1.2 due to any Force Majeure event, the time period for fulfilment of the Condition Subsequent as mentioned in Article 3.1.2 and Article 3.1.2A, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of ten (10) Months, continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by either the Procurer or the Seller by giving a notice of at least seven (7) days, in writing to the other Party.

Similarly, in case of inability of the Procurer to fulfil the conditions specified in Article 3.1.2A due to any Force Majeure event, the time period for fulfilment of the Condition Subsequent as mentioned in Article 3.1.2 and Article 3.1.2A, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of ten (10) Months, continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by either the Procurer or the Seller by giving a Termination Notice of at least seven (7) days, in writing to the other Party.

3.3.3A In case of inability of the Procurer to perform the activities specified in Article 3.1.2A within the time period specified therein, otherwise than for the reasons directly attributable to the Seller or Force Majeure event, the Condition Subsequent as mentioned in Article 3.1.2 would be extended on a 'day for day' basis, equal to the additional time which may be required by the Procurer to complete the activities mentioned in Article 3.1.2A, subject to a maximum

additional time of six (6) Months. Thereafter, this Agreement may be terminated by the Seller at its option, by giving a Termination Notice of at least seven (7) days, in writing to the Procurer. If the Seller elects to terminate this Agreement, the Procurer shall, within a period of thirty days, purchase the entire shareholding in the Seller for the following amount .

a) total amount of purchase price paid by the Successful Bidder to the shareholders of the Seller to acquire the equity shares of the Seller as per the RfP; plus

b) total amount of the Declared Price of Land to the extent paid by the Seller after the acquisition of its 100% shareholding by the Selected Bidder; plus

c) an additional sum equal to ten percent (10%) of the sum total of the amounts mentioned in sub-clauses (a) and (b) above.

In addition, the Performance Guarantee of the Seller shall also be released forthwith.

3.3.4 No Tariff adjustment shall be allowed on account of any extension of time arising under any of the sub-articles of Article 3.3. Provided that due to the provisions of Article 3.3.3 and 3.3.3A, any increase in the time period for completion of Conditions Subsequent mentioned under Article 3.1.2 and 3.1.2 A, shall also lead to an equal increase in the time period for Scheduled COD and Scheduled Connection Date.

3.4 Reduction in the amount of Performance Guarantee

3.4.1 On the due fulfilment by the Seller of all the conditions specified under Article 3.1.2 and investment by the Seller of at least twenty five percent (25%) of the total equity required for the Project as certified by the lead lender of the Seller, the Performance Guarantee then existing shall be reduced by an aggregate amount of Rs 46,03,50,000 (Rupees Forty Six Crore Three lakh Fifty thousand only) and such reduced Performance Guarantee/s shall be provided to the Procurer.

3.4.2 The Performance Guarantee specified in Article 3.4.1 hereof shall be in substitution of the earlier Performance Guarantee furnished under Article 3.1.1

The Performance Guarantee furnished under this Article shall be initially valid till three (3) Months after the Scheduled COD of the Power Station and which shall be extended from time to time to be valid upto three (3) Months after the actual COD of the Power Station.

3.4.3 The Performance Guarantee furnished under Article 3.1, 3.3 and 3.4 shall be for guaranteeing the due and timely completion of the Project and achievement of Scheduled Commercial Operation Date of each Unit within the time specified in this Agreement.

3.4.4 The failure on the part of the Seller to furnish and maintain the Performance Guarantee as mentioned above shall be a material breach of the term of this Agreement on the part of the Seller.

3.4.5 If the Seller fails to achieve COD of each of the Units on their respective Scheduled Commercial Operation Date specified in this Agreement, subject to conditions mentioned in Article 4.5.1, the Procurer shall have the right to encash the Performance Guarantee and appropriate in their favour as liquidated damages an amount specified in Article 4.6.1, without prejudice to the other rights of the Procurer under this Agreement.

3.5 Return of Performance Guarantee

3.5.1 The Performance Guarantee as submitted by Seller in accordance with Article 3.4 shall be released by the Procurer within three (3) Months from the actual Commercial Operation Date of the Power Station. In the event of delay in achieving Scheduled COD of any of the Units by the Seller (otherwise than due to the Procurer's inability to complete the activities mentioned in Article 3.1.2A, or Force Majeure event) and consequent part invocation of the Performance Guarantee by the Procurer, the Procurer shall release the Performance Guarantee if any, remaining unadjusted under Article 3.4, after the satisfactory completion by the Seller of all the requirements regarding achieving the Scheduled Commercial Operation Date of the remaining Units of the Power Station. It is clarified that the Procurer shall also return/release the Performance Guarantee in the event of (i) applicability of Article 3.3.2 to the extent the Performance Guarantee is valid for an amount in excess of Rupees 200 Crore (Rupees Two Hundred Crore) only , or (ii) termination of this Agreement by any Party under Article 3.3.3 or Article 3.3.3A of this Agreement.

3.5.2 The release of the Performance Guarantee shall be without prejudice to other rights of the Procurer under this Agreement.

4 ARTICLE 4: DEVELOPMENT OF THE PROJECT

4.1 The Seller's obligation to build, own and operate the Project

4.1.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to be responsible, at Seller's own cost and risk, for:

a) obtaining (other than Initial Consents) and maintaining in full force and effect all Consents required by it pursuant to this Agreement and Indian Law;

b) executing the Project in a timely manner so as to enable each of the Units and the Power Station as a whole to be Commissioned no later than its Scheduled Commercial Operations Date and such that as much of the Contracted Capacity as can be made available through the use of Prudent Utility Practices will be made available reliably to meet the Procurer's scheduling and dispatch requirements throughout the term of this Agreement but under no event earlier than 36 months from NTP.

Note: Hon'ble PSERC has in its orders dated April 17, 2008 and April 23, 2008 passed in petition No. 7 of 2008 has allowed early commissioning incentive thereby permitting him to commission the unit prior to the scheduled COD of 48 months. However, "under no event earlier than 42 months from NTP" restricts the seller to commission the unit earlier. To remove this anomaly and bring the provisions of the PPA in accordance with the aforesaid orders of the Commission, the provison of 42 months is changed as "under no event earlier than 36 months from NTP". Accordingly, the date of synchronisation as mentioned in the PPA may be advanced. However, changes incorporated is subject to the approval of PSERC. Further the Effective Date,as mentioned in PPA shall remain unaltered.

c) owning the Project throughout the term of this Agreement free and clear of encumbrances, except those expressly permitted by Article 16;

d) procure the requirements of electricity at the Project (including construction, commissioning and start-up power) and to meet in a timely manner all formalities for getting such a supply of electricity;

e) provide on a timely basis relevant information on Power Station specifications which may be required for interconnecting system with the transmission system;

f) fulfilling all other obligations undertaken by him under this Agreement.

4.2 Procurer's obligation

Subject to the terms and conditions of this Agreement, the Procurer:

a) shall be responsible for procuring the Interconnection and Transmission Facilities to enable the Power Station to be connected to the Grid System not later than the Scheduled Connection Date;

b) shall ensure that the Seller is provided an electrical connection for reasonable construction, commissioning and start up power at the Project as reasonably requisitioned by the Seller by written intimation to the Procurer, on the then prevalent terms and conditions as applicable to such consumers.;

c) shall be responsible for payment of the Transmission Charges and RLDC and SLDC charges;

d) shall make all reasonable arrangements for the evacuation of the Infirm Power from the Power Station; subject to the availability of transmission lines and

e) fulfilling obligations undertaken by them under this Agreement.

4.3 Purchase and sale of Available Capacity and Scheduled Energy

4.3.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Procurer, and the Procurer undertake to pay the Tariff for all of the Available Capacity up to the Contracted Capacity and Scheduled Energy of the Power Station, according to its then existing Contract Capacity, throughout the term of this Agreement.

4.3.2 Unless otherwise instructed by the Procurer, the Seller shall sell all the Available Capacity up to the Contracted Capacity of the Power Station to the Procurer pursuant to Dispatch Instructions.

4.4 Right to Available Capacity and Scheduled Energy

4.4.1 Subject to other provisions of this Agreement, the entire Contracted Capacity of the Power Station and all the Units of the Power Station shall at all times be for the exclusive benefit of the Procurer and the Procurer shall have the exclusive right to purchase the entire Contracted Capacity from the Seller. The Seller shall not grant to any third party or allow any third party to obtain any entitlement to the Available Capacity and/or Scheduled Energy.

4.4.2 Notwithstanding Article 4.4.1, the Seller shall be permitted to sell power, being a part of the Available Capacity of the Power Station to third parties if:

(a) there is a part of Available Capacity which has not been Dispatched by the Procurer.

4.4.3 If the Procurer does not avail of power upto the Available Capacity provided by the Seller and the provisions of Article 4.4.2 have been complied with, the Seller shall be entitled to sell such Available Capacity not procured, to any person without losing the right to receive the Capacity Charges from the Procurer for such un-availed Available Capacity. In such a case, the sale realization in excess of Energy Charges, shall be equally shared by the Seller with the Procurer. In the

event, the Seller sells such Available Capacity to the shareholders of the Seller or any direct or indirect affiliate of the Seller/shareholders of the Seller without obtaining the prior written consent of the Procurer, the Seller shall be liable to sell such Available Capacity to such entity at tariffs being not less than the Tariff payable by the Procurer. During this period, the Seller will also continue to receive the Capacity Charges from the Procurer. Upon the Procurer not availed of the Available Capacity, as envisaged under this Article, intimating to the Seller of its intention and willingness to avail of the part of the Available Capacity not availed of and therefore sold to the third party, the Seller shall, notwithstanding anything contained in the arrangement between the Seller and said third party, commence supply of such capacity to the Procurer from the later of two (2) hours from receipt of notice in this regard from the Procurer or the time for commencement of supply specified in such notice.

4.4.4 The Seller shall not itself use any of the electricity generated by the Power Station during the term of this Agreement, except for the purpose of meeting the Power Station's auxiliary load requirements, as per the norms laid down by theAppropriate Commission, and housing colony for the staff.

4.4.5 The sale under Unscheduled Interchange shall not be considered as sale to third party for the purposes of this Agreement.

4.5 Extensions of time

4.5.1 In the event that:

(a) the Seller is prevented from performing its obligations under Article 4.1.1(b) by the stipulated date, due to Procurer Event of Default; or

(b) a Unit cannot be Commissioned by its Scheduled Commercial Operations Date because of Force Majeure Events.

the Scheduled Commercial Operations Date, the Scheduled Connection Date and the Expiry Date shall be deferred, subject to the limit prescribed in Article 4.5.3, for a reasonable period but not less than 'day for day' basis, to permit the Seller through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the Seller or in the case of the Procurer's Event of Default, till such time such default is rectified by the Procurer .

4.5.2 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on how long the Scheduled Commercial Operations Date, the Scheduled Connection Date or the Expiry Date should be deferred by, any Party may raise the Dispute to be resolved in accordance with Article 17.

4.5.3 In case of extension occurring due to reasons specified in Article 4.5.1(a), the original Scheduled Commercial Operations Date of any Unit or the original Scheduled Commercial Operations Date of the Power Station as a whole, would not be extended by more than two (2) years or the date on which the Seller elects to terminate this Agreement, whichever is earlier.

As a result of such extension, the date newly determined shall be deemed to be the Scheduled Commercial Operations Date for the purposes of this Agreement.

4.6 Liquidated damages for delay in providing Contracted Capacity

4.6.1 If any Unit is not Commissioned by its Scheduled Commercial Operation Date other than for the reasons specified in Article 4.5.1, the Seller shall pay to the Procurer liquidated damages for the delay in such Commissioning or making the Unit's Contracted Capacity available for dispatch by such date. The sum total of the liquidated damages payable by the Seller to the Procurer for such delayed Unit shall be calculated as follows:

SLDb = [CCun x dn x DR1] , if dn <= 60

SLDb = [CCun x 60 x DR1] + [CCun x (dn - 60) x DR2] , if dn > 60

Where:

a) "SLDb" are the liquidated damages payable by the Seller during the period beginning with the day from the Scheduled Commercial Operation Date of a Unit up to and including the day on which Unit is actually Commissioned;

b) "CCun" is the Contracted Capacity of Unit "n";

c) "d" is the number of days in the period beginning with the day after the Scheduled Commercial Operation Date of Unit "n" up to and including the day on which such Unit is actually Commissioned;

d) "DR1" is Rs. Ten Thousand (10,000) of damages per MW per day of delay in case "d" is less than 60 days and "DR2" is Rs. Fifteen Thousand (15,000) of damages per MW per day of delay in case "d" is equal to or more than 60 days

4.6.2 The Seller's maximum liability under this Article 4.6 shall be limited to the amount of liquidated damages calculated in accordance with Article 4.6.1 for and upto twelve (12) Months of delay for the Unit. Provided that in case of failure of the Seller to Commission the Unit even after expiry of twelve (12) Months from its Scheduled Commercial Date, the provisions of Article 14 shall apply.

4.6.3 The Seller shall pay the amount calculated pursuant to Article 4.6.1 to the Procurer within ten (10) days of the earlier of:

(a) the date on which the Unit is actually Commissioned: or
(b) expiry of the twelve (12) month period mentioned in Article 4.6.2.
If the Seller fails to pay the amount of damages within the said period of ten (10) days, the Procurer shall be entitled to recover the said amount of the liquidated damages by invoking the Performance Guarantee. If the then existing Performance Guarantee is for an amount which is less than the amount of the liquidated damages payable by the Seller to the Procurer under this Article 4.6, then the Seller shall be liable to forthwith pay the balance amount.

4.6.4 The Parties agree that the formula specified in Article 4.6.1 for calculation of liquidated damages payable by the Seller under this Article 4.6, read with Article 14 is a genuine and accurate pre-estimation of the actual loss that will be suffered by the Procurer in the event of Seller's delay in achieving Commissioning of a Unit by its Scheduled COD.

4.6.5 If any Unit is not Commissioned by its Revised Scheduled COD other than for the reasons specified in Article 4.5.1, the Seller shall pay to the Procurer liquidated damages. for the delay in such Commissioning or making the Unit's Contracted Capacity available for dispatch by such date. The sum total of the liquidated damages payable by the Seller to the Procurer for such delayed Unit shall be equivalent to the damages payable by the Procurer to the CTU/STU (as the case may be) for the period of delay, as per the terms of agreement proposed to be entered into by the Procurer with CTU/STU for establishment of transmission system. Provided however, the liquidated damages payable by the Seller to the Procurer in case of delay under this Article 4.6.5 shall not be more than twenty percent (20%) of liquidated damages computed in the manner mentioned in Article 4.6.1. Provided further, in case of delay beyond Scheduled Commercial Operation Date, the provisions of Article 4.6.1 to 4.6.4 will apply for such delay beyond Scheduled Commercial Operation Date.

4.7 Liquidated damages for delay due to Procurer Event of Default and Non Natural Force Majeure Events and Natural Force Majeure Event (affecting the Procurer)

4.7.1 If

a) a Unit cannot be commissioned by its Scheduled Commercial Operations Date. due to a Procurer Event of Default or due to Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) provided such Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) has continued for a period of more than three (3) continuous or non-continuous Months: or

b) a Unit is available for conducting Commissioning Tests and is anticipated to be capable of duly completing the Commissioning Tests as certified by the Independent Engineer, but the said Commissioning Tests are not undertaken or completed due to such Procurer Event of Default or due to Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) provided such Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) has continued for a period of more than three (3) continuous or non-continuous Months:

such Unit shall, until the effects of the Procurer Event of Default or of Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) no longer prevent the Seller from undertaking a Commissioning Test/s, be deemed to have a Tested Capacity equal to the Contracted Capacity and to this extent, be deemed to have been Commissioned with effect from the Scheduled COD without taking into account delay due to such Procurer Event of Default or Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer) and shall be treated as follows.

a) In case of delay on account of the Procurer Event of Default, the Procurer shall make payment to the Seller of Capacity Charges calculated on Normative Availability of Contracted Capacity of such Unit for and during the period of such delay. Provided however, if any Unit is not Commissioned by its Revised Scheduled COD due to unavailability of transmission system, the Procurer shall make payment to the Seller of an amount equivalent to the amounts paid by the CTU/STU (as the case may be) to the Procurer as per the terms of agreement proposed to be entered into by the Procurer with CTU/STU for establishment of transmission system for the period of delay up to Scheduled Commercial Operation Date.

b) In case of delay on account of Direct Non Natural Force Majeure Event, the Procurer shall make payment to the Seller of Capacity Charges calculated on Normative Availability of Contracted Capacity of such Unit for the period of such events in excess of three (3) continuous or non-continuous Months in the manner provided in (d) below.

c) In case of an Indirect Non Natural Force Majeure Event (or Natural Force Majeure affecting the Procurer), the Procurer shall make payments for amounts ("Debt Service") relatable to such Unit, which are due under the Financing Agreements, subject to a maximum of Capacity Charges based on Normative Availability, for the period of such events in excess of three (3) continuous or non-continuous Months in the manner provided in (d) below.

d) In case of delay due to Direct and Indirect Non Natural Force Majeure Events (or Natural Force Majeure affecting the Procurer), the Procurer shall be liable to make payments mentioned in (b) and (c) above, after Commissioning of the Unit, in the form of an increase in Capacity Charges. Provided such increase in Capacity Charges shall be determined by Appropriate Commissionon the basis of putting the Seller in the same economic position as the Seller would have been in case the Seller had been paid amounts mentioned in (b) and (c) above in a situation where the Direct Non Natural Force Majeure or Indirect Non Natural Force Majeure Event, as the case may be, had not occurred.

For the avoidance of doubt, it is specified that the charges payable under this Article 4.7.1 shall be paid by the Procurer.

4.7.2 In every case referred to in Article 4.7.1 hereinabove, the Seller shall undertake a Commissioning Test/s as soon as reasonably practicable [and in no event later than two (2) weeks or such longer period as mutually agreed between the Seller and the Procurer after the point at which it is no longer prevented from doing so by the effects of Force Majeure Events or Procurer Event of Default (as appropriate) and if such Commissioning Test/s is not duly completed and / or demonstrate/s a Tested Capacity of a Unit which is less than ninety five (95) percent of its Contracted Capacity, then:

a) The Unit which fails the Commissioning Tests, shall be deemed to have not been Commissioned from the deemed COD referred to in Article 4.7.1;

b) The Seller shall repay to the Procurer, all sums received by way of Capacity Charge for such Unit along with interest at the same rate as Late Payment Surcharge; and

c) If the Seller fails to achieve Commissioning by the Scheduled Commercial Operation Date, it shall also pay liquidated damages to the Procurer for such Unit calculated in accordance with Article 4.6.

4.8 Limit on amounts payable due to default

4.8.1 The Parties expressly agree that the Procurer's only liability for any loss of profits or any other loss of any other kind or description whatsoever (except claims for indemnity under Article 15), suffered by the Seller by reason of the Procurer's failure to meet its obligations under Article 4.2(a) to Article 4.2(d) shall be to pay the Seller the amounts specified in Article 4.7 and Article 14.

4.8.2 Similarly, Seller's only liability for any loss suffered by the Procurer of any kind or description whatsoever (except claims for indemnity under Article 15), by

reason of the Seller's failure to meet its obligations of Commissioning the various Units on their Scheduled COD, shall be as per Article 4.6 and Article 14.

5 ARTICLE 5: CONSTRUCTION

5.1 Seller's Construction Responsibilities

The Seller shall be responsible for designing, constructing, erecting, commissioning, completing and testing the Power Station in accordance with the following, it being clearly understood that in the event of inconsistency between two or more of the following, the order of priority as between them shall be the order in which they are placed, with 'applicable law' being the first:

a) applicable Law;
b) the Grid Code;
c) the terms and conditions of this Agreement;
d) the Functional Specifications; and
e) Prudent Utility Practices.

Notwithstanding anything to the contrary contained in this PPA, the Seller shall ensure that the technical parameters or equipment limits of the Project shall always be subject to the requirements as specified in points (a) to (e) above and under no event shall over-ride or contradict the provisions of this Agreement and shall not excuse the Seller from the performance of his obligations under this Agreement.

5.2 The Site

The Seller acknowledges that, before entering into this Agreement, it has had sufficient opportunity to investigate the Site and accepts full responsibility for its condition (including but not limited to its geological condition, on the Site, the adequacy of the road and rail links to the Site and the availability of adequate supplies of water) and agrees that it shall not be relieved from any of its obligations under this Agreement or be entitled to any extension of time or financial compensation by reason of the unsuitability of the Site for whatever reason.

The State Government authorities would be implementing the resettlement and rehabilitation package ("R&R") in respect of the Site for the Project, for which the costs is to be borne by the Seller. The Procurer shall endeavour to ensure that the State Government implements such R&R ensuring that land for different construction activities becomes available in time so as to ensure that the Power Station and each Unit is commissioned in a timely manner. Assistance of the

Seller may be sought, which he will provide on best endeavour basis, in execution of those activities of the R&R package and as per estimated costs, if execution of such activities is in the interest of expeditious implementation of the package and is beneficial to the Project affected persons.

5.3 Information Regarding Interconnection Facilities

The Procurer shall provide the Seller, on a timely basis, all information with regard to the Interconnection and Transmission Facilities as is reasonably necessary to enable the Seller to design, install and operate all interconnection plant and apparatus on the Seller's side of the Interconnection Point.

5.4 Quality of Workmanship

The Seller shall ensure that the Power Station is designed, built and completed in a good workmanlike manner using sound engineering construction practices and using only materials and equipment that are new and of international utility grade quality such that, the useful life of the Power Station will be till the Expiry Date.

The Seller shall ensure that design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards and Codes issued by Bureau of Indian Standards and/or internationally recognised Standards and Codes, such as:

i. American National Standards Institute (ANS)
ii. American Society of Testing and Materials (ASTM)
iii. American Society of Mechanical Engineers (ASME)
iv. American Petroleum Institute (API)
v. Standards of the Hydraulic Institute, USA
vi. International Organization for Standardization (ISO)
vii. Japanese Industrial Standards (JIS)
viii. Tubular Exchanger Manufacturer's Association (TEMA)
ix. American Welding Society (AWS)
x. National Electrical Manufacturers Association (NEMA)
xi. National Fire Protection Association (NFPA)
xii. International Electro-Technical Commission (IEC)
xiii. Expansion Joint Manufacturers Association (EJMA)
xiv. Heat Exchange Institute (HEI)
xv. American Water Works Association (AWWA)
xvi. Deutsches Institut fur Normung (DIN)

Other international standards, established to be equivalent or superior to the above standards shall also be acceptable. However, in the event of any conflict between

the requirements of the international codes and standards and the requirements of the Indian standards/regulations, the latter shall prevail.

5.5 Consents

The Seller shall be responsible for obtaining all Consents (other than those required for the Interconnection and Transmission Facilities and the Initial Consents) required for developing, financing, constructing, operating and maintenance of the Project and maintaining/ renewing all such Consents in order to carry out its obligations under this Agreement in general and this Article 5 in particular and shall supply to the Procurer promptly with copies of each application that it submits, and copy/ies of each consent/approval/license which it obtains. For the avoidance of doubt, it is clarified that the Seller shall also be responsible for maintaining/renewing the Initial Consents and for fulfilling all conditions specified therein.

5.6 Construction Documents

The Seller shall retain at the Site and make available for inspection to the Procurer at all reasonable times copies of the results of all tests specified in Schedule 5 hereof.

5.7 Co-ordination of Construction Activities

5.7.1 Before the tenth (10th) day of each Month, during the Construction Period:

(a) the Seller shall prepare and submit to the Procurer a monthly progress report, in the Agreed Form; and

(b) The Procurer shall prepare and submit to the Seller a monthly progress report, in the Agreed Form, regarding the Interconnection and Transmission Facilities.

The Seller individually and the Procurer shall designate from time to time, by giving a written notice to the other party up to five (5) of its/their employees who shall be responsible for coordinating all construction activities relating to the Project and who shall have access at all reasonable times to the other party's land for the purpose of apprising the progress of the work being carried on, subject to such designated persons or the party appointing them giving reasonable notice to the other party of such visit and subject to their complying with all reasonable safety procedures.

For the avoidance of doubt, it is clarified that the total number of the representatives of the Procurer shall not exceed five (5).

6 ARTICLE 6: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

6.1 Synchronization

6.1.1 The Seller shall give the Procurer and RLDC at least sixty (60) days advance preliminary written notice and at least thirty (30) days advance final written notice, of the date on which it intends to synchronise a Unit to the Grid System. Provided that no Unit shall be synchronized prior to 36 months from NTP. Provided however, that in the event the Seller Commissions a Unit prior to the Scheduled COD, as specified in clause 3.1.2(viii) (a), the Seller shall be entitled to the Early Commissioning Incentive as defined in and in accordance with the orders dated April 17, 2008 and April 23, 2008, passed by the Hon'ble Punjab Electricity Regulatory Commission in Petition No. 7 of 2008, as per Schedule-7 Clause 1.2.10 of this Agreement;

6.1.2 Subject to Article 6.1.1, a Unit may be synchronised by the Seller to the Grid System when it meets all connection conditions prescribed in any Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronisation to the Grid System

6.2 Commissioning

6.2.1 The Seller shall be responsible for ensuring that each Unit is Commissioned in accordance with Schedule 5 at its own cost, risk and expense.

6.2.2 The Seller shall give the Procurer and the Independent Engineer not less than ten (10) days prior written notice of Commissioning Test of each Unit.

6.2.3 The Seller (individually), the Procurer and the Independent Engineer (individually) shall each designate qualified and authorised representatives to witness and monitor Commissioning Test of each Unit.

6.2.4 Testing and measuring procedures applied during each Commissioning Test shall be in accordance with the codes, practices and procedures mentioned in Schedule 5 of this Agreement.

6.2.5 Within five (5) days of a Commissioning Test, the Seller shall provide the Procurer and the Independent Engineer with copies of the detailed Commissioning Test results. Within five (5) days of receipt of the Commissioning Test results, the Independent Engineer shall provide to the Procurer and the Seller in writing, his findings from the evaluation of Commissioning Test results, either in the form of Final Test Certificate certifying the matters specified in Article 6.3.1 or the reasons for non-issuance of Final Test Certificate.

6.3 **Commercial Operation**

6.3.1 A Unit shall be Commissioned on the day after the date when the Procurer receive a Final Test Certificate of the Independent Engineer stating that:

a) the Commissioning Tests have been carried out in accordance with Schedule 5; and are acceptable to him; and

b) the results of the Performance Test show that the Unit's Tested Capacity, is not less than ninety five (95) percent of its Contracted Capacity, as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalized. .

6.3.2 If a Unit fails a Commissioning Test, the Seller may retake the relevant test, within a reasonable period after the end of the previous test, with three (3) day's prior written notice to the Procurer and the Independent Engineer. Provided however, the Procurer shall have a right to require deferment of any such re-tests for a period not exceeding fifteen (15) days, without incurring any liability for such deferment, if the Procurer is unable to provide evacuation of power to be generated, due to reasons outside the reasonable control of the Procurer or due to inadequate demand in the Grid.

6.3.3 The Seller may retake the Performance Test by giving at least fifteen (15) days advance notice in writing to the Procurer, up to eight (8) times, during a period of one hundred and eighty (180) days ("Initial Performance Retest Period") from a Unit's COD in order to demonstrate an increased Tested Capacity over and above as provided in Article 6.3.1 (b). Provided however, the Procurer shall have a right to require deferment of any such re-tests for a period not exceeding fifteen (15) days, without incurring any liability for such deferment, if the Procurer is unable to provide evacuation of power to be generated, due to reasons outside the reasonable control of the Procurer or due to inadequate demand in the Grid.

6.3.4 (i) If a Unit's Tested Capacity after the most recent Performance Test mentioned in Article 6.3.3 has been conducted, is less than its Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised, the Unit shall be de-rated with the following consequences in each case with effect from the date of completion of such most recent test:

a) the Unit's Contracted Capacity shall be reduced to its Tested Capacity, as existing at the most recent Performance Test referred to in Article 6.3.3 and Quoted Capacity Charges shall be paid with respect to such reduced Contracted Capacity;

b) the Quoted Non Escalable Capacity Charge (in Rs./kwh) shall be reduced by the following, in the event Tested Capacity is less than ninety five (95%) per cent of its Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised:

Rs. 0.25/kwh x [1 – {(Tested Capacity of all Commissioned Units + Contracted Capacity of all Units not Commissioned at the Effective Date or or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised /Contracted Capacity of all Units at the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised under Article 3.1.2 (iii) b in case the Seller has excercised the option under Article 3.1.1A }]

c) the Seller shall not be permitted to declare the Available Capacity of the Unit at a level greater than its Tested Capacity;

d) the Availability Factor of the derated Unit shall be calculated by reference to the reduced Contracted Capacity; and

e) the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Contracted Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned).

(ii) If at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, , the Tested Capacity is less than the Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised, the consequences mentioned in Article 8.2.2 shall apply for a period of one year. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier

6.3.5 If a Unit's Tested Capacity as at the end of the Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, is found to be more than it's Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity as so finalised , the Tested Capacity shall be deemed to be the Unit's Contracted Capacity if Procurer agrees and intimates the same to the Seller within thirty (30) days of receipt of the results of the last Performance

Test to purchase such excess Tested Capacity and also provide to the Seller additional Letter of Credit and Collateral Arrangement (if applicable) for payments in respect of such excess Tested Capacity agreed to be purchased by Procurer. In case the Procurer decides not to purchase such excess Tested Capacity, the Seller shall be free to sell such excess Tested Capacity to any third party and the Unit's Contracted Capacity shall remain unchanged, notwithstanding that the Tested Capacity exceeded the Contracted Capacity.

Provided that in all the above events, the Seller shall be liable to obtain/maintain all the necessary consents (including Initial Consents), permits and approvals including those required under the environmental laws for generation of such excess Tested Capacity.

6.4 Costs Incurred

The Seller expressly agrees that all costs incurred by him in synchronising, connecting, Commissioning and / or Testing or Retesting a Unit shall be solely and completely to his account and the Procurer's liability shall not exceed the amount of the Energy Charges payable for such power output, as set out in Schedule 7.

7 ARTICLE 7 : OPERATION AND MAINTENANCE

The Parties shall comply with the provisions of the applicable Law including, in particular, Grid Code as amended form time to time regarding operation and maintenance of the Power Station and all matters incidental thereto. Provided however the Seller shall not schedule the Maintenance Outage of a Unit when another Unit of the project is shut down or expected to be shut down except under Force Majeure or when the operation of Unit is not permissible due to technical considerations.

8 ARTICLE 8: CAPACITY, AVAILABILITY AND DISPATCH

8.1 Repeat Performance Tests

8.1.1 The Procurer may from time to time during the Operating Period, but only if the Available Capacity has not been one hundred per cent (100%) of the Contracted Capacity of the commissioned units (excluding the unit(s) under planned outage for capital maintenance in consultation with the Regional Power Committee, if any) even for one continuous period of at least three (3) hours during any three continuous months, require the Seller to demonstrate a Unit's or (if all the Units have been Commissioned, the Power Station's) Tested Capacity by carrying out a further Performance Test (a **"Repeat Performance Test"**) in accordance with this Article 8.1. A Repeat Performance Test shall be carried out in accordance with Schedule 5, save that the test shall last twenty-four (24) hours instead of seventy two (72) hours. Provided that if the Tested Capacity after such test is less than one hundred percent (100%) of the Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity as so finalised) of the Commissioned Units, the Seller shall also have a right to conduct not more than two (2) Repeat Performance Test within a period six (6) months, by giving a notice of not less than fifteen (15) days to the Procurer for each such test. Provided that the Procurer shall have a right to require deferment of each such re-tests for a period not exceeding five (5) days, without incurring any liability for such deferment, if the Procurer is unable to provide evacuation of power to be generated, due to reasons outside the reasonable control of the Procurer or due to inadequate demand in the Grid.

8.1.2 The Procurer shall give the Seller not less than seven (7) days' advance written notice of the time when a Repeat Performance Test of a Unit (or if all the Units have been Commissioned, of the Power Station's) is to begin. A Repeat Performance Test may not be scheduled for any period when the Unit to be tested is due to undergo a Scheduled Outage.

8.1.3 The Procurer and Seller shall jointly appoint the Independent Engineer to monitor the Repeat Performance Test and to certify the results in accordance with Article 8.2.

8.1.4 If the Seller wishes to take any Unit, out of service for repair before a Repeat Performance Test, it shall inform the Procurer in writing before its scheduled start of the repairs and the estimated time required to complete the repairs. The Parties shall then schedule a Maintenance Outage in accordance with the Grid Code to enable the Seller to carry out those repairs and in such a case, the Procurer, requiring the Repeat Performance Test, shall defer the Repeat Performance Test until such Unit is returned to service following that

Maintenance Outage. Provided however the Seller shall not schedule the Maintenance Outage of a Unit when another Unit of the project is shut down or expected to be shut down except under Force Majeure or when the operation of Unit is not permissible due to technical considerations.

8.1.5 The Procurer requiring the Repeat Performance Test, may , for reasonable cause, defer any Repeat Performance Test for up to fifteen (15) days from the date originally notified to the Seller in accordance with Article 8.1.2 if the Procurer notifies the Seller in writing at least one (1) day before the Repeat Performance Test starts of the reason for the deferral and when the test is to be rescheduled.

Provided that, such deferment at the request of the Procurer shall be permitted only once in respect of each of the Repeat Performance Tests.

8.1.6 The Seller (individually), the Procurer and the Independent Engineer (individually) shall each have the right to designate qualified and authorised representatives (but not more than three each) to monitor the Repeat Performance Test.

8.1.7 Testing and measurement procedures applied during the Repeat Performance Test shall be in accordance with the codes, practices of procedures as generally/normally applied for the Performance Tests.

8.1.8 Within five (5) days of a Repeat Performance Test, the Seller shall provide the Procurer and the Independent Engineer with copies of the detailed test results.

8.1.9 Within one (1) Month of the date by which all the Units have been Commissioned, the Seller shall conduct a Performance Test of the Power Station (hereinafter referred to as "Power Station Performance Test") whereafter the provisions of Article 8.2 shall apply. A Power Station Performance Test shall be carried out in accordance with Article 1.1 of Schedule 5, save that the test shall last twenty-four (24) hours instead of seventy two (72) hours.

8.2 Derating

8.2.1 A Repeat Performance Test shall be concluded when the Procurer receives the Final Test Certificate of the Independent Engineer stating that the Repeat Performance Test has been carried out satisfactorily in accordance with Schedule 5 and certified the Unit's (or if all the Units have been commissioned), the Power Station's) then current Tested Capacity as demonstrated by the results of the Repeat Performance Test.

8.2.2 (i) If a Unit's (or if all the Units have been Commissioned, of the Power Station's) then current Tested Capacity as established by the Repeat Performance Test and the Final Test Certificate issued by the Independent Engineer, is less than its Contracted Capacity as existing on the Effective Date or in case the Seller has

excercised the option under Article 3.1.1A the Contracted Capacity so finalised, the Seller shall not be permitted to declare the Available Capacity of the Unit (or if all the Units have been Commissioned, of the Power Station's) at a level greater than its Tested Capacity, in which case:

a) the Unit's (or if all the Units have been Commissioned, of the Power Station's) Contracted Capacity shall be reduced to its most recent Tested Capacity and Quoted Capacity Charges shall be paid with respect to such reduced Contracted Capacity.

b) Further, the Quoted Non –Escalable Capacity Charge shall be reduced by the following:

Rs. 0.25/kwh x [1 – {(Tested Capacity of all Commissioned Units + Contracted Capacity at the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised of all Units not Commissioned)/Contracted Capacity at the Effective Date of all Units or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised }];

c) the Availability Factor of the derated Unit (or if all the Units have been Commissioned, of the Power Station's) shall be calculated by reference to the reduced Contracted Capacity, and:

d) the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Contracted Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned);

(ii) The consequences mentioned in sub-Article (i) above shall apply from the completion date of each Repeat Performance Test.. If at the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier, the Tested Capacity is less than the Contracted Capacity as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised, the consequences mentioned in Article 8.2.2 shall apply for a period of at least one year after which the Seller shall have the right to undertake a Repeat Performance Test. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier

8.2.3 If the Independent Engineer certifies that it is unable to give a Final Test Certificate because events or circumstances beyond the Seller's reasonable control have prevented the Repeat Performance Test from being carried out in accordance with Schedule 5, the Procurer shall reschedule a Repeat Performance Test as soon as reasonably practicable.

8.2.4 If a Unit's or if all the Units have been Commissioned, of the Power Station's, Tested Capacity is found to be more than it's Contracted Capacity, the provisions of Article 6.3.5 shall apply mutatis mutandis.

8.3 Availability

The Seller shall comply with the provisions of the applicable Law regarding Availability including, in particular, to the provisions of the ABT and Grid Code relating to intimation of Availability and the matters incidental thereto.

8.4 Dispatch

The Seller shall comply with the provisions of the applicable Law regarding Dispatch Instructions, in particular, to the provisions of the ABT and Grid Code relating to Dispatch and the matters incidental thereto.

9 ARTICLE 9: METERING AND ENERGY ACCOUNTING

9.1 Meters

For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the Seller and the Procurer shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code and ABT as amended and revised from time to time. In addition, the Seller shall also allow and facilitate CTU in installation of one set of required main and standby special energy meters for accurate recording of energy supplied by Seller. For these CTU meters (110V, 1A, 4-wire), the Seller shall provide the required connection from EHV current transformers/ bushing CTs/ voltage transformers/ CVTs on EHV side of all generator-transformers, station transformers and outgoing lines, of meter accuracy of 0.2 class or better. The Seller may install any further meters for its own comfort at its own cost.

9.2 RLDC / SLDC Charges

All scheduling and RLDC / SLDC charges applicable shall be borne by the Procurer.

10 ARTICLE 10: INSURANCES

10.1 Insurance

The Seller shall effect and maintain or cause to be effected and maintained during the Construction Period and Operating Period , Insurances against such risks, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements.

10.2 Application of Insurance Proceeds

Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Project or any part of the Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

If a Natural Force Majeure Event renders the Project no longer economically and technically viable and the insurers under the Insurances make payment on a "total loss" or equivalent basis, the Procurer shall have no claim on such proceeds of such Insurance

10.3 Effect on liability of the Procurer

Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or for which the Seller can claim compensation, under any Insurance shall not be charged to or payable by the Procurer.

11 ARTICLE 11 BILLING AND PAYMENT

11.1 General

From the COD of the first Unit, Procurer shall pay the Seller the Monthly Tariff Payment, on or before the Due Date, comprising of Tariff for every Contract Year, determined in accordance with this Article 11 and Schedule 7. All Tariff payments by Procurer shall be in Indian Rupees.

Provided however, if the Procurer avails of any Electrical output from the Seller prior to the Commercial Operation Date ("**Infirm Power**") of the Unit, then Procurer shall be liable to pay only Energy Charges (as applicable for the Contract Year in which the Infirm Power is supplied or next Contract Year in case no Energy Charges are mentioned in such Contract Year), for Infirm Power generated by such Unit. The quantum of Infirm Power generated by Units synchronized but not have been put on COD shall be computed from the energy accounting and audit meters installed at the Power Station as per Central Electricity Authority (installation and operation of meters) Regulations 2006 as amended from time to time.

11.2 Delivery and content of Monthly Bills

11.2.1 The Seller shall issue to Procurer a signed Monthly Bill for the immediately preceding Month.
Provided that:

i. if the COD of the first Unit falls during the period between the first (1st) day and up to and including the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period until the last day of such Month, or

ii. if the COD of the first Unit falls after the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period commencing from the COD of the first Unit until the last day of the immediately following Month.

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

11.2.2 Each Monthly Bill and Provisional Bill shall include:

i. Availability and energy account for the relevant Month as per REA for

Monthly Bill and RLDC's daily energy account for Provisional Bill:

ii. the Seller's computation of various components of the Monthly Tariff Payment in accordance with Schedule 7; and

iii. supporting data, documents and calculations in accordance with this Agreement.

11.3 Payment of Monthly Bills

11.3.1 The Procurer shall pay the amount payable under Monthly Bill on the Due Date to such account of the Seller, as shall have been previously notified by the Seller to Procurer in accordance with Article 11.3.3 below.

All payments made by the Procurer shall be appropriated by the Seller in the following order of priority:

1. towards Late Payment Surcharge, payable by the Procurer, if any;
2. towards earlier unpaid Monthly Bill, if any; and
3. towards the then current Monthly Bill.

11.3.2 All payments required to be made under this Agreement shall only include any deduction or set off for:

i. deductions required by the Law; and

ii. amounts claimed by the Procurer from the Seller, through an invoice duly acknowledged by the Seller, to be payable by the Seller, and not disputed by the Seller within thirty (30) days of receipt of the said invoice and such deduction or set-off shall be made to the extent of the amounts not disputed. It is clarified that the Procurer shall be entitled to claim any set off or deduction under this Article, after expiry of the said 30 day period.

Provided further, the maximum amounts that can be deducted or set-off by the Procurer under this Article in a Contract Year shall not exceed Rs 46,03,50,000 (Rupees Forty Six Crore Three lacs Fifty Thousand) only, except on account of payments under sub Article (i) above.

11.3.3 The Seller shall open a bank account at [Identified Place or Account designated by Lenders] (the "Designated Account") for all Tariff Payments to be made by Procurer to the Seller, and notify Procurer of the details of such account at least ninety (90) days before the dispatch of the first Monthly Bill to Procurer. Procurer shall instruct their respective bankers to make all payments under this Agreement to the Designated Account and shall notify the Seller of such instructions on the same day. Procurer shall also designate a bank account at [Identified Place] for payments to be made by the Seller (including Supplementary Bills) to Procurer

and notify the Seller of the details of such account ninety (90) days before the COD of the first Unit.

11.3.4 In the event of delay in payment of a Monthly Bill by any Procurer beyond its Due Date month billing, a Late Payment Surcharge shall be payable by the Procurer to the Seller at the rate of two (2) percent in excess of the applicable SBAR per annum, on the amount of outstanding payment, calculated on a day to day basis (and compounded with Monthly rest), for each day of the delay.

11.3.5 For payment of any Bill, before Due Date, the following rebate shall be paid by the Seller to the Procurer in the following manner.

a) Provisional Bill will be raised by the Seller on the last Business day of the Month where the Capacity Charges shall be based on the Declared Capacity for the full Month and the Energy Charges shall be based on the final implemented Scheduled Energy upto 25th day of the Month. Rebate shall be payable at the rate of two point two five percent (2.25%) of the amount (which shall be the full amount due under the Provisional Bill) credited to Seller's account on first day of the Month and rebate amount shall reduce at the rate of zero point zero five percent (0.05%) for each day, upto fifth (5th) day of the Month.

b) Applicable rate of rebate at (a) above shall be based on the date on which payment has been actually credited to the Seller's account. Any delay in transfer of money to the Seller's account, on account of public holiday, bank holiday or any other reasons shall be to the account of the Procurer.

c) Two percent (2%) rebate for credit to Sellers account made within one (1) Day of the presentation of Monthly Bill for the Month for which the Provisional Bill was raised earlier.

d) For credit to Seller's account made on other days the rebate on Monthly Bill shall be as under:

Number of days before Due Date of Monthly Bill	Rates of Rebate applicable
29	Two percent (2.00%)
Each day thereafter upto the Due Date	2% less [0.033% x {29 less number of days before Due Date when the payment is made by the Procurer}]

e) Rebate of two point two five percent (2.25%) to two point zero five percent (2.05%) will be available to the Procurer for crediting one hundred percent (100%) of the Provisional Bill within first five (5) days of the Month to

Seller's account/designated account and balance amount, if any, based on Monthly Bill (as per REA) within the Month.

f) In the event only part amount of Provisional Bill is credited to Seller's account, within first five (5) days and the balance amount is credited to Sellers account during other days of the Month, rebate will be paid on such part amount, at the rate of two percent (2%) plus zero point zero three three percent (0.033%) per day for the number of days earlier than the 6th day when such part amount is credited to Sellers' account;

g) The above rebate will be allowed only to the Procurer for crediting to Seller's account the full Monthly Bill.

h) No rebate shall be payable on the bills raised on account of Change in Law relating to taxes, duties and cess;

i) If the Provisional Bill has not been paid by the date of receipt of he Monthly Bill then such Provisional Bill shall not be payable, provided in case the Provisional Bill has already been paid, then only the difference between the Monthly Bill and Provisional Bill shall be payable.

11.4 Payment Mechanism

11.4.1 ***Letter of Credit:***

The Procurer shall provide to the Seller, in respect of payment of its Monthly Bills, a monthly unconditional, revolving and irrevocable letter of credit ("**Letter of Credit**"), opened and maintained by the Procurer, which may be drawn upon by the Seller in accordance with Articles 11.4.1.1 through 11.4.1.5. The Procurer shall provide the Seller draft of the Letter of Credit proposed to be provided to the Seller before the NTP. Further, the Letter of Credit shall be provided from the bank which is appointed as Default Escrow Agent under the Default Escrow Agreement.

11.4.1.1 Not later than one (1) Month prior to the the Scheduled COD or the Revised Scheduled COD (as applicable) of the first Unit, The Procurer shall through a scheduled bank at [*Identified Place*] open a Letter of Credit in favour of the Seller, to be made operative from a date 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:

for the first Contract Year, equal to one point one (1.1) times the estimated average monthly billing based on Normative Availability;

for each subsequent Contract Year, equal to the one point one (1.1) times the average of the Monthly Tariff Payments of the previous Contract Year plus the estimated monthly billing during the current year from any additional Unit(s) expected to be put on COD during the current Contract Year based on Normative Availability.

Provided that the Seller shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill, and shall not make more than one drawal in a Month.

Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 11.4.1.1 or 11.4.1.8 otherwise than by reason of drawal of such Letter of Credit by the Seller, the relevant Procurer shall restore such shortfall within seven (7) days.

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

11.4.1.3 In case of drawal of the Letter of Credit by the Seller in accordance with the terms of this Article 11.4.1, the amount of the Letter of credit shall be reinstated in the manner stated in Article 11.4.2.3 of this Agreement.

11.4.1.4 If the Procurer fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 11.6.7, the Seller may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the Procurer, an amount equal to such Monthly Bill or part thereof plus Late Payment Surcharge, if applicable, in accordance with Article 11.3.4 above, 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 Procurer;
ii) a certificate from the Seller to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date; and
iii) calculations of applicable Late Payment Surcharge, if any.

Further, on the occurrence of such an event as envisaged herein, the Seller shall immediately inform the Procurer of the said failure to pay the Monthly Bill or part thereof and shall send regular updates to the Procurer, which shall not be less than one (1) in every two (2) days, containing details of the amount claimed

by the Seller as per the provisions of this Article and payments made by the Procurer pursuant to such claim.

For the avoidance of doubt it is clarified that the Seller shall not be entitled to drawdown on the Letter of Credit for any failure of the Procurer to pay a Supplementary Bill.

11.4.1.5 Procurer shall ensure,that the Letter of Credit shall be renewed not later than forty five (45) days prior to its expiry.

11.4.1.6 All costs relating to opening and maintenance of the Letter of Credit shall be borne by the Procurer, however, Letter of Credit negotiation charges shall be borne and paid by the Seller.

11.4.1.7 Where necessary, the Letter of Credit may also be substituted by an unconditional and irrevocable bank guarantee or an equivalent instrument as mutually agreed by the Procurer and the Seller.

11.4.1.8 Upon fulfilment of the conditions mentioned under Article 11.4.2.2 the Letter of Credit amount as mentioned in Article 11.4.1.1 shall be changed to one (1) time the average of the Monthly Tariff Payments of the previous Contract Year instead of one point one (1.1) times the average of the Monthly Tariff Payments of the previous Contract Year.

11.4.2 **Collateral Arrangement**

11.4.2.1 As further support for the Procurer's obligations, on or prior to the Effective Date, Procurer and the Seller shall execute Default Escrow Agreement (referred as "Default Escrow Agreement") for the establishment and operation of the Default Escrow Account in favour of the Seller, through which the revenues of the Procurer shall be routed and used as per the terms of the Default Escrow Agreement. The Procurer and the Seller shall contemporaneously with the execution of the Default Escrow Agreement enter into a separate Agreement to Hypothecate Cum Deed of Hypothecation, whereby the Procurer shall agree to hypothecate,to the Seller, effective from forty five (45) days prior to the Scheduled COD or Revised Scheduled COD of the first Unit (as applicable), the amounts to the extent as required for the Letter of Credit as per Article 11.4.1.1 routed through the Default Escrow Account and the Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation. The Default Escrow Agreements and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the "Collateral Arrangement". The minimum revenue flow in any Month in the Default Escrow Account shall be at least equal to the amount required for the Letter of Credit as per Article 11.4.1.1.

Provided that the Procurer shall ensure that the Seller has first ranking charge on the revenues routed through the Default Escrow Account and the 'Receivables' in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation. However, such first ranking charge shall be on the amounts, in excess of amounts, which have already been charged or agreed to be charged prior to the date of the execution of the Default Escrow Agreement,.

11.4.2.2 On the occurrence of all of the following events in respect of the Procurer:

(i) A period of not less than two (2) years from COD of Power Station, has elapsed; and

(ii) The Procurer has achieved, for its ability to honour its Tariff Payment obligations to the Seller under this Agreement, a credit rating of 'A' or better, from a SEBI registered Indian credit rating agency mutually agreed between Seller and the Lender/s, consistently for a period of at least three (3) years; and

(iii) Immediately prior to the three (3) year period mentioned in sub-clause (ii) above,, for a period of at least two (2) years there has been no Procurer Event of Default under Article 14 of the PPA, by the Procurer,

The Procurer shall intimate the Seller in writing of the occurrence of the same and its intention to discontinue the Collateral Arrangement. If the Seller desires to continue with the Collateral Arrangement, it shall intimate the same to the Procurer in writing within thirty (30) days of receipt of intimation from the Procurer and in such case the Seller shall be liable to bear the costs of continuation of the Collateral Arrangement with effect from such date. In case the Seller fails to respond or agrees to discontinue, the Collateral Arrangement shall forthwith cease and the Default Escrow Agreement and the routed through the Default Escrow Account and the 'Receivables' in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation shall stand terminated as per terms thereof.

Provided that in case of any of conditions mentioned under (i), (ii) or (iii) in Article 11.4.2.2 ceases to be true, then within 90 days of the occurrence of such event, the Procurer shall reinstate the Collateral Arrangement, at its own cost.

11.4.2.3 If the Letter of Credit is insufficient to pay for the due payments to the Seller or is not replenished for the drawals made, then within a period of seven (7) days from the date such shortfall in the Letter of Credit occurs, the Letter of Credit shall be reinstated to the requisite amount specified in this Agreement, and in the manner specified in the Default Escrow Agreement.

11.5 Third Party Sales on default

11.5.1 Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence of an event where the Procurer has not made payment by the Due Date of an Invoice through the payment mechanism provided in this Agreement, the Seller shall follow the steps as enumerated in Articles 11.5.2 and 11.5.3.

11.5.2 On the occurrence of the event mentioned in Article 11.5.1 and after giving a notice of at least seven (7) days to the defaulting Procurer(s),-the Seller shall have the obligation to offer twenty five (25) per cent of the Contracted Capacity pertaining to such defaulting Procurer ("Default Electricity") to a third party.

11.5.3 If the Procurer does not make the election to receive the Default Electricity or a part thereof, within two (2) Business Days of it being so offered under and as per Article 11.5.2, the Seller shall have the right (but not the obligation) to make available and sell the Default Electricity or a part thereof to a third party, namely:

(a) any consumer, subject to applicable Law; or
(b) any licensee under the Electricity Act, 2003;

11.5.4 If the Collateral Arrangement is not fully restored by the Procurer within thirty (30) days of the non-payment by the Procurer of a Invoice by its Due Date, the provisions of Article 11.5.3 shall apply with respect to one hundred (100) per cent of the Contracted Capacity.Provided that in case the events mentioned in Article 11.4.2.2 (i), (ii) and (iii) are true, then this Article 11.5.4 shall be applicable as per Article 11.4.2.2.

11.5.5 Provided that, in the case of Article 11.5.3 or 11.5.4, the Seller shall ensure that sale of power to the shareholders of the Seller or any direct or indirect affiliate of the Seller/shareholders of the Seller, is not at a price less than the Energy Charges.

11.5.6 In case of third party sales as permitted by this Article 11.5, the adjustment of the surplus revenue over Energy Charge (applicable to the defaulting Procurer) attributable to such electricity sold, shall be adjusted as under :

(a) the surplus upto the Tariff shall be used towards the extinguishment of the subsisting payment liability of the defaulting Procurer towards the Seller; and
(b) the surplus if any above the Tariff shall be retained by the Seller.

The liability of the defaulting Procurer towards making Capacity Charge payments to the Seller even for electricity sold to third parties or remaining unsold during such periods will remain unaffected. Provided such Capacity Charge payment liability shall cease on the date which occurs on the Expiry of a

period of three (3) years and hundred (100) days from the date of occurrence of the Procurer Event of Default under Article 14.2 (i), provided if prior to such date, such Procurer Event of Default has not ceased and regular supply of electricity for a period of at least ninety (90) continuous days has not occurred.

11.5.7 Sales to any person or Party, other than the defaulting Procurer under Article 11.5, shall cease and regular supply of electricity to the defaulting Procurer in accordance with all the provisions of this Agreement shall commence and be restored on the later of the two following dates or any date before this date at the option of Seller:

(a) the day on which the defaulting Procurer pays the amount due to the Seller and renews the Letter of Credit and restores Default Escrow Account (if applicable) as mentioned in Article 11.4.2.1 ; or

(b) the date being "x" days from the date on which the defaulting Procurer pays the amount due to the Seller, where "x" days shall be calculated in accordance with Schedule 3.

11.6 Disputed Bill

11.6.1 If a Party does not dispute a Monthly Bill, Provisional Bill or a Supplementary Bill raised by the other Party within thirty (30) days of receiving it, such bill shall be taken as conclusive.

11.6.2 If a Party disputes the amount payable under a Monthly Bill, Provisional Bill or a Supplementary Bill, as the case may be, that Party shall, within thirty (30) 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.

11.6.3 If the invoicing Party agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 11.6.2, the invoicing Party shall revise such bill within seven (7) days of receiving such notice and if the disputing Party has already made the excess payment , refund to the disputing Party such excess amount within fifteen (15) days of receiving such notice. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge which shall be applied from the date on which such excess payment was made to the invoicing Party and upto and including the date on which such payment has been received.

11.6.4 If the invoicing Party does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 11.6.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a 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.

11.6.5 Upon receipt of notice of disagreement to the Bill Dispute Notice under Article 11.6.4, authorised representative(s) or a director of the board of directors/member of board of each Party shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receiving such notice of disagreement to the Bill Dispute Notice.

11.6.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of notice of disagreement to the Bill Dispute Notice pursuant to Article 11.6.4, the matter shall be referred to Dispute Resolution in accordance with Article 17.

11.6.7 In case of Disputed Bills, it shall be open to the aggrieved party to approach the Appropriate Commission for Dispute Resolution in accordance with Article 17 and also for interim orders protecting its interest including for orders for interim payment pending Dispute Resolution and the Parties shall be bound by the decision of the Appropriate Commission, including in regard to interest or Late Payment Surcharge, if any directed to be paid by the Appropriate Commission.

11.6.8 If a Dispute regarding a Monthly Bill, Provisional Bill or a Supplementary Bill is settled pursuant to Article 11.6 or by Dispute resolution mechanism provided in this Agreement in favour of the Party that issues a Bill Dispute Notice, the other Party shall refund the amount, if any incorrectly charged and collected from the disputing Party or pay as required, within five (5) days of the Dispute either being amicably resolved by the Parties pursuant to Article 11.6.5 or settled by Dispute resolution mechanism along with interest at the same rate as Late Payment Surcharge from the date on which such payment had been made to the invoicing Party or the date on which such payment was originally due, as may be applicable.

11.6.9 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the concerned Procurer shall, without prejudice to its right to Dispute, be under an obligation to make payment, of the lower of (a) an amount equal to simple average of last three (3) Months invoices (being the undisputed portion of such three Months invoices) and (b) Monthly Invoice which is being disputed, provided such Monthly Bill has been raised based on the REA and in accordance with this Agreement.

11.7 Quarterly and Annual Reconciliation

Parties acknowledge that all payments made against Monthly Bills, Provisional Bill and Supplementary Bills shall be subject to quarterly reconciliation at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year to take into account REA, Tariff Adjustment Payments, Tariff Rebate Payments, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement. 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 Seller and the Procurer shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the Seller or Procurer, as the case may be, shall raise a Supplementary Bill for the Tariff Adjustment Payments for the relevant quarter/ Contract Year and shall make payment of such Supplementary Bill for the Tariff Adjustment Payments for the relevant quarter/Contract Year. Late Payment Surcharge shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 17.

11.8 Payment of Supplementary Bill

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

i) Adjustments required by the Regional Energy Account (if applicable);
ii) Tariff Payment for change in parameters, pursuant to provisions in Schedule 7; or
iii) Change in Law as provided in Article 13, and such Bill shall be paid by the other Party.

11.8.2 Procurer shall remit all amounts due under a Supplementary Bill raised by the Seller to the Seller's Designated Account by the Due Date and notify the Seller of such remittance on the same day. Similarly, the Seller shall pay all amounts due under a Supplementary Bill raised by Procurer by the Due Date to the Procurer's designated bank account and notify the Procurer of such payment on the same day. For such payments by the Procurer, rebates as applicable to Monthly Bills pursuant to Article 11.3.5 shall equally apply.

11.8.3 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 11.3.4.

11.9 Payment for Start up Power

The Seller shall be liable to pay, for the power and energy consumed for start-up of the Project and commissioning, to the distribution Licensee(s) in whose area the Project is located or such other entity from whom such power/energy is sourced, at the then prevalent rates payable by such industrial consumers.

11.10 The copies of all notices/offers which are required to be sent as per the provisions of this Article 11, shall be sent by either Party, simultaneously to all Parties.

12 ARTICLE 12 : FORCE MAJEURE

12.1 Definitions

In this Article 12, the following terms shall have the following meanings:

12.2 Affected Party

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

An event of Force Majeure affecting the CTU/STU or any other agent of Procurer, which has affected the Interconnection Facilities, shall be deemed to be an event of Force Majeure affecting the Procurer.

Any event of Force Majeure affecting the performance of the Seller's contractors, shall be deemed to be an event of Force Majeure affecting Seller only if the Force Majeure event is affecting and resulting in:

a. late delivery of plant, machinery, equipment, materials, spare parts, Fuel, water or consumables for the Project; or
b. a delay in the performance of any of the Seller's contractors.

Similarly, any event of Force Majeure affecting the performance of the Procurer's contractor for the setting up or operating Interconnection Facilities shall be deemed to be an event of Force Majeure affecting Procurer only if the Force Majeure event is resulting in a delay in the Performance of Procurer's contractors.

12.3 Force Majeure

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

i. Natural Force Majeure Events:

act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years.

ii. Non-Natural Force Majeure Events:

1. Direct Non - Natural Force Majeure Events

a) Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the Seller or the Seller's contractors; or

b) the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consent required by the Seller or any of the Seller's contractors to perform their obligations under the Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other consent required for the development/ operation of the Project. Provided that an appropriate court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down.

c) any other unlawful, unreasonable or discriminatory action on the part of an Indian Government Instrumentality which is directed against the Project. Provided that an appropriate court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down.

2. Indirect Non - Natural Force Majeure Events

a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargoes, revolution, riot, insurrection, terrorist or military action; or

b) Radio active contamination or ionising radiation originating from a source in India or resulting from another Indirect Non Natural Force Majeure Event excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the site by the Affected Party or those employed or engaged by the Affected Party.

c) Industry wide strikes and labor disturbances having a nationwide impact in India.

12.4 Force Majeure Exclusions

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

a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts, Fuel or consumables for the Project;

b. Delay in the performance of any contractor, sub-contractors or their agents excluding the conditions as mentioned in Article 12.2;

c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;

d. Strikes or labour disturbance at the facilities of the Affected Party;

e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and

f. Non-performance caused by, or connected with, the Affected Party's:

   i) Negligent or intentional acts, errors or omissions;

   ii) Failure to comply with an Indian Law; or

   iii) Breach of, or default under this Agreement or any Project Documents.

12.5 Notification of Force Majeure Event

The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. Provided that such notice shall be a pre-condition to the Seller's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the situation.

The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

12.6 Duty to perform and duty to mitigate

To the extent not prevented by a Force Majeure event pursuant to Article 12.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

12.7 Available Relief for a Force Majeure Event

Subject to this Article 12:

(a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

(b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5.

(c) For the avoidance of doubt, it is clarified that no Tariff shall be paid by the Procurer for the part of Contracted Capacity affected by a Natural Force Majeure Event affecting the Seller, for the duration of such Natural Force Majeure Event. For the balance part of the Contracted Capacity, the Procurer shall pay the Tariff to the Seller, provided during such period of Natural Force Majeure Event, the balance part of the Power Station is declared to be Available for scheduling and dispatch as per ABT for supply of power by the Seller to the Procurer.

(d) If the average Availability of the Power Station is reduced below sixty (60) percent for over two (2) consecutive months or for any non consecutive period of four (4) months both within any continuous period of sixty (60) months, as a result of an Indirect Non Natural Force Majeure, then, with effect from the end of that period and for so long as the daily average Availability of the Power Station continues to be reduced below sixty (60) percent as a result of an Indirect Non Natural Force Majeure of any kind, the Procurer shall make payments for Debt Service, subject to a maximum of Capacity Charges based on Normative Availability, relatable to such Unit, which are due under the Financing Agreements and these amounts shall be paid from the date, being the later of a) the date of cessation of such Indirect Non Natural Force Majeure Event and b) the completion of sixty (60) days from the receipt of the Financing Agreements by the Procurer from the Seller, in the form of an increase in Capacity Charge. Provided such Capacity Charge increase shall be determined by Appropriate Commissionon the basis of putting the Seller in the same economic position as the Seller would have been in

case the Seller had been paid Debt Service in a situation where the Indirect Non Natural Force Majeure had not occurred.

Provided that the Procurer will have the above obligation to make payment for the Debt Service only (a) after the Unit(s) affected by such Indirect Non Natural Force Majeure Event has been Commissioned, and (b) only if in the absence of such Indirect Non Natural Force Majeure Event, the Availability of such Commissioned Unit(s) would have resulted in Capacity Charges equal to Debt Service.

e) If the average Availability of the Power Station is reduced below eighty (80) percent for over two (2) consecutive months or for any non consecutive period of four (4) months both within any continuous period of sixty (60) months, as a result of a Direct Non Natural Force Majeure, then, with effect from the end of that period and for so long as the daily average Availability of the Power Station continues to be reduced below eighty (80) percent as a result of a Direct Non Natural Force Majeure of any kind, the Seller may elect in a written notice to the Procurer, to deem the Availability of the Power Station to be eighty (80) percent from the end of such period, regardless of its actual Available Capacity. In such a case, the Procurer shall be liable to make payment to the Seller of Capacity Charges calculated on such deemed Normative Availability, after the cessation of the effects of Direct Non Natural Force Majeure in the form of an increase in Capacity Charge. Provided such Capacity Charge increase shall be determined by Appropriate Commission on the basis of putting the Seller in the same economic position as the Seller would have been in case the Seller had been paid Capacity Charges in a situation where the Direct Non Natural Force Majeure had not occurred.

(f) For so long as the Seller is claiming relief due to any Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Procurer) under this Agreement, the Procurer may from time to time on one (1) days notice inspect the Project and the Seller shall provide Procurer's personnel with access to the Project to carry out such inspections, subject to the Procurer's personnel complying with all reasonable safety precautions and standards. Provided further the Procurer shall be entitled at all times to request Repeat Performance Test, as per Article 8.1, of the Unit(s) Commissioned earlier and now affected by Direct or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Procurer), where such Testing is possible to be undertaken in spite of the Direct or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Procurer), and the Independent Engineer

accepts and issues a Final Test Certificate certifying such Unit(s) being capable of delivering the Contracted Capacity and being Available, had there been no such Direct or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Procurer). In case, the Available Capacity as established by the said Repeat Performance Test (provided that for such Repeat Performance Test, the limitation imposed by Article 8.1.1 shall not apply) and Final Test Certificate issued by the Independent Engineer is less than the Available Capacity corresponding to which the Seller would have been paid Capacity Charges equal to Debt Service in case of Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Procurer), then the Procurer shall make pro-rata payment of Debt Service but only with respect to such reduced Availability. For the avoidance of doubt, if Debt Service would have been payable at an Availability of 60% and pursuant to a Repeat Performance Test it is established that the Availability would have been 40%, then Procurer shall make payment equal to Debt Service multiplied by 40% and divided by 60%. Similarly, the payments in case of Direct Non Natural Force Majeure Event (and Natural Force Majeure Event affecting the Procurer) shall also be adjusted pro-rata for reduction in Available Capacity.

g) In case of a Natural Force Majeure Event affecting the Procurer which adversely affects the performance obligations of the Seller under this Agreement, the provisions of sub-proviso (d) and (f) shall apply.

(h) For the avoidance of doubt, it is specified that the charges payable under this Article 12 shall be paid by the Procurer.

12.8 Additional Compensation and Procurer's Subrogation

If the Seller is entitled, whether actually or contingently, to be compensated by any person other than the Procurer as a result of the occurrence of a Non Natural Force' Majeure Event (or Natural Force Majeure Event affecting the Procurer) for which it has received compensation from the Procurer pursuant to this Article 12, including without limitation, payments made which payments would not have been made in the absence of Article 4.7.1, the Procurer shall be fully subrogated to the Seller's rights against that person to the extent of the compensation paid by the Procurer to the Seller. Provided that in case the Seller has actually received compensation from the any person other than the Procurer as well as the Procurer as a result of the occurrence of a Non Natural Force' Majeure Event (or Natural Force Majeure Event affecting the Procurer), then the Seller shall forthwith refund the compensation received by it from the Procurer but only to the extent of the compensation received by the Seller from any person other than the Procurer.

13 ARTICLE 13 : CHANGE IN LAW

13.1 Definitions

In this Article 13, the following terms shall have the following meanings:

13.1.1 "Change in Law" means the occurrence of any of the following events after the date, which is seven (7) days prior to the Bid Deadline:

(i) the enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal, of any Law or (ii) a change in interpretation of any Law by a Competent Court of law, tribunal or Indian Governmental Instrumentality provided such Court of law, tribunal or Indian Governmental Instrumentality is final authority under law for such interpretation or (iii) change in any consents, approvals or licenses available or obtained for the Project, otherwise than for default of the Seller, which results in any change in any cost of or revenue from the business of selling electricity by the Seller to the Procurer under the terms of this Agreement, or (iv) any change in the (a) Declared Price of Land for the Project or (b) the cost of implementation of the resettlement and rehabilitation package of the land for the Project mentioned in the RfP or (c) the cost of implementing Environmental Management Plan for the Power Station (d) Deleted

but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Seller, or (ii) change in respect of UI Charges or frequency intervals by an Appropriate Commission.

13.1.2 "Competent Court" means:

The Supreme Court or any High Court, or any tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to the Project.

13.2 Application and Principles for computing impact of Change in Law

While determining the consequence of Change in Law under this Article 13, the Parties shall have due regard to the principle that the purpose of compensating the Party affected by such Change in Law, is to restore through Monthly Tariff payments, to the extent contemplated in this Article 13, the affected Party to the same economic position as if such Change in Law has not occurred.

a) Construction Period

As a result of any Change in Law, the impact of increase/decrease of Capital Cost of the Project in the Tariff shall be governed by the formula given below:

For every cumulative increase/decrease of each **Rs 25,00,00,000/- (Rupees Twenty Five Crore)** in the Capital Cost over the term of this Agreement, the increase/decrease in Non Escalable Capacity Charges shall be an amount equal to **0.267% (percentage zero point two six seven)** of the Non Escalable Capacity Charges. Provided that the Seller provides to the Procurer documentary proof of such increase/ decrease in Capital Cost for establishing the impact of such Change in Law. In case of Dispute, Article 17 shall apply.

It is clarified that the above mentioned compensation shall be payable to either Party, only with effect from the date on which the total increase/decrease exceeds amount of **Rs. 25,00,00,000/- (Rupees Twenty Five Crore)**.

b) Operation Period

As a result of Change in Law, the compensation for any increase/decrease in revenues or cost to the Seller shall be determined and effective from such date, as decided by the Central Electricity Regulatory Commission whose decision shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

Provided that the above mentioned compensation shall be payable only if and for increase/ decrease in revenues or cost to the Seller is in excess of an amount equivalent to 1% of the Letter of Credit in aggregate for a Contract Year.

13.3 Notification of Change in Law

13.3.1 If the Seller is affected by a Change in Law in accordance with Article 13.2 and wishes to claim a Change in Law under this Article, it shall give notice to the Procurer of such Change in Law as soon as reasonably practicable after becoming aware of the same or should reasonably have known of the Change in Law.

13.3.2 Notwithstanding Article 13.3.1, the Seller shall be obliged to serve a notice to the Procurer under this Article 13.3.2 if it is beneficially affected by a Change in Law. Without prejudice to the factor of materiality or other provisions contained in this Agreement, the obligation to inform the Procurer contained herein shall be material. Provided that in case the Seller has not provided such notice, the Procurer shall have the right to issue such notice to the Seller.

13.3.3 Any notice served pursuant to this Article 13.3.2 shall provide, amongst other things, precise details of:

(a) the Change in Law; and

(b) the effects on the Seller of the matters referred to in Article 13.2.

13.4 Tariff Adjustment Payment on account of Change in Law

13.4.1 Subject to Article 13.2, the adjustment in Monthly Tariff Payment shall be effective from:

(i) the date of adoption, promulgation, amendment, re-enactment or repeal of the Law or Change in Law; or

(ii) the date of order/judgment of the Competent Court or tribunal or Indian Governmental Instrumentality, if the Change in Law is on account of a change in interpretation of Law.

13.4.2 The payment for Changes in Law shall be through Supplementary Bill as mentioned in Article 11.8. However, in case of any change in Tariff by reason of Change in Law, as determined in accordance with this Agreement, the Monthly Invoice to be raised by the Seller after such change in Tariff shall appropriately reflect the changed Tariff.

14 ARTICLE 14 : EVENTS OF DEFAULT AND TERMINATION

14.1 Seller Event of Default

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the Procurer of its obligations under this Agreement, shall constitute a Seller Event of Default:

i) the failure to Commission any Unit by the date falling twelve (12) Months after its Scheduled Commercial Operation Date, or

ii) after the commencement of construction of the Project, the abandonment by the Seller or the Seller's Construction Contractors of the construction of the Project for a continuous period of two (2) Months and such default is not rectified within thirty (30) days from the receipt of first notice from the Procurer in this regard, or

iii) if at any time following a Unit being Commissioned and during its retest, as per Article 8, such Unit's Tested Capacity is less than ninety two (92) percent of its Contracted Capacity , as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised, and such Tested Capacity remains below ninety two (92) percent even for a period of three (3) Months thereafter; or

iv) after Commercial Operation Date of all the Units of the Power Station, the Seller fails to achieve Average Availability of sixty five percent (65%), for a period of twelve (12) consecutive Months or within a non-consecutive period of twelve (12) Months within any continuous aggregate period of thirty six (36) Months, or

v) the Seller fails to make any payment (a) of an amount exceeding Rupees One (1) Crore required to be made to the Procurer under this Agreement, within three (3) Months after the Due Date of an undisputed invoice /demand raised by the said Procurer on the Seller or (b) of an amount upto Rupees One (1) Crore required to be made to Procurer under this Agreement within six (6) Months after the Due Date of an undisputed invoice/demand, or

vi) any of the representations and warranties made by the Seller in Schedule 10 of this Agreement: being found to be untrue or inaccurate. Further, in addition to the above, any of representations made or the the undertakings submitted by the Selected Bidder at the time of submission of the Bid being found to be breached or inaccurate, including but not limited to undertakings from its parent company/ affiliates related to the minimum equity obligation; Provided however, prior to considering any event specified under this sub-article to be an Event of Default, the Procurer shall give a notice to the Seller in writing of at least thirty (30) days, or

vii) if the Seller:

a) assigns or purports to assign any of its assets or rights in violation of this Agreement; or

b) transfers or novates any of its rights and/or obligations under this agreement, in violation of this Agreement: or

viii) if (a) the Seller 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 Seller, or (c) the Seller 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 Seller will not be an Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company continues to **meet** the financial and technical requirements as per RfQ till COD of the Power Station, and retains creditworthiness similar to the Seller and expressly assumes all obligations of the Seller under this Agreement and is in a position to perform them; or

ix) the Seller repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Procurer in this regard: or

x) except where due to the Procurer's failure to comply with its material obligations, the Seller is in breach of any of its material obligations pursuant to this Agreement or of any of the RfP Project Documents where the Procurer and Seller are parties, and such material breach is not rectified by the Seller within thirty (30) days of receipt of first notice in this regard given by the Procurer to the Seller.

xi) the Seller fails to complete/fulfill the activities/conditions specified in Article 3.1.2, beyond a period of 8 Months from the specified period in Article 3.1.2 and the right of termination under Article 3.3.2 is invoked by the Procurer ; or

xii) any direct or indirect change in the shareholding of the Seller in contravention of the terms of the Bid Documents; or

xiii) The Seller fails to provide additional bank guarantee to the Procurer in accordance with Article 3.3 of this Agreement. or

xiv) Occurrence of any other event which is specified in this Agreement to be a material breach/default of the Seller.

14.2 Procurer Event of Default

The occurrence and the continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the Seller of its obligations under this Agreement. shall constitute the Event of Default on the part of defaulting Procurer:

i) a defaulting Procurer fails to pay (with respect to a Monthly Bill or a Supplementary Bill) an amount exceeding fifteen (15%) of the undisputed part of the most recent Monthly/Supplementary Bill for a period of ninety

(90) days after the Due Date and the Seller is unable to recover the amount outstanding to the Seller through the Collateral Arrangement and Letter of Credit; or

ii) the defaulting Procurer repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Seller in this regard; or

iii) except where due to any Seller's failure to comply with its obligations, the defaulting Procurer is in material breach of any of its obligations pursuant to this Agreement or of any of the RfP Project Documents where the Procurer and the Seller are Parties, and such material breach is not rectified by the defaulting Procurer within thirty (30) days of receipt of notice in this regard from the Seller to all the Procurer; or

iv) any representation and warranties made by the Procurer in Schedule 10 of this Agreement, being found to be untrue or inaccurate. Provided however, prior to considering any event specified under this sub-article to be an Event of Default, the Seller shall give a notice to the Procurer in writing of at least thirty (30) days; or

v) if (a) the Procurer 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 Procurer, or (c) the Procurer 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, except where such dissolution or liquidation of the Procurer is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to the Procurer and expressly assumes all obligations of the Procurer under this Agreement and is in a position to perform them; or;

vi) occurence of any other event which is specified in this Agreement to be a material breach or default of the Procurer.

14.3 Procedure for cases of Seller Event of Default

14.3.1 Upon the occurrence and continuation of any Seller Event of Default under Article 14.1, the Procurer shall have the right to deliver to the Seller a Procurer Preliminary Default Notice, which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

14.3.2 Following the issue of Procurer Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply.

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

14.3.4 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 Seller Event of Default giving rise to the Consultation Period shall have been remedied, the Lenders may exercise or the Procurer may require the Lenders to exercise their substitution rights and other rights provided to them, if any, under Financing Agreements and the Procurer would have no objection to the Lenders exercising their rights if it is in consonance with provisions of Schedule 17. Alternatively, in case the Lenders do not exercise their rights as mentioned herein above, the Capacity Charge of the Seller shall be reduced by 20% for the period of Seller Event of Default.

14.4 Termination for Procurer Events of Default

14.4.1 Upon the occurrence and continuation of any Procurer Event of Default pursuant to Article 14.2 (i), the Seller shall follow the remedies provided under Articles 11.5.2.

14.4.2 Without in any manner affecting the rights of the Seller under Article 14.4.1, on the occurrence of any Procurer Event of Default specified in Article 14.2 the Seller shall have the right to deliver to the Procurer a Seller Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.

14.4.3 Following the issue of a Seller Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply.

14.4.4 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

14.4.5 (i) After a period of seven (7) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or the Procurer Event of Default giving rise to the Consultation Period shall have been remedied, the Seller shall be free to sell the then existing Contracted Capacity and associated Available Capacity of Procurer committing Procurer Event of Default to any third party of his choice. Provided the Procurer shall have the liability to make payments for Capacity Charges based on Normative Availability to the Seller for the period three (3) years from the eighth day after the expiry of the Consultation Period. Provided further that in such three year period, in case the Seller is able to

sell electricity to any third party at a price which is in excess of the Energy Charges, then such excess realization will reduce the Capacity Charge payments due from the Procurer. For the avoidance of doubt, the above excess adjustment would be applied on a cumulative basis for the three year period. During such period, the Seller shall use its best effort to sell the Contracted Capacity and Available Capacity of Procurer generated or capable of being generated to such third parties at the most reasonable terms available in the market at such time, having due regard to the circumstances at such time and the pricing of electricity in the market at such time. Provided further, the Seller shall ensure that sale of power to the shareholders of the Seller or any direct or indirect affiliate of the Seller/shareholders of the Seller, is not at a price less than the Tariff, without obtaining the prior written consent of the Procurer. Such request for consent would be responded to within a maximum period of 3 days failing which it would be deemed that the Procurer has given his consent. Provided further that at the end of the three year period, this Agreement shall automatically terminate but only with respect to the Procurer and thereafter, the Procurer shall have no further Capacity Charge liability towards the Seller. Provided further, the Seller shall have the right to terminate this Agreement with respect to such Procurer even before the expiry of such three year period provided on such termination, the future Capacity Charge liability of such Procurer shall cease immediately.

15 ARTICLE 15 LIABILITY AND INDEMNIFICATION

15.1 Indemnity

The Seller shall indemnify, defend and hold the Procurer harmless against:

(a) any and all third party claims, actions, suits or proceedings against the Procurerfor any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the Seller of any of its obligations under this Agreement, except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of Procurer, its contractors, servants or agents; and

(b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by Procurer from third party claims arising by reason of (i) breach by the Seller of any of its obligations under this Agreement, (provided that this Article 15 shall not apply to such breaches by the Seller, for which specific remedies have been provided for under this Agreement) except to the extent that any such losses, damages, costs and expenses including legal costs, fines, penalties and interest (together to constitute "Indemnifiable Losses") has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of Procurer, its contractors, servants or agents or (ii) any of the representations or warranties of the Seller under this Agreement being found to be inaccurate or untrue.

Procurer shall indemnify, defend and hold the Seller harmless against:

(a) any and all third party claims, actions, suits or proceedings against the Seller, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by Procurer of any of its obligations under this Agreement except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the Seller, its contractors, servants or agents; and

(b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the Seller from third party claims arising by reason of (i) a breach by Procurer of any of its obligations under this Agreement

(Provided that this Article 15 shall not apply to such breaches by Procurer, for which specific remedies have been provided for under this Agreement.), except to the extent that any such Indeminifiable Losses have arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the Seller, its contractors, servants or agents or (ii) any of the representations or warranties of the Procurer under this Agreement being found to be inaccurate or untrue.

15.2 Monetary Limitation of liability

A Party ("Indemnifying Party") shall be liable to indemnify the other Party ("Indemnified Party") under this Article 15 for any indemnity claims made in a Contract Year only upto an amount of **Rs 10,00,00,000/- (Rupees Ten Crore).** With respect to the Procurer, the above limit of **Rs 10,00,00,000/- (Rupees Ten Crore)** shall be divided in the ratio of their Contract Capacity existing on the date of the indemnity claim.

15.3 Procedure for claiming indemnity

15.3.1 Third party claims

(a) Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 15.1.1(a) or 15.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim, proceeding, action or suit referred to in Article 15.1.1(a) or 15.1.2(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim, proceeding, action or suit. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

(i) the Parties choose to contest, defend or litigate such claim, action, suit or proceedings in accordance with Article 15.3.1(b) below; and

(ii) the claim amount is not required to be paid/deposited to such third party pending the resolution of the Dispute.

the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.

(b) The Indemnified Party may contest, defend and litigate a claim, action, suit or proceeding for which it is entitled to be indemnified under Article 15.1.1(a) or 15.1.2(a) and the indemnifying Party shall reimburse to the indemnified Party all reasonable costs and expenses incurred by the indemnified party. However, such indemnified Party shall not settle or compromise such claim, action, suit or proceedings without first getting the consent of the indemnifying Party, which consent shall not be unreasonably withheld or delayed.

An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

15.4 Indemnifiable Losses

Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 15.1.1(b) or 15.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non payment of such losses after a valid notice under this Article 15.4, such event shall constitute a payment default under Article 14.

15.5 Limitation on Liability

Except as expressly provided in this Agreement, neither the Seller nor the Procurer nor their respective officers, directors, agents, employees or Affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its Affiliates, officers, directors, agents, employees, successors or permitted assigns (or their respective insurers) for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation production or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of the Procurer, the Seller or others), strict liability, contract, breach of statutory duty, operation of law or otherwise. The Procurer shall have no recourse against any officer, director or shareholder of the Seller or any Affiliate of the Seller or any of its officers,

directors or shareholders for such claims excluded under this Article. The Seller shall have no recourse against any officer, director or shareholder of the Procurer, or any affiliate of the Procurer or any of its officers, directors or shareholders for such claims excluded under this Article.

16 ARTICLE 16: ASSIGNMENTS AND CHARGES

16.1 Assignments

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. Subject to Article 16.2, this Agreement shall not be assigned by any Party (and no Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement) other than by mutual consent between the Parties to be evidenced in writing:

Provided that, such consent shall not be withheld if the Procurer seeks to transfer to any transferee all of its rights and obligations under this Agreement; and

(a) such transferee is either the owner or operator of all or substantially all of the distribution system of Procurer and /or such transferee is a successor entity of the Procurer; and

(b) this Agreement and the other RfP Project Documents shall continue to remain valid and binding on such successor.

Seller shall be entitled to assign its rights and obligations under this Agreement in favor of the Selectee duly appointed pursuant to the terms of Schedule 17 of this Agreement.

16.2 Permitted Charges

16.2.1 Notwithstanding anything contained in Article 16.1, the Seller may create any encumbrance over all or part of the receivables, Payment Mechanism or the other assets of the Project or the RfP Project Documents in favour of the Lenders or the Lender's Representative on their behalf, as security for:

(a) amounts payable under the Financing Agreements; and

(b) any other amounts agreed by the Parties,

Provided that:

I the Lenders or the Lender's Representative on their behalf shall have agreed in writing to the provisions of Schedule 17 of this Agreement; and

II any encumbrances granted by the Seller in accordance with this Article 16.2.1 shall contain provisions pursuant to which the Lenders or the Lender's Representative on their behalf agrees unconditionally with the Seller acting for itself and as trustee of the Procurer to release from such encumbrances all of the right, title and interest to Additional Compensation so as to enable the Procurer to claim its right of subrogation. For the purposes of this Article, Additional Compensation

shall mean the compensation that the Seller is entitled, whether actually or contingently, to receive from the Procurer as well as compensated by any person other than the Procurer for the same event.

16.2.2 Article 16.1 does not apply to:

(a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of the Seller carrying out the Project;

(b) pledges of goods, the related documents of title and / or other related documents, arising or created in the ordinary course of the Seller carrying out the Project; or

(c) security arising out of retention of title provisions in relation to goods acquired in the ordinary course of the Seller carrying out the Project.

17 ARTICLE 17: GOVERNING LAW AND DISPUTE RESOLUTION

17.1 Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of India.

17.2 Amicable Settlement

17.2.1 Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement including its existence or validity or termination (collectively "Dispute") by giving a written notice to the other Party, which shall contain:

(i) a description of the Dispute;
(ii) the grounds for such Dispute; and
(iii) all written material in support of its claim.

17.2.2 The other Party shall, within thirty (30) days of issue of dispute notice issued under Article 17.2.1, furnish:

(i) counter-claim and defences, if any, regarding the Dispute; and
(ii) all written material in support of its defences and counter-claim.

17.2.3 Within thirty (30) days of issue of notice by any Party pursuant to Article 17.2.1 or Article 17.2.2, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days of receipt of the notice referred to in the preceding sentence, the Dispute shall be referred to Dispute Resolution in accordance with Article 17.3.

17.3 Dispute Resolution

17.3.1 Where any Dispute arises from a claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff or (ii) relates to any matter agreed to be referred to the Appropriate Commission under Articles 4.7.1, 13.2, 18.1 or clause 10.1.3 of Schedule 17 hereof, such Dispute shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

17.3.2 If the Dispute arises out of or in connection with any claims not covered in Article 17.3.1, such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 and the Rules of the Indian Council of Arbitration, in accordance with the process specified in this Article. In the event of such Dispute remaining unresolved as referred to in Article 17.2.3 hereof, any party to such Dispute may refer the matter to registrar under the Rules of the Indian Council of Arbitration.

(i) The Arbitration tribunal shall consist of three (3) arbitrators to be appointed in accordance with the Indian Council of Arbitration Rules

(ii) The place of arbitration shall be Patiala/ Chandigarh, India. The language of the arbitration shall be English.

(iii) The arbitration tribunal's award shall be substantiated in writing. The arbitration tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.

(iv) The award shall be enforceable in any court having jurisdiction, subject to the applicable Laws.

(v) The provisions of this Clause shall survive the termination of this PPA for any reason whatsoever.

17.4 Parties to Perform Obligations

Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the arbitral tribunal as provided in Article 17.3 and save as the Appropriate Commission or the arbitral tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

18 ARTICLE 18 : MISCELLANEOUS PROVISIONS

18.1 Amendment

This Agreement may only be amended or supplemented by a written agreement between the Parties and, after duly obtaining the approval of the Appropriate Commission, where necessary.

18.2 Third Party Beneficiaries

This Agreement is solely for the benefit of the Parties 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.

18.3 No Waiver

A valid waiver by a Party shall be in writing and executed by an authorized representative of that Party. Neither the failure by any Party to insist on the performance of the terms, conditions, and provisions of this Agreement nor time or other indulgence granted by any 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.

18.4 Entirety

18.4.1 This Agreement and the Schedules are intended by the Parties as the final expression of their agreement and are intended also as a complete and exclusive statement of the terms of their agreement.

18.4.2 Except as provided in this Agreement, all prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement or the sale or purchase of Electrical Output and Contracted Capacity under this Agreement to the Procurer by the Seller shall stand superseded and abrogated.

18.5 Confidentiality

The Parties undertake to hold in confidence this Agreement and RfP Project Documents 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 Parties.

Provided that the Seller agrees and acknowledges that the Procurer may at any time, disclose the terms and conditions of the Agreement and the Project Documents to any person, to the extent stipulated under the Law or the Competitive Bidding Guidelines.

18.6 Affirmation

The Seller and the Procurer, each affirm that:

(i) neither it nor its respective directors, employees, or agents has paid or undertaken to pay or shall in the future pay any unlawful commission, bribe, pay-off or kick-back; and

(ii) it has not in any other manner paid any sums, whether in Indian currency or foreign currency and whether in India or abroad to the other Party to procure this Agreement, and the Seller and Procurer hereby undertake not to engage in any similar acts during the Term of Agreement.

18.7 Severability

The invalidity or enforceability, 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.

18.8 No Partnership

None of the provisions of this Agreement shall constitute a partnership or agency or any such similar relationship between the Seller and the Procurer.

18.9 Survival

Notwithstanding anything to the contrary herein, the provisions of this Agreement, including Article 3.3.2, Article 10.2 (Application of Insurance Proceeds), Article 12 (Force Majeure), Article 14 (Events of Default and Termination), Article 15 (Liability and Indemnification), Article 17 including

Article 17.3.2 (Governing Law and Dispute Resolution), Article 18 (Miscellaneous), and other Articles and Schedules of this Agreement which expressly or by their nature survive the term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

18.10 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which collectively shall be deemed one and the same instrument.

18.11 Notices

All notices to be given under this Agreement shall be in writing and in the English Language.

All notices must be delivered personally, by registered post or any method duly acknowledged or facsimile to the addresses below:

Seller :

TALWANDI SABO POWER LIMITED
C/o STERLITE ENERGY LIMITEDS
VEDANTA, 75, NEHRU ROAD ,
VILE PARLE(EAST), MUMBAI 400099.
FAX: +91 22 66461350
TEL: +91 22 66461000

Procurer :

CHIEF ENGINEER (THERMAL DESIGN)
PUNJAB STATE ELECTRICITY BOARD,
THE MALL, PATIALA,PUNJAB,
INDIA
Fax – 01752-2303924
Tel- 01752-2213038

All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All Notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the post authorities..

Any Party may by notice of at least fifteen (15) days to the other Parties change the address and / or addresses to which such notices and communications to it are to be delivered or mailed.

18.12 Language

The language of this Agreement and all written communication between the Parties relating to this Agreement shall be in English.

18.13 Breach of Obligations

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

18.14 Nomination Restriction

Notwithstanding anything contained to the contrary in this Agreement, wherever a reference is made to the right of a Procurer to nominate a third Party to receive benefits under this Agreement, such Third Party shall have a financial standing comparable to that of the Procurer in question.

18.15 **Commercial Acts**

The Procurer and Seller unconditionally and irrevocably agree that the execution, delivery and performance by each of them of this Agreement and those agreements included in the Collateral Arrangement to which it is a Party constitute private and commercial acts rather than public or governmental acts;

18.16 **Restriction of Shareholders/Owners Liability**

Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement, in such Party, shall be restricted to the extent provided in Section 426 of the Indian Companies Act, 1956.

The provisions of this Article shall supercede any other prior agreement or understanding, whether oral or written, that may be existing between the Procurer,

IN WITNESS WHEREOF the Parties have executed these presents through their authorized representatives at [place].

For and on behalf of
Shri K B Kansal
Chief Engineer (Thermal Design)
Punjab State Electricity Board,
The Mall, Patiala,Punjab,
India
[The Procurer]

01/09/08

Chief Engineer,

Signature with seal

Witness:

1. Mohsin M. Mal
Director Nabha Power Ltd
Patiala

2. (Er. K.S. Jally)
Director/NPL, PSEB, Patiala.

For and on behalf of
Shri B K Sharma
Director
Talwandi Sabo Power Limited
C/o Sterlite Energy Ltd, Vedanta, 75, Nehru Road,
Vile Parle(East), Mumbai 400099.
[The Seller]

Signature with seal

Witness:

1. VICE PRESIDENT
(S.R. SRINIVASAN)

2. Sanjay Shetty
Vice President (Strategic Finance)

101

1. **Schedule 1: NAME AND DETAILS OF THE PROCURER**

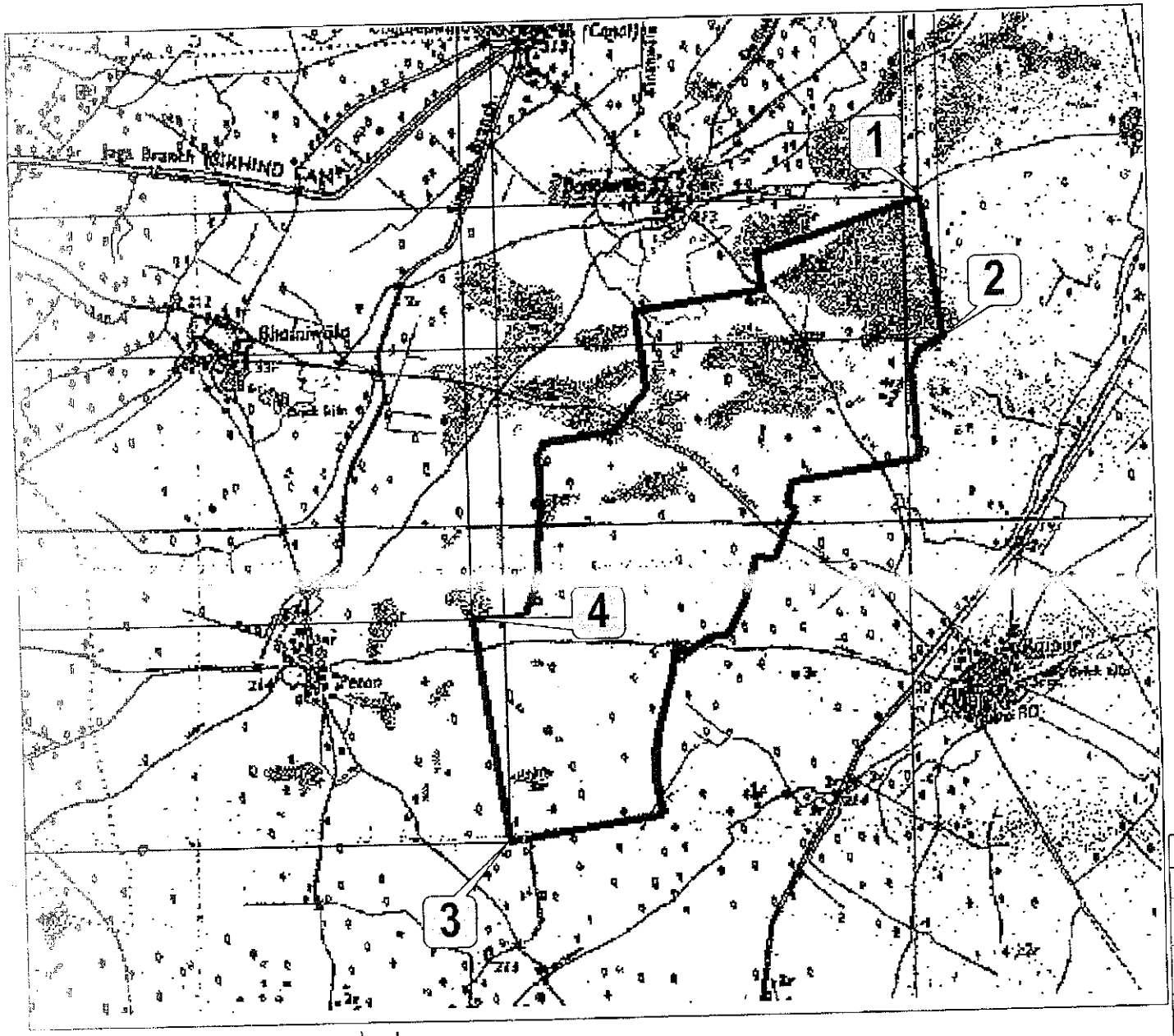
PUNJAB STATE ELECTRICITY BOARD,
THE MALL,
PATIALA,
PUNJAB,
INDIA

1A. SCHEDULE 1A: SITE

The proposed power plant will be located near Banawala village, about eighteen (18) km from Mansa town. The Power Plant site is located at 29° 53' N to 29° 56' latitude and 75° 12' E to 75° 15' E longitude. The general elevation of plant site is 208 m above mean sea level. The nearest railway station is Sadda Singhwala at a distance of about 12 km. for which Railway siding facility are to be developed and Mansa (having railway siding facility catering for its present requirement) at a distance of 15 km. The area falls within seismic zone III as per IS : 1893-2002 –Part I

Site & Vicinity maps are attached.

104



N

LEGEND :-

- Project Site
- Road
- Canal
- Habitation
- Scrubs

Indicative coordinate of Project Site

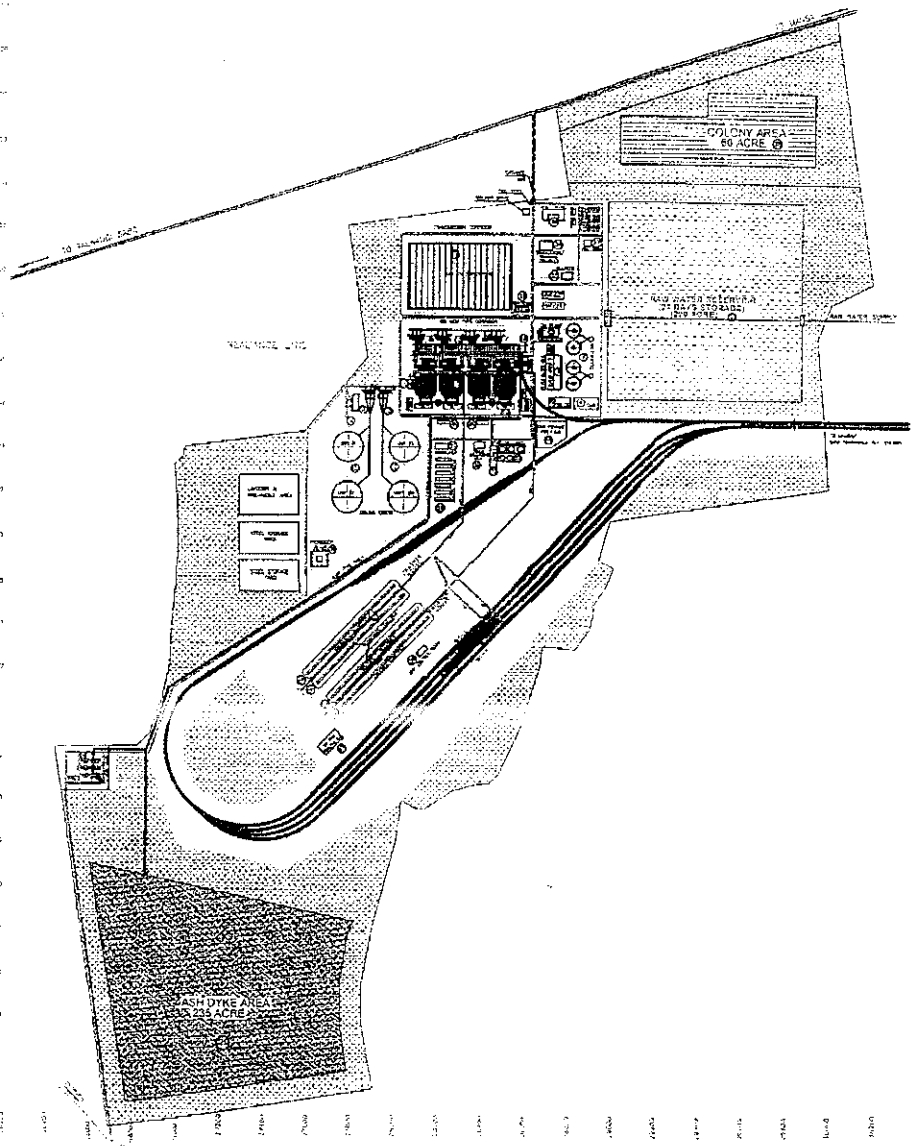
S.No.	Direction	Latitude	Longitude
1	North	29° 56' 10" N	75° 15' 05" E
2	East	29° 55' 24" N	75° 15' 11" E
3	South	29° 53' 31" N	75° 13' 04" E
4	West	29° 54' 27" N	75° 12' 53" E

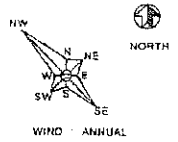
Source : Survey of India Topo Map No. 44 O/1 & 44 O/5 (Ist Edition 1960)

Scale : 1: 50,000

PROJECT	2000 MW TALWANDI SABO THERMAL POWER PROJECT AT BANWALA DISTT. MANSA (PUNJAB)			
CLIENT	TALWANDI SABO POWER LIMITED, PATIALA (A WHOLLY OWNED SUBSIDIARY OF PSEB)			
CONSULTANT	POWER FINANCE CORPORATION LIMITED (GOVT. OF INDIA UNDERTAKING) NEW DELHI – INDIA			
SUB-CONSULTANT	DESEIN CONSULTING ENGINEERS NEW DELHI – INDIA		NAME	SIGN.	DATE
		DRAWN	MKS		20.11.07
		DESIGNED	MKS		22.11.07
		CHECKED	BKS		22.11.07
		APPROVED	PCJ		23.11.07
		SCALE	NTS		
TITLE	COORDINATES OF PROJECT SITE	JOB. No. 0-4014			
		APPENDIX - II			REV. 00

88-A





LEGEND:

- PROJECT SITE
- OTHER METALLED ROAD
- APPROACH ROAD
- SERVICE ROAD
- RAIL TRACK
- COLONY AREA
- ASH DYKE AREA
- GREEN BELT AREA
- RAW WATER RESERVOIR

S.NO. LIST OF UNIT (POWER PLANT)

1. RAW WATER RESERVOIR
2. COOLING TOWER
3. C.W PUMP HOUSE
4. CHLORINATION PLANT
5. D.M. PLANT
6. FILTER WATER RES. & PUMP HOUSE
7. CLARIFIERS
8. SPACE FOR ETP FACILITIES
9. CMB
10. 400 KV SWITCH YARD
11. SWITCH YARD CONTROL ROOM
12. TRANSFORMER BAY
13. T.G. BUILDING
14. BOILER
15. ESP
16. SERVICE BUILDING
17. COMPRESSOR HOUSE
18. CHIMENY
19. SPACE FOR F.G.D. UNIT
20. ASH HANDLING PLANT
21. ESP CONTROL ROOM
22. FUEL OIL PUMP HOUSE
23. FUEL OIL TANK
24. CRUSHED COAL STOCK PILE
25. TRACK HOPPER COMPLEX
26. CHP CONTROL ROOM
27. [illegible]
28. ASH SILOS
29. ASH DYKE AREA
30. HYDROGEN PLANT
31. PERMANENT STORES
32. WORKSHOP
33. CANTEEN
34. SIMULATION/TRAINING COMPLEX
35. ADMINISTRATION BUILDING
36. PARKING
37. FIRE STATION BUILDING
38. COLONY AREA
39. F.O.TRUCK UNLOADING AREA
40. LIME STORAGE AREA FOR F.G.D

FOR FR PURPOSE ONLY

TOTAL AREA = 2100 ACRE

REFERENCE DWGS.	NOTES	NOTICE
	1. DO NOT SCALE. ASK WHEN IN DOUBT. 2. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS NOTED OTHERWISE.	THIS DRAWING IS THE PROPERTY OF THE DESEIN PRIVATE LTD., NEW DELHI, AND IS SUBJECT TO THE CONDITION THAT IT SHALL NOT BE REPRODUCED, COPIED, LENT OR OTHERWISE DISPOSED OF DIRECTLY OR INDIRECTLY. IT SHALL NOT BE USED TO FURNISH ANY INFORMATION FOR THE MAKING OF DRAWING, PRINTS OR APPARATUS OR PARTS THERE OF EXCEPT FOR THE PROJECT SPECIFICALLY PROVIDED FOR BY CONTRACT AGREEMENT WITH DESEIN.

ZONE	MARK	REVISIONS	DATE	STRUCT	MECH	ELEC
5		[illegible]	[illegible]			
4		[illegible]	[illegible]			
3		[illegible]	[illegible]			
2		[illegible]	[illegible]			
1		[illegible]	[illegible]			

REVISIONS — APPROVED

PROJECT	2000 MW TALWANDI SABO THERMAL POWER PROJECT AT BANWALA DISTT. MANSA (PUNJAB)
CLIENT	TALWANDI SABO POWER LIMITED, PATIALA (A WHOLLY OWNED COMPANY OF PSEB)
CONSULTANT	POWER FINANCE CORPORATION LIMITED (GOVT. OF INDIA UNDERTAKING) NEW DELHI – INDIA
SUB-CONSULTANT	DESEIN CONSULTING ENGINEERS NEW DELHI – INDIA
TITLE	PLOT PLAN (INDICATIVE)
APPRD. FOR CONSTRUCTION	

	NAME	SIGN.	DATE
CAD/DRAWN	[illegible]		[illegible]
DESIGNED	[illegible]		[illegible]
CHECKED	[illegible]		[illegible]
APPROVED	[illegible]		[illegible]
SCALE	[illegible]		
JOB. No. D-4016			

FIGURE:2.2 PAGE: 65

2 SCHEDULE 2: INITIAL CONSENTS

i. Notification by Govt. of Punjab for acquisition of land under the Land Acquisition Act;
ii. Environmental Clearance;
iii. Long term coal linkage
iv. Water linkage
v. Tasks mentioned in Article 3.1.2A of PPA on their completion within the time period provided therein.

3 SCHEDULE 3: CALCULATION OF 'X' DAYS

(Refer Article 11.5.7)

Percentage of Monthly Invoice which is the subject of default under Article 11.4 as notified in the Notice (issued under Article 11.5.2) relatable to the present occurrence	**Number of times a Notice has been issued under Article 11.5.2 to the defaulting Procurer prior to present occurrence**			
	1st time	**2nd time**	**3rd time**	**4th time and onwards**
Less than 25%	x = 20 days	x = 25 days	x = 40 days	x = 60 days
25% to 30%	x = 20 days	x = 30 days	x = 45 days	x = 65 days
More than 30% to 35%	x = 20 days	x = 35 days	x = 50 days	x = 70 days
More than 35% to 40%	x = 20 days	x = 40 days	x = 55 days	x = 75 days
More than 40%	x = 20 days	x = 45 days	x = 60 days	x =90 days

4 SCHEDULE 4: FUNCTIONAL SPECIFICATION

1.1	Grid Conditions at Interconnection Point	
S. No.	Description / Voltage Level	400 KV
i)	Nominal Voltage KV	400
ii)	Maximum Voltage KV	420
iii)	Minimum Voltage KV	360
iv)	Lightning impulse withstand voltage 1.2/50 usec. (KVP)	
	a) Line	1550
	b) Transformer (winding)	1300
	c) Other Substation Equipment and transformer bushings	1425
v)	Switching impulse withstand voltage 250/2500 usec(KVP)	
	a) Line	1050
	b) Transformer (winding)	1050
	c) Other Substation Equipment and transformer bushings	1050
vi)	Rated Breaking current capability of switchgear (KA) for 1 sec.	40/50
vii)	Fault clearance time (ms) (1st stage of protection)	<100
viii)	Creepage Distance (mm/KV)	25-31

1.2 Fault Levels:

1.2	Generating Units (At generated rated output, rated speed and rated power factor, the permissible variation range are generally as under)			
a)	Frequency	Nominal	HZ	50
		Variation	%	+3 to -5 (considering turbine limits.)
b)	Voltage	Nominal	KV	11 to 27 (As per manufacture standard)
		Variation	%	+5 to -5
c)	Absolute sum of combined Voltage and frequency	Variation	%	+5 to -5
d)	Power Factor (Thermal units)			0.85 lagging to 0.90 leading

1.3 Ramp Rates

All Units of the Power Station shall be capable of increasing or decreasing their output (generation level) by not less than one percent (1%) per minute. Such capability shall be demonstrated during the Unit load of more than 50%.

5 SCHEDULE 5: COMMISSIONING AND TESTING

1.1 *Performance Test*

(i) (a) The Performance Test shall be conducted under any and all ambient conditions (temperature, humidity etc.) and any and all Fuel qualities that may exist during the time of the Performance Test and no corrections in final gross and net output of the Unit will be allowed as a result of prevailing ambient conditions or Fuel quality.

(b) The correction curves will only be used if the Grid System operation during the Performance Test exceeds electrical system limits.

(c) The Performance Test shall be deemed to have demonstrated the Contracted Capacity of the Unit under all designed conditions and therefore no adjustments shall be made on account of fuel quality or ambient conditions.

(d) The Seller shall perform in respect of each Unit a Performance Test, which such Unit shall be deemed to have passed if it operates continuously for seventy two consecutive hours at or above ninety five (95) percent of its Contracted Capacity ,as existing on the Effective Date or in case the Seller has excercised the option under Article 3.1.1A the Contracted Capacity so finalised .and within the electrical system limits and the Functional Specifications.

(ii) For the purposes of any Performance Test pursuant to this sub-article 1.1, the electrical system limits to be achieved shall be as follows:

(a) Voltage

The Unit must operate within the voltage levels described in the Functional Specification for the duration of the Performance Test. If, during the Performance Test, voltage tests cannot be performed due to Grid System, data supplied from tests of the generator step-up transformers and generators supplied by the manufacturers shall be used to establish the ability of the Unit to operate within the specified voltage limits.

(b) Grid System Frequency

The Unit shall operate within the Grid System frequency levels described in the Functional Specification for the duration of the Performance Test.

(c) Power Factor

The Unit shall operate within the power factor range described in the Functional Specification for the duration of the Performance Test. If, during the Performance Test, power factor tests cannot be performed due to the Grid System, data supplied from tests of the generators and the generator step-up transformers supplied by the manufacturers shall be used to establish the ability of the Unit to operate within the specified power factor range.

(d) **Fuel quality and cooling water temperature**
The Unit must operate to its Contracted Capacity with Fuel quality and water temperature available at the time of Testing and no adjustment shall be allowed for any variation in these parameters.

iii As a part of the Performance Test, the Seller shall demonstrate that the Unit meets the Functional Specifications for Ramping rate as mentioned in Schedule 4. For this purpose, representative samples of ramp rates shall be taken, by ramping up or down the gross turbine load while maintaining the required temperatures and temperature differences associated with each ramp rate within the turbine while maintaining all other operational parameters within equipment limits.

iv Further, as a part of the Performance Test, the Unit shall be tested for compliance with parameters of technology considered by the Seller.

1.2 Testing and Measurement procedures applied during Performance Test shall be in accordance with codes, practices or procedures as generally/ normally applied for the Performance Tests

1.3 The Seller shall comply with the prevalent Laws, rules and regulations as applicable to the provisions contained in this Schedule from time to time.

6. SCHEDULE 6 : AVAILABILITY FACTORS

The following matters shall be determined as per the provisions of the Grid Code and ABT:

a. Availability declaration and calculation of Availability or Availability Factor;

b. Requirement for Spinning Reserves;

c. Procedure for revision of Availability;

d. Consequences of failure to demonstrate capacity or misdeclarations of capacity; and

e. Other matters which may be related to Availability or Availability Factor.

7 SCHEDULE 7: TARIFF

1.1 General

i. The method of determination of Tariff Payments for any Contract Year during the Term of Agreement shall be in accordance with this Schedule.
ii. The Tariff shall be paid in two parts comprising of Capacity and Energy Charge.
iii. For the purpose of payments, the Tariff will be Quoted Tariff, escalated as provided in this Schedule 7 for the applicable Contract Year as per Schedule 11.
iv. The full Capacity Charges shall be payable based on the Contracted Capacity at Normative Availability and Incentive shall be provided for Availability beyond 85% as provided in this Schedule shall be given. In case of Availability being lower than the Normative Availability, the Capacity Charges shall be payable on proportionate basis in addition to the penalty to be paid by Seller as provided in this Schedule.

1.2 Monthly Tariff Payment

1.2.1 Components of Monthly Tariff Payment

The Monthly Bill for any Month in a Contract Year shall consist of the following:

i. Monthly Capacity Charge Payment in accordance with Article 1.2.2 below:
ii. Monthly Energy Charge for Scheduled Energy in accordance with Article 1.2.3 below:
iii. Incentive Payment determined in accordance with Article 1.2.4 below (applicable on annual basis and included only in the Monthly Tariff Payment for the first month of the next Contract Year);
iv. Penalty Payment determined in accordance with Article 1.2.5 below (applicable on annual basis and included only in the Monthly Tariff Payment for the first month of the next Contract Year);
v. Not applicable
vi. Early Commissioning Incentive payment in accordance with Article 1.2.10

1.2.2 Monthly Capacity Charge Payment[21]

The Monthly Capacity Charge Payment for any Month m in a Contract Year n shall be calculated as below:

IFCAA >= NA, FCm= $\sum_l$ (NA X AFCyn X CC X L)- $\sum$C(m-1)

Else:
FCm= $\sum_l$ (AFCyn X AA X CC X L)- $\sum$C(m-1)

where:

$\sum_l$ is the summation of all the relevant values separately for each settlement period from the start of the contract year in which Month "m" occurs upto and including Month "m"

FCm is the Capacity Charge payment for the Month m (in Rupees)

AFCyn is the Capacity Charge and is sum of a) Payable Escalable Capacity Charges AEFCyn and b) Payable Non Escalable Capacity Charges ANEFCyn for the month in which the relevant settlement period occurs in the Contract Year n (in Rs per kWh) and computed as mentioned hereunder;

AEFCyn is the Payable Escalable Capacity Charges for month in which the relevant settlement period occurs in the Contract Year "n", expressed in Rupees/kWh and is equal to the Quoted Escalable Capacity Charges as provided in Schedule 11 for the first Contract Year and for subsequent Contract Years duly escalated by the following formula:

AEFCyn = QAEFCyn * p/q

Where,

QAEFCyn is the Quoted Escalable Capacity Charges (in Rs./kWh) in the first Contract Year as per Schedule 11.

p is the Escalation Index as per Schedule 9 at the beginning of the Month in which the relevant settlement period occurs.(expressed as a number)

q is the Escalation Index as per Schedule 9 applicable as at the beginning of the first Contract Year mentioned in Schedule 11 (expressed as a number)

ANEFCyn is the Payable Non Escalable Capacity Charges for the month in which the relevant settlement period occurs, expressed in Rupees/kWh and is equal to

the Quoted Non Escalable Capacity Charges for the Contract Year in which such month occurs, as provided in Schedule 11

CAA is the cumulative Availability, as per REA, from the first day of the Contract Year "n" in which month "m" occurs upto and including Month "m";

AA is the Availability, as per REA, in the relevant Settlement Period (expressed as a percentage of Contracted Capacity in such Settlement Period);

CC is the Contracted Capacity in the relevant Settlement Period (expressed in kW);

L is the number of minutes in relevant Settlement Period, as divided by total number of minutes in one hour, (expressed as hours);

NA Normative Availability;

$\sum C(m-1)$ is the cumulative Capacity Charge payable from the first day of the Contract Year "n" in which month "m" occurs upto and including Month "m-1" but not including month "m", (in Rupees);

Provided, no Capacity Charges shall be paid for the Settlement Period during which the RLDC has not allowed the operation of the Power Station due to Sellers failure to operate it as per the provisions of Grid Code.

1.2.3 Monthly Energy Charges

[for Scenario 4 as mentioned in clause 2.7.1.4 of the RfP]

The Monthly Energy Charges for Month "m" shall be calculated as under:

MEPm = AEOm x MEPn

Where:

AEOm is the Scheduled Energy during the Month m (in kWh)

Monthly Energy Charges

$$MEPn = \frac{NHR_n \times F^{COAL}_n}{PCV_n}$$

where,

NHR_n is the Net Heat Rate for the Contract Year in which month "m" occurs expressed in kCal/kwh and is equal to the Quoted Net Heat Rate of the Contract Year in which month "m" occurs, as provided in Schedule 11.

F^{COAL}_n is the weighted average actual cost to the Seller of purchasing, transporting and unloading the coal most recently supplied to and at the Project before the beginning of month "m" (expressed in Rs./MT in case of domestic coal)

PCVn is the weighted average gross calorific value of the coal most recently delivered to the Project before the beginning of month "m" expressed in kcal/kg.

1.2.4 Contract Year Energy Incentive Payment

If and to the extent the Availability in a Contract Year exceeds eighty five percent (85%), an incentive at the rate of forty (40%) of the Quoted Non Escalable Capacity Charges (in Rs./kWh) for such Contract Year mentioned in Schedule 11 subject to a maximum of twenty five (25) paise /kwhr, shall be allowed on the energy (in kwh) corresponding to the Availability in excess of eighty five percent (85%).

1.2.5 Contract Year Penalty for Availability below 75% during the Contract Year

In case the Availability for a Contract Year is less than 75%, the Seller shall pay a penalty at the rate of twenty percent (20%) of the simple average Capacity Charge (in Rs./kWh) for all months in the Contract Year applied on the energy (in kwh) corresponding to the difference between 75% and Availability during such Contract Year.

1.2.6 Deviation from the schedule

Variation between Scheduled Energy and actual energy at the Delivery Point shall be accounted for through Unscheduled Interchange (UI) Charges as detailed in the Grid Code and ABT.

1.2.7 Transmission/Wheeling Charges and Scheduling Charges

The payment of transmission/wheeling charges shall be settled between the CTU/STU and the Procurer. The payment of scheduling charges to the respective nodal agency (RLDC or SLDC) shall be the responsibility of the Procurer.

1.2.8 Not apllicable

1.2.9 Tariff for the period prior to Scheduled COD of first unit and for Contract Years beyond the 25 years from the COD of the first Unit

The Tariff for the period prior to Scheduled COD of the first unit shall be the quoted tariff of the first year with escalation for relevant period only for energy charge. The Tariff for the Contract Years beyond the 25 years from the Scheduled COD of the first Unit shall be the Quoted Tariff of the 25th year from the Scheduled COD of the first Unit with applicable escalation.

1.2.10 If the Commercial Operation Date (COD) of a unit is achieved before its Scheduled Commercial Operation Date, the procurer shall pay incentive ("Early Commissioning Incentive") to seller, as follows:

Agreed number of months for the commencement of supply for i^{th} Unit = M_i (for 1st Unit M_1= 48 months, 2nd Unit M_2= 52 months, 3rd Unit M_3= 56 months, 4th Unit M_4= 60 months)

Commercial Operation Date (COD), if supply is ahead of M_i by m_i' months, i is no. of the Unit.:

Case (a): Upto first 3 months
Case (b): 4th month onwards

Case (a):
Total Number of units (kWh) dispatched at Bus bar in First month = U_{i1}
Total Number of units (kWh) dispatched at Bus bar in Second month = U_{i2}
Total Number of units (kWh) dispatched at Bus bar in Third month = U_{i3}

Total Number of units (kWh) dispatched at Bus bar in first three months
$A_i = U_{i1}+U_{i2}+U_{i3}$
Early Commissioning Incentive @ Rs. 0.40 per unit (kWh)

i. Early Commissioning Incentive for first three months of ith Unit = Rs. 0.40 * A_i

Case (b):
Total Number of units (kWh) dispatched at Bus bar in Fourth month = U_{i4}
Total Number of units (kWh) dispatched at Bus bar in Fifth month = U_{i5}
Total Number of units (kWh) dispatched at Bus bar in Sixth month = U_{i6}
.....
Total Number of units (kWh) dispatched at Bus bar in m^{th} month = U_{im}

$B_i = U_{i4} + U_{i5} + U_{i6} + \ldots U_{in}$

Early Commissioning Incentive @ Rs. 0.60 per unit (kWh)

ii. Early Commissioning Incentive for 4th month onwards =Rs. 0.60*B_i

Total Early Commissioning Incentive of ith Unit I_i = Rs. 0.40 * A_i + Rs. 0.60 * B_i

SIMILAR CALCULATIONS WOULD BE MADE FOR EACH UNIT.

TOTAL EARLY COMMISSIONING INCENTIVE I = $\sum_{i=1}^{i=n} I_i$; n is total no. of units.

A) The Early Commissioning Incentive will be on the units dispatched on Station bus bar for procurer.

B) The Early Commissioning Incentive will be paid only on the units dispatched by seller on Station bus bar after achieving COD of unit.

C) The Scheduled Commercial Operation Date mentioned in PPA will not change with declaring early COD of unit. Only Early Commissioning Incentive will be paid extra on units dispatched on Station bus bar for procurer as per above mentioned Incentive formula.

D) Procurer–PSEB will procure entire power generated earlier with added Early Commissioning Incentive.

1.3 SETTLEMENT OF BILLS

1. The penalty of actual Availability shortfall during the Contract Year, Deviation from the schedule, Transmission & Scheduling Charges and Penalty to be paid to fuel supplier will be settled as detailed in Article 1.2.2, Article 1.2.5, Article 1.2.6, Article 1.2.7 and Article 1.2.8 of this Schedule.

2. Notwithstanding anything contained in this agreement, no separate reimbursement shall be allowed for the cost of the secondary fuel.

8 SCHEDULE 8: DETAILS OF INTERCONNECTION POINT AND FACILITIES

The Interconnection Point or Delivery Point shall be point from where the power from the Power Station Switch Yard Bus is being injected into the Transmission Network'.

The Seller shall be required to provide the following facilities in the Power Station Switch Yard.

1. Power will be evacuated by The Procurer through Three double circuit (Six Circuits) 400 KV Transmission lines.

2. Interconnection point between the Procurer and the Seller shall be Power Station Switchyard Gantry Structure for out going circuit, where the down corner 400 KV Transmission conductors from first Tower of The Procurer, will be connected.

3. The 400 KV Transmission conductor connecting from first Tower to Power Station Switchyard Gantry Structure for out going circuit will be in scope of The Procurer.

4. The 400 KV switch yard equipment including, without limitation, relays and switching equipment, protective devices, safety equipment, Power Line Carrier communication and Remote Terminal units etc. for the outgoing circuits up to and including Power station Switchyard Gantry Structure for out going circuit will be in the scope of the Seller.

9. SCHEDULE 9: ESCALATION INDEX

The index ("Escalation Index") to be applied for escalation of Quoted Escalable Capacity Charges and Quoted Escalable Energy Charges shall be computed by assuming that as on the date of the Bid Deadline (for Quoted Escalable Energy Charges) and Scheduled COD of first Unit (for Quoted Escalable Capacity Charges), the value of such Escalation Index is 100. Thereafter for each Month after the Bid Deadline (for Quoted Escalable Energy Charges) and Scheduled COD of first Unit (for Quoted Escalable Capacity Charges), the value of the Escalation Index shall be computed by applying the per annum inflation rate specified by CERC for payment of escalable (or indexed) capacity charge and escalable energy charge, as per the provisions of the Competitive Bidding Guidelines. For the avoidance of doubt, if the prevailing inflation rate specified by CERC is 4.7% per annum, then at the end of the first Month after the Bid Deadline, the value of the Escalation Index shall be 100.3917 [i.e (100 + 4.7/12)] for Quoted Escalable Energy Charges. Thereafter, at the end of the second month beyond such first Month, the value of the Escalation Index shall be 100.7834 [i.e (100.3917 + 4.7/12)] and so on.

For the avoidance of doubt, the per annum inflation rate specified by CERC shall be revised only at the end of every six months.

Further, different per annum inflation rates can be specified by CERC for Quoted Escalable Capacity Charges, Quoted Escalable Energy Charges, Quoted Escalable Fuel Energy Charges, Quoted Escalable Transportation Energy Charges, Quoted Escalable Fuel Handling Energy Charges [as applicable].

10 SCHEDULE 10: REPRESENTATION AND WARRANTIES

1. Representations and Warranties by the Procurer

The Procurer hereby represents and warrants to and agrees with the Seller as follows and acknowledges and confirms that the Seller is relying on such representations and warranties in connection with the transactions described in this Agreement:

1.1 The Procurer has all requisite powers authorising and has been duly authorised to execute and consummate this Agreement :

1.2 This Agreement is enforceable against the Procurer in accordance with its terms;

1.3 The consummation of the transactions contemplated by this Agreement on the part of the Procurer will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the said Procurer is a party or to which Procurer is bound, which violation, default or power has not been waived;

1.4 The Procurer is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against the Procurer;

1.5 There are no actions, suits, claims, proceedings or investigations pending or, to the best of the Procurer's knowledge, threatened in writing against the Procurer at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgements, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to comply with its obligations under this Agreement.

1.6 The quantum of Contracted Capacity of Procurer does not exceed the projected additional demand forecast for the next three (3) years, as required under the Bidding Guidelines

The Procurer makes all the representations and warranties above to be valid as on the date of this Agreement.

2. Representation and Warranties of the Seller

The Seller hereby represents and warrants to and agrees with the Procurer as follows and acknowledges and confirms that the Procurer is relying on such representations and warranties in connection with the transactions described in this Agreement:

2.1 The Seller has all requisite power authorising and has been duly authorised to execute and consummate this Agreement;

2.2This Agreement is enforceable against the Seller in accordance with its terms;

2.3The consummation of the transactions contemplated by this Agreement on the part of the Seller will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the Seller is a party or to which the Seller is bound which violation, default or power has not been waived;

2.4The Seller is not insolvent and no insolvency proceedings have been instituted, or not threatened or pending by or against the Seller;

2.5There are no actions, suits, claims, proceedings or investigations pending or, to the best of Seller's knowledge, threatened in writing against the Seller at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgements, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to execute the Project or to comply with its obligations under this Agreement.

2.6 Selected Bidder has neither made any statement nor provided any information in his Bid, which was materially inaccurate or misleading at the time when such statement was made or information was provided. Further, all the confirmations, undertakings, declarations and representations made in the RfP Bid are true and accurate and there is no breach of the same.

The Seller makes all the representations and warranties above to be valid as on the date of this Agreement, except as stated in sub–article 2.6 above.

11 SCHEDULE 11: QUOTED TARIFF

(Quoted Tariff from Annexure 4 Format 1 of RfP of the Selected Bid to be inserted here)

13. SCHEDULE 13: CONTRACTED CAPACITY

Shall be filled in by Procurer on or prior to the Effective Date.

Contracted Capacity allocated to the Procurer shall be as under

Name of the Procurer	Contracted Capacity (%)
PSEB	100%

14. SCHEDULE 14: CAPITAL STRUCTURE SCHEDULE

(This will need to be filled up on or before NTP)

15. SCHEDULE 15: FORMAT OF THE PERFORMANCE GUARANTEE

In consideration of the [Insert name of the Selected Bidder or Selected Bidder on behalf of the Seller] agreeing to undertake the obligations under the PPA and the other RfP Project Documents and [Insert the name of the Procurer], agreeing to execute the PPA and the other RfP Project Documents inter alia with the Seller, regarding setting up the Power Station of the capacity of ..... MW, at .....[Insert name of the place] for supply of power there from on long term basis, the _____ (insert name of bank] (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to [*Insert Name of the Procurer]* at [*insert the Place from the address of the respective Procurer indicated in PPA]* forthwith on demand in writing from [*Name of the Procurer] or* any Officer authorised by it in this behalf, any amount upto and not exceeding Rupees _____ _____only [Insert the amount of the bank guarantee in respect of the Procurer as per the terms of PPA], on behalf of M/s. _____ [Insert name of the Seller or the Selected Bidder on behalf of the Seller].

This guarantee shall be valid and binding on this Bank up to and including _____ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only). Our Guarantee shall remain in force until _____. The Procurer shall be entitled to invoke this Guarantee till _____ [Insert date which is 30 days after the date in the preceding sentence].

The Guarantor Bank hereby agrees and acknowledges that the Procurer shall have a right to invoke this BANK GUARANTE in part or in full, as it may deem fit.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the Procurer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the saidpayment to the Procurer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by the Seller and/or any other person. The Guarantor Bank shall not require the Procurer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Procurer in respect of any payment made hereunder

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Seller, to make any claim against or any demand on the Seller or to give any notice to the Seller or to enforce any security held by the Procurer or to exercise, levy or enforce any distress, diligence or other process against the Seller.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Procurer and may be assigned, in whole or in part, (whether absolutely or by way of security) by Procurer to any entity to whom the Procurer is entitled to assign its rights and obligations under the PPA.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only) and it shall remain in force until _____ [Date to be inserted on the basis of Article 3.1.1 of PPA] with an additional claim period of thirty (30) days thereafter. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the Procurer serves upon us a written claim or demand.

Signature _____
Name _____
Power of Attorney No_____
For

_____

Banker's Stamp and Full Address.
Dated this ____ day of ____, 2008

16. SCHEDULE 16: SELECTED BID

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East) , Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

Bidder's Name: Sterlite Energy Limited

Full Address: Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai – 400 099

Telephone No.: +912266461337/1347

E-mail address: nalini.modak@vedanta.co.in, swapnil.patil@vedanta.co.in

Fax / No.:+912266461350

To

Director (Projects),
Talwandi Sabo Power Limited
Thermal Shed No. T2, Punjab State Electricity Board
Near Railway Crossing No. 22
Patiala-147001, (Punjab), India

Sub: Bid for Supply of Power to Procurer/Authorised Representative

Dear Sir,

We, the undersigned Bidder having read and examined in detail the RfP for supply of power on long term basis from Talwandi Sabo village Banawala, Distt. Mansa, Punjab, hereby submit our Bid comprising of Financial Bid and Non-Financial Bid.

1) Bid Bond
We have enclosed a Bid Bond of Rs. 60,00,00,000.00 (Rupees Sixty Crores) in the form of bank guarantee no. **0393BG00174208** dated **19 June 2008** of **Rs 22,50,00,000.00 (Rupees Twenty Two Crore and Fifty Lakhs)** and Bank guarantee no. **003GT01081710003** dated **19 June 2008** of **Rs 37,50,00,000.00 (Rupees Thirty Seven Crores and Fifty Lakhs)** as per your proforma (Annexure 2) from **ICICI bank and HDFC bank** respectively and valid upto **28.02.2009** in terms of Clause 2.12 of the RfP.

2) Acceptance

We hereby unconditionally and irrevocably agree and accept that the decision made by the Procurer/Authorised Representative or the Procurer regarding any matter regarding or arising out of the RfP shall be binding on us. We hereby expressly waive any and all claims in respect of Bid process.

3) Familiarity With Relevant Indian Laws & Regulations
We confirm that we have studied the provisions of relevant Indian laws and regulations as required to enable us to quote for this Bid and execute the RfP Project Documents, if

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East) , Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

awarded. We further undertake and agree that all such factors as mentioned in Clause 2.7.2 of RfP have been fully examined and considered while submitting the Bid.

4) Contact Person

Details of contact person as required under Clause 2.14.2 furnished as under:

Name: Swapnil Patil
Designation: Associate Manager Business Development
Company:Sterlite Energy Limited
Address: Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai – 400 099
Phone Nos. +912266461337/1347
Fax Nos. –912266461350
E-mail address: nalini.modak@vedanta.co.in, swapnil.patil@vedanta.co.in

We are enclosing herewith Envelope I and Envelope II containing duly signed formats each one duly sealed separately, in 1 original + 4 copies (duly attested) as desired by you in your RfP for your consideration.

Dated 21st Day of June of 2008

Thanking you,
We remain,

Yours faithfully,

Sanjay Khattry

Sanjay Khattry
Authorised Signatory

STERLITE ENERGY LIMITED

232, Solitaire Corporate Park, Andheri-Ghatkoper Link Road,
Chakala, Andheri (E), Mumbai - 400 093.
Tel : +91 - 22 - 4005 8000, Fax : + 91 - 22 - 4005 8021

CERTIFIED TRUE COPY OF THE RESOLTUION PASSED BY THE BOARD OF DIRECTORS OF STERLITE ENERGY LIMITED AT THEIR MEETING HELD AT VEDANTA, 75 NEHRU ROAD, VILE PARLE (EAST), MUMBAI – 400099 ON WEDNESDAY, APRIL 30, 2008

"RESOLVED THAT pursuant to the provisions of the Companies Act, 1956 and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded for investment of 100 percent (100%) of the total equity share capital requirements of the Seller representing the entire amount proposed to be invested by the Company for the Talwandi Sabo Power Project, partly by acquisition of the existing equity shares from Punjab State Electricity Board and partly by subscribing to the new equity shares, as per the terms of the RFP.

FURTHER RESOLVED THAT Mr. Kuldip Kumar Kaura, Director, Mr. C V Krishnan, Director, Mr. Virendra Agrawal, President – Finance and Mr. Sanjay Khattry of the Company be and are hereby severally authorised to enter into and take all the steps required to be taken by the Company in this regard, including in particular, signing of the Bid, making changes thereto and submitting amended Bid, all the related documents, certified copy of this Board Resolution or letter, undertakings etc, required to be submitted to Authorised Representative as part of the RFP or such other documents as may be necessary in this regard."

Certified True Copy
For Sterlite Energy Limited

Ajit Pratap Singh
Dy Company Secretary

STERLITE ENERGY LIMITED MUMBAI

vedanta

STERLITE INDUSTRIES (I) LTD.

CERTIFIED TRUE COPY OF THE RESOLUTIONS PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY IN THEIR MEETING HELD ON FRIDAY, 30TH MAY, 2008

"RESOLVED THAT pursuant to the applicable provisions of the Companies Act, 1956 and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded for issuing an Undertaking to the Authorised Representative named in the RfP, in the format specified in the RfP issued by Authorised Representative, draft of which is attached hereto, whereby the Company undertakes to invest upto 100 % of the total equity share capital requirements of the Seller, as per the terms of the RfP, representing the entire amount proposed to be invested by Sterlite Energy Limited for the said Project, in case of failure of Sterlite Energy Limited to make such investment.

FURTHER RESOLVED THAT Mr. Kuldip Kumar Kaura, Managing Director, Mr. Tarun Jain, Whole Time Director and Mr. D. D. Jalan, Chief Financial Officer of the Company be and is hereby severally authorised to enter into and take all the steps required to be taken by the Company in this regard, including in particular, signing the said Undertaking, issuing the same to the Authorised Representative, all the related documents, certified copy of this Board resolution or letter, undertakings etc, required to be submitted to Authorised Representative as part of the RfP or such other documents as may be necessary in this regard."

Certified to be true
For Sterlite Industries (India) Limited

Company Secretary

STERLITE INDUSTRIES (I) LTD.
SIPCOT Industrial Complex, Madurai Bypass Road, T.V. Puram PO, Tuticorin - 628 002.
Tel.: (91-461) 661 2591 (10 lines) Fax: (91-461) 234 0203

HDFC BANK

PAGE: HDFC Ba
1st Floor, F
26, K. G. M
New Delhi
Tel. : 4169

COVERING LETTER

GUARANTEE ISSUANCE

PUNJAB STATE ELECTRICITY BOARD
PUNJAB STATE ELECTRICITY BOARD,
PATIALA

OUR REFERENCE	:	003GT01081710003
ISSUE DATE	:	19-JUN-2008
APPLICANT	:	STERLITE ENERGY LIMITED
GUARANTEE AMOUNT	:	INR375,000,000.00
AMOUNT IN WORDS	:	RUPEES THREE HUNDRED SEVENTY FIVE MILLION
EXPIRY DATE	:	30-MAR-2009
EXPIRY PLACE	:	DELHI

DEAR SIRS,

PLEASE FIND ENCLOSED THE CAPTIONED GUARANTEE DULY ISSUED BY US.

THE BENEFICIARY OF THIS GUARANTEE IS ENTITLED TO CONFIRM THE AUTHENTICITY OF THIS GUARANTEE DIRECTLY BY CONTACTING THE ISSUING BRANCH OR THE CONTROLLING OFFICE AT THE FOLLOWING ADDRESS:
ATTN : HDFC BANK LTD,BANK GUARANTEE DESK,
FIRST FLOOR,OLD BUILDING,26A,NARAYAN PROPERTIES,
OFF SAKI VIHAR ROAD,SAKI NAKA,CHANDIVILLI,ANDHERI (E),MUMBAI-400072.

THIS GUARANTEE IS TO BE RETURNED TO US WITHIN 15 DAYS FROM THE DATE IT CEASES TO BE IN FORCE. IF THE GUARANTEE IS NOT RECEIVED BACK BY US WITHIN THE DATE AFOREMENTIONED, IT SHALL BE DEEMED TO BE AUTOMATICALLY CANCELLED.

THIS LETTER FORMS AN INTEGRAL PART OF THE GUARANTEE.

WE CONFIRM THAT MR./MRS.
WHO HAVE SIGNED THE ABOVE GUARANTEE /EXTENSION HAVE GOT REQUISITE POWERS TO SIGN ON BEHALF OF THE BANK.

AUTHORISED SIGNATORY
HDFC BANK LTD, KAILASH BUILDING

Page 1

STERLITE ENERGY LIMITED

भारतीय गैर न्यायिक

एक सौ रुपये Rs. 100

रु. 100 ONE HUNDRED RUPEES

भारत INDIA

INDIA NON JUDICIAL

दिल्ली DELHI F 136896

BANK GUARANTEE NO 003GT01081710003 DATED 19-JUN-2008

In consideration of the STERLITE ENERGY LIMITED submitting the Bid inter alia for setting up the Power Station of the capacity of 1980 MW, at Talwandi Sabo, Punjab for supply of power there from on long term basis, in response to the RfP dated January 18,2008 issued by Authorised Representative and Procurer/Authorised Representative considering such Bid of STERLITE ENERGY LIMITED as per the terms of the RfP, the HDFC Bank Ltd, 1st Floor, Kailash Building, 26, K G Marg, New Delhi - 110001 hereby agrees unequivocally, irrevocably and unconditionally to pay to Punjab State Electricity Board at Patiala forthwith on demand in writing from Punjab State Electricity Board or any Officer authorised by it in this behalf, any amount upto and not exceeding Rs. 37,50,00,000/- (Rupees Thirty Seven Crores and Fifty Lacs only), on behalf of M/s. STERLITE ENERGY LIMITED .

This guarantee shall be valid and binding on this Bank upto and including 28-FEB-2009 and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between concerned parties.

Our liability under this Guarantee is restricted to Rs 37,50,00,000/- (Rupees Thirty Seven Crores and Fifty Lacs only). Our Guarantee shall remain in force until 28-FEB-2009. The Procurer shall be entitled to invoke this Guarantee until 30-MAR-2009.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the Procurer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Procurer.

For HDFC BANK LTD. For HDFC BANK LTD.

BANK GUARANTEE NO 003GT01081710003 DATED 19-JUN-2008

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by the Bidder or any other person. The Guarantor Bank shall not require the Procurer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Procurer in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder to enforce any security held by the Procurer or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. 37,50,00,000/-(Rupees Thirty Seven Crores and Fifty Lacs only) and it shall remain in force until 28-FEB-2009 with an additional claim period of 30 days thereafter i.e. till 30-MAR-2009. We are liable to pay the guaranteed amount or any part thereof under this BANK GUARANTEE only if the Procurer serves upon us a written claim or demand.

DATED 19-JUN-2008 AT NEW DELHI FOR HDFC BANK LIMITED	
Notwithstanding anything contained herein before (1) Our liability under this Bank Guarantee shall not exceed Rs. 37,50,00,000/-(Rupees Thirty Seven Crores and Fifty Lacs only) (2) This Bank Guarantee shall be valid upto 28-FEB-2009 and 3) We are liable to pay the guaranteed amount or any part thereof under this bank guarantee only and only if you serve upon us a written claim or demand on or before 30-MAR-2009	1. All Claims under this Guarantee shall be payable at New Delhi 2. This Guarantee Will be returned to us as soon as the purpose for which it is issued is fulfilled. 3. The BG confirmation No.- GTEE 070148/is an integral part of the BG no.- 003GT01081710003

For HDFC BANK LTD.

Authorised Signatory

MOHD. MUSTAKEEM
Manager
D - 0178

For HDFC BANK LT

Authorised Sign

G. V. SUBBA RAO
Sr. Manager
B - 3625

FC Ba
Floor,
K. G. I
w Delh
: 416

CITY OI

400072.

IT CEAS
HE DATE

WERS TO

ICICI Bank

Ref: ICBK/CIBD/BBR/2007-08/BG/ 0393BG00174208

June 19, 2008

To:
THERMAL SHED NO. T2
PUNJAB STATE ELECTRICITY BOARD
PUNJAB STATE ELECTRICITY BOARD,PATIALA
147001

Sub:-Issuance of Bank Guarantee

Dear Sir,

Please find attached Bank Guarantee issued by us favouring your selves on behalf of STERLITE ENERGY LIMITED.

Details are as under.

Bank Guarantee No. & Date of Issue	Expiry Date	Claim Expiry Date	Amount of Bank Guarantee
0393BG00174208 dated 19.06.2008	28.02.2009	30.03.2009	INR 22,50,00,000.00

We confirm that the officials who have signed the above bank guarantee are authorized to sign such documents on behalf of ICICI Bank Limited.

Thanking you,

Yours faithfully,
For ICICI Bank Limited

Authorized Signatory

ICICI Bank Limited

STERLITE ENERGY LIMITED

This Forms an integral part of
Bank Guarantee
issued by ICICI Bank Limited,
0393 BG 00174208 dt 19/06/08

For ICICI BANK LIMITED

Authorised Signatory

ICICI BANK LIMITED
ICICI CENTRE
163, H.T. Parekh Marg,
Backbay Reclamation,
Churchgate, Mumbai - 20

ICICI Bank Ltd.
30, Mumbai Samachar
Marg, Fort, Mumbai-400001
D-5/STP(V)/C.R. 1011/31/2004/2068-70

For ICICI Bank Ltd.

Authorised Signatory

भारत 65462 Special Agreement
104302 JUN 16 2008
INDIA STAMP DUTY Rs 0000100/- PB5134 11:50

Sr. No. 241699

B NK GUARANTEE
ICICI Bank Limited
(Incorporated in India)

ICICI Bank

BG Number: 0393BG00174208
Issue Date: 19-06-2008

1 In consideration of the STERLITE ENERGY LIMITED submitting the Bid inter alia for setting up
2 the Power Station of the capacity of 1980 MW, at Talwandi Sabo, Punjab for supply of power
3 there from on long term basis, in response to the RfP dated January 18,2008 issued by
4 Authorised Representative and Procurer/Authorised Representative considering such Bid of
5 STERLITE ENERGY LIMITED as per the terms of the RfP, the ICICI Bank Ltd., ICICI Centre 163,
6 H.T. Parekh Marg, Backbay Reclamation, Churchgate, Mumbai - 400020 hereby agrees
7 unequivocally, irrevocably and unconditionally to pay to Punjab State Electricity Board at
8 Patiala forthwith on demand in writing from Punjab State Electricity Board or any Officer
9 authorised by it in this behalf, any amount upto and not exceeding Rs. 22,50,00,000/-(Rupees
10 Twenty Two Crores and Fifty Lakhs only), on behalf of M/s. STERLITE ENERGY LIMITED.

11 This guarantee shall be valid and binding on this Bank upto and including 28th February 2009
12 and shall not be terminable by notice or any change in the constitution of the Bank or the term
13 of contract or by any other reasons whatsoever and our liability hereunder shall not be
14 impaired or discharged by any extension of time or variations or alternations made, given, or
15 agreed with or without our knowledge or consent, by or between concerned
16 parties.

BENEFICIARY'S COPY

17 Our liability under this Guarantee is restricted to Rs. 22,50,00,000/- (Rupees Twenty Two
18 Crores and Fifty Lakhs only). Our Guarantee shall remain in force until 28th February 2009.
19 The Procurer shall be entitled to invoke this Guarantee until 30th March 2009.

20 The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to
21 the written demand by the Procurer, made in any format, raised at the above mentioned
22 address of the Guarantor Bank, in order to make the said payment to the Procurer.

For ICICI BANK LIMITED.

Authorised Signatory

ICICI BANK LIMITED
ICICI CENTRE
H.T. Parekh Marg,
Backbay Reclamation,
Churchgate, Mumbai - 20

Page1of3

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. . Phone : 0265-2340020,
Fax:0265-2341661.
E-mail: corporatecare@icicibank.com

STERLITE ENERGY LIMITED

Sr. No. 241700

BANK GUARANTEE
ICICI Bank Limited
(Incorporated in India)

ICICI Bank

BG Number: 0393BG00174208
Issue Date: 19-06-2008

23 The Guarantor Bank shall make payment hereunder on first demand without restriction or
24 conditions and notwithstanding any objection by the Bidder or any other person. The
25 Guarantor Bank shall not require the Procurer to justify the invocation of this BANK
26 GUARANTEE, nor shall the Guarantor Bank have any recourse against the Procurer in respect
27 of any payment made hereunder.

28 This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

29 The Guarantor Bank represents that this BANK GUARANTEE has been established in such
30 form and with such content that it is fully enforceable in accordance with its terms as against
31 the Guarantor Bank in the manner provided herein.

32 This BANK GUARANTEE shall not be affected in any manner by reason of merger,
33 amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

BENEFICIARY'S COPY

34 This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly
35 the Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action
36 in any court or arbitral proceedings against the Bidder, to make any claim against or any
37 demand on the Bidder or to give any notice to the Bidder to enforce any security held by the
38 Procurer or to exercise, levy or enforce any distress, diligence or other process against the
39 Bidder.

40 Notwithstanding anything contained hereinabove, :

41 1)Our liability under this Guarantee is restricted to Rs.22,50,00,000/-(Rupees Twenty Two
42 Crores and Fifty Lakhs only)

43 2)The Guarantee shall remain in force until 28th February 2009

ICICI BANK LIMITED
ICICI CENTRE
163, H. T. Parekh Marg,
Backbay Reclamation,
Churchgate, Mumbai - 20

For ICICI BANK LIMITED

Authorised Signatory

Page2of3

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020,
Fax:0265-2341661,
E-mail: corporatecare@icicibank.com

Sr. No. 241701

BANK GUARANTEE
ICICI Bank Limited
(Incorporated in India)

ICICI Bank

BG Number: 0393BG00174208
Issue Date: 19-06-2008

3. We shall be liable to pay any amount under this bank guarantee or part thereof only if we receive (if you serve upon us) a written claim or demand under this guarantee on or before 30.03.2009 at ICICI Bank Ltd., ICICI Centre 163, H.T. Parekh Marg, Backbay Reclamation, Churchgate, Mumbai - 400020

Signature _____

Name _____

Power of Attorney No. _____

For

ICICI Bank Ltd.

Banker's Stamp and Full Address

Dated this 19th day of June 2008

BENEFICIARY'S COPY

Signature _____ Signature : _____

Name: _____ Name: _____

Signature Code: K.R. TIWARI Asst. Manager (T -98) Signature Code: Nikhil Kamat Manager - K 2428

Page3of3

Regd. Office: Landmark, Race Course Circle, Vadodara-390 007. Phone : 0265-2340020, Fax: 0265-2341661.
E-mail: corporatecare@icicibank.com

HDFC BANK

HDFC Bank Ltd.,
1st Floor, Kailash Building,
26, K. G. Marg,
New Delhi - 110 001
Tel. : 41699471 / 41699475

DATE : 25-JUN-2008 PAGE : 1

DEBIT ADVICE
GUARANTEE ISSUED

STERLITE ENERGY LIMITED
EXCEPTION A/C REFER OVD CHANDIVLI
MUMBAI G

OUR GTEE REF NO.	:	003GT01081710003
YOUR REF. NO.	:	
ADDITIONAL REF NO.	:	003GT0208G00775
BENEFICIARY	:	PUNJAB STATE ELECTRICITY BOARD
BG AMOUNT	:	INR 375,000,000.00
ISSUE DATE	:	19-JUN-2008
EXPIRY DATE	:	30-MAR-2009
AMENDMENT NO.	:	1

WE HAVE DEBITED YOUR ACCOUNT NO. 006003100016701 AS FOLLOWS :

DESCRIPTION	CCY	AMOUNT	DR/CR
Cess tax on amnd comm Charges	INR	0.90	Dr.
Service tax on amnd comm Charges	INR	30.00	Dr.
AMENDMENT CHARGES FOR LC/GTEE	INR	250.00	Dr.
STAMP PAPER CHGS FOR GTEE AMENDMENT	INR	104.00	Dr.
TOTAL AMOUNT DEBITED	INR	384.90	Dr.

RUPEES THREE HUNDRED EIGHTY FOUR PAISE NINETY

VALUE DATE : 25-JUN-2008

Note :As per Finance Bill 2007, effective 11th May 2007, Service tax & Education has been changed from 12.24% to 12.36%.
HDFC Bank Service Tax Registration Number:M-IV/ST/BANK&OTHER SERVICES/20/2001
Registered Office Address: HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai-400 013
THIS IS A COMPUTER GENERATED ADVICE.
DOES NOT REQUIRE ANY SIGNATURE.

Page 1

भारतीय गैर न्यायिक

एक सौ रुपये Rs. 100

रु. 100 ONE HUNDRED RUPEES

भारत INDIA

INDIA NON JUDICIAL

दिल्ली DELHI F 167816

To, Date:-25-JUN-2008

PUNJAB STATE ELECTRICITY BOARD,
PATIALA

Ref:- Our Bank Guarantee No- 003GT0108171C003 Dated 19-JUN-2008 for Rs. 375,000,000.00 Favouring yourself on behalf of STERLITE ENERGY LIMITED.

Sub: Amendment of Bank Guarantee No 003GT01081710003 Dated 19-JUN-2008

At the request of applicant STERLITE ENERGY LIMITED, we HDFC Bank Ltd do hereby amend the guarantee as follows:

Now, all claims under this guarantee shall be payble at **PATIALA** Instead of **NEW DELHI**

All other terms & conditions remain unchanged.

This letter will form an integral part of the above mentioned guarantee and should be attached thereto.

DATED 25-JUN-2008 AT NEW DELHI	
Notwithstanding anything contained herein before (1.) Our liability under this Bank Guarantee shall not exceed to Rs 375,000,000/- (Rupees Thirty Seven Crores Fifty Lacs only) (2.) This Bank Guarantee shall be valid upto 28-FEB-2009 and (3.) We are liable to pay the guaranteed amount or any part thereof under this bank guarantee only and only if you serve upon us a written claim or demand on or before 30-MAR-2009	i All Claims under this Guarantee shall be payable at Patiala ii This Guarantee Will be returned to us as soon as the purpose for which it is ssued is fulfilled. iii The BG confirmation No.- GTEE 101853 is an integral part of the BG no.- 003GT01081710003

For HDFC BANK LTD.
Authorised Signatory

For HDFC BANK LTD.
Authorised Signatory

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

Bidder's Undertaking

To,

Director/Projects
Talwandi Sabo Power Limited
Thermal Shed No. T2, Punjab State Electricity Board
Near Railway Crossing No. 22
Patiala-147001, Punjab, India

Dear Sir,
Sub: Bidders' Undertakings for Bid for supply to Procurer/Authorised Representative

We hereby undertake on our own behalf and on behalf of the Seller, that if selected as the Successful Bidder for the Project:

1. We give our unconditional acceptance to the RfP Project Documents issued by Procurer/Authorised Representative as a part of the RfP dated 18 January 2008, as amended. We shall ensure that the Seller shall execute such RfP Project Documents as per the provisions of the RfP.
2. We have submitted our Financial Bid strictly as per the formats provided in Annexure 4 of the RfP, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Bid in the said Annexure.

3. We have submitted the Bid on the terms and conditions contained in the RfP and we hereby confirm our acceptance of all the terms and conditions of RfP.

4. Our Bid (including Financial Bid) is valid upto the period required under Clause 2.9 of the RfP.

5. Our Bid (including Financial Bid) has been duly signed by authorised signatory and sealed in the manner and to the extent indicated in this RfP and the Power of Attorney/Board Resolution as per Clause 2.7.1.1 in requisite format as per RfP has been enclosed in original with this undertaking.

6. Not Applicable

7. We agree to sell our entire shareholding in the Seller as per the provisions of article 3.3.3 A of the PPA.

8. We confirm that our Bid meets all the conditions specified in Format 3 of Annexure 6 of RfP namely:
a)The Scheduled COD of the first Unit shall not be later than 48 months from the Effective Date as defined in PPA, subject to the provisions of the PPA.

STERLITE ENERGY LIMITED MUMBAI

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai-400 099, India.
Tel.. (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

b) The Scheduled COD of the Power Station shall not be later than 60 months from the Effective Date as defined in PPA, subject to the provisions of the PPA.

c) Difference in Scheduled COD of any two successive Units shall not exceed a period of 4 months, subject to the provisions of the PPA.

d)The sum total of the Contracted Capacities of all the Units shall not be less than 1620 MW and more than 1980 MW at the Delivery Point.

9. We confirm that our Financial Bid conforms to all the conditions in the RfP including:

a)Ratio of minimum and maximum Quoted Capacity Charges during the Contract Years for which Tariff has been quoted by the Bidder in Format 1 of Annexure 4 of the Bid shall not be less than zero point seven (0.7) as provided in Clause 2.7.1.4 item 2.

b)Financial Bid is in the prescribed Format I of Annexure 4, shall be submitted duly signed by the Authorised Signatory

c)Financial Bid is unconditional

d)Only one Financial Bid is submitted by the Bidder

10 Not applicable

Sanjay Khattry

Sanjay Khattry
Authorised Signatory

STERLITE ENERGY LIMITED MUMBAI

Original Power of Attorney as per Clause 2.7.1.1 is enclosed.

Format 2
Executive Summary

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

Executive Summary

1.1.a Name of the Bidding Company: STERLITE ENERGY LIMITED

1.1.b Name of the Lead Member in the case of a Bidding Consortium: Not Applicable

1.2 Details of the Bidding Consortium: Not Applicable

Sanjay Khattry
Sanjay Khattry
Authorised Signatory

Scheduled COD & Contracted Capacity
Format 3

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

Scheduled COD and Contracted Capacity

Unit	Gross Capacity of Unit (in MW)	Contracted Capacity of Unit (in MW)	Scheduled COD of Unit (in months from Effective Date)
First	660	613.8	48
Second	660	613.8	52
Third	660	613.8	56
All Units	**1980**	**1841.4**	

Sanjay Khattry
Sanjay Khattry
Authorised Signatory

vedanta

STERLITE INDUSTRIES (I) LTD.
Vedanta, 75 Nehru Road, Vile Parle (East)
Mumbai - 400 099, INDIA
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350
Website: www.vedantaresources.com

Name: Sterlite Industries (India) Limited
Full Address: Vedanta 75,Nehru Road,Vile Parle (E), Mumbai 400099
Telephone No.: +912266461347/37
E-mail address: swapnil.patil@vedanta.co.in; nalini.modak@vedanta.co.in
Fax / No.: +912266461350

To

Director (Projects)
Talwandi Sabo Power Limited
Thermal Shed No. T2, Punjab State Electricity Board
Near Railway Crossing No. 22
Patiala-147001, (Punjab), India

Sub: Undertaking for equity investment

Dear Sir,

We refer to the Request for Qualification dated **25 September 2007** ('RfQ') and Request for Proposal dated **18 January 2008**, ('RfP') issued by you regarding setting up of Project at near Talwandi Sabo at Village Banawala, Dist. Mansa, Punjab, India for supply of electrical output there from on long term basis.

We have carefully read and examined in detail the RfQ and the RfP, including in particular, Clause 3.3.4 of the RfQ and Clause 2.7.1.1 of the RfP, regarding submission of an undertaking regarding the investment in the equity share capital of the Talwandi Sabo Power Limited (the Seller). We have also noted the amount of the equity investment required in the Seller for the Project by STERLITE ENERGY LIMITED for the Project.

In view of the above, we hereby undertake to you and confirm that in the event of failure of STERLITE ENERGY LIMITED to invest in full or in part, in the equity share capital of the Seller as specified in the RfQ and/or RfP, we shall invest the said amount not invested by STERLITE ENERGY LIMITED in the Special Purpose Vehicle formed for the Project.

We have attached hereto certified true copy of the Board Resolution whereby the Board of Directors of our Company has approved issue of this Undertaking by the Company.

All the terms used herein but not defined, shall have the meaning as ascribed to the said terms under the RfP.

Tarun Jain
Director,
Sterlite Industries (India) Limited
Vedanta,75 Nehru Road
Vile Parle East, Mumbai 400099

STERLITE INDUSTRIES (INDIA) LIMITED MUMBAI

भारतीय गैर न्यायिक

रुपये Rs. 100

ONE HUNDRED RUPEES

Rs. 100

NOTARIAL

Gene
L.

महाराष्ट्र MAHARASHTRA

30 APR 2008

PROPER OFFICER

Shri. B. S. Wairkar

NOTARY RAMESHCHANDRA TIWARI Area-Marol Pipeline, Andheri (E), Mumbai, State of Maharashtra, Regn. 3361 GOVT. OF INDIA

卐 सौ. कांचन हर्षद बोंगाळे 卐 BB 924206

वांद्रे कोर्टासमोर, अ. का. मार्ग,

वांद्रे (पूर्व), मुंबई-५१.

श्री/श्रीमती/मेसर्स Sterlite

12 MAY 2008

9494

यांना रु.....न्यायोत्तर मुद्रांक पेपर विकेला.

परवाना धारक मुद्रांक विक्रेता

Power of Attorney

Know all men by these presents, We Sterlite Energy Limited having its registered office at 232, Solitaire Corporate Park, Andheri-Ghatkopar Link Road, Chakala, Andheri (East), Mumbai – 400093, do hereby constitute, appoint and authorise Mr. Sanjay Khattry, residing at , Flat No. 1003, 10th Floor, CS 248,Datta Tower, Parel Village, Parel, Mumbai 400 012., who is presently employed with us as our true and lawful attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project in response to the Request for Proposal dated 18 January 2008 issued by Talwandi Sabo Power Limited(RfP), including signing and submission of the bid and all documents specified in the RfP, including, undertakings, letters, certificates, acceptances, clarifications, guarantees, etc, making representations to the Procurer/Authorised Representative or the Procurer named in the RfP, and providing information/responses to the Authorized Representative or the Procurer named in the RfP, and generally dealing with the Procurer/Authorised Representative or the Procurer named in the RfP in all matters in connection with our Bid for the said project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us

All the terms used herein but not defined shall have the meaning ascribed to such terms under the RfP

Signed by within named
Sterlite Energy Limited
through the hand of
Mr.C.V.Krishnan,
duly authorised signatory
Dated this 20/6 day of 2008

Accepted

Sanjay Khattry
VP- Strategic Finance
Flat No. 1003, 10th Floor, CS 248,Datta Tower
Parel Village, Parel, Mumbai 400012

Signed

Mr.C.V.Krishnan
Director, Sterlite Energy Limited
Plot 26 New 59 St Mary's Road,R.A. Puram Chennai 600028

NOTARY RAMESHCHANDRA TIWARI Area-Marol Pipeline, Andheri (E), Mumbai, Maharashtra

STERLITE ENERGY LIMITED
Vedanta, 75, Nehru Road, Vile Parle (East), Mumbai-400 099, India.
Tel.: (+91-22) 6646 1000 Fax: (+91-22) 6646 1350

Disclosure

We hereby declare that the following companies with which we/ have direct or indirect relationship are also separately participating in this Bid process as per following details

S.No.	Name of the Company	Relationship
1.	NIL	

Further we confirm that we don't have any Conflict of Interest with any other company participating in this bid process.

CV Krishnan
Director
Sterlite Energy limited

STERLITE ENERGY LIMITED MUMBAI

STERLITE ENERGY LIMITED

232, Solitaire Corporate Park, Andheri-Ghatkoper Link Road,
Chakala, Andheri (E), Mumbai - 400 093.
Tel : +91 - 22 - 4005 8000, Fax : + 91 - 22 - 4005 8021

CERTIFIED TRUE COPY OF THE RESOLTUION PASSED BY THE BOARD OF DIRECTORS OF STERLITE ENERGY LIMITED AT THEIR MEETING HELD AT VEDANTA, 75 NEHRU ROAD, VILE PARLE (EAST), MUMBAI – 400099 ON WEDNESDAY, APRIL 30, 2008

"RESOLVED THAT the Company do participate in the bidding process of Coal based thermal power project at Talwandi Sabo, Punjab.

RESOLVED FURTHER THAT in lieu of the Chief Executive Officer or Managing Director or Manager under Section 2(24) and Section 269 of the Companies Act, 1956, Mr. K K Kaura, Director or Mr. C V Krishnan, Director of the Company be and are hereby severally authorized to submit the disclosure(s) declaring that no other company with which Sterlite Energy Limited has any direct or indirect relationship is separately participating in the Bid process and the Company don't have any conflict of interest with any other Company participating in the Bid process and signing all related documents required to be submitted as part of Request for Proposal (RFP) or such documents as may be necessary in this regard.

RESOLVED FURTHER THAT Mr. K K Kaura, Director or Mr. C V Krishnan, Director or Mr. Ajit Pratap Singh, Dy Company Secretary, be and are severally hereby authorized to sign the certified True Copy of the resolution and the same may be submitted to the concerned authorities."

Certified True Copy
For Sterlite Energy Limited

Ajit Pratap Singh
Dy Company Secretary

STERLITE ENERGY LIMITED MUMBAI

17. SCHEDULE 17: SUBSTITUTION RIGHTS OF THE LENDERS

1. Substitution of the Seller

a) Subject to the terms of the PPA, upon occurrence of a Seller Event of Default under the PPA, the Lenders shall, have the right to seek substitution of the Seller by a Selectee for the residual period of the PPA, for the purposes of securing the payments of the Total Debt Amount from the Seller and performing the obligations of the Seller, in accordance with the provisions of this Schedule.

b) The Lenders may seek to exercise right of substitution by an amendment or novation of the PPA and other Project Documents executed between Procurer and the Seller in favour of the Selectee, the Procurer and the Seller shall cooperate with the Lenders to carry out such substitution.

2. Procurer's Notice of Default

The Procurer shall, simultaneously also issue a copy of the same to the Lenders.

3. Substitution Notice

In the event of failure of the Seller to rectify the Event Of Default giving rise to Preliminary Default Notice, the lenders, upon receipt of a written advice from the procurer confirming such failure, , either on their own or through its representative ("the Lenders' Representative") shall be entitled to notify the Procurer and the Seller of the intention of the Lenders to substitute the Seller by the Selectee for the residual period of the PPA (the "Substitution Notice").

4.- Omitted

5. Interim operation of Project

a) On receipt of a Substitution Notice, no further action shall be taken by any Party to terminate the PPA, except under and in accordance with the terms of this Schedule 17 of this Agreement.

b) On issue of a Substitution Notice, the Lenders shall have the right to request the Procurer to enter upon and takeover the Project for the interim and till the substitution of the Selectee is complete and to otherwise take all such steps as are necessary for the continued operation and maintenance of the Project, including levy, collection and appropriation of payments thereunder, subject to, the servicing of monies owed in respect of the Total Debt Amount as per the Financing Agreements and the Seller shall completely cooperate in any such takeover of the Project by the Procurer. If the Procurer, at its sole and exclusive discretion agree to enter upon and takeover the Project, till substitution of the Selectee in accordance with this Agreement, the Procurer shall be compensated for rendering such services in accordance with clause 11.1.3 herein.

c) If the Procurer refuses to takeover the Project on request by the Lenders in accordance with clause 5(b) above, the Seller shall have the duty and obligation to continue to operate the Project in accordance with the PPA till such time as the Selectee is finally substituted under clause 8.8 hereof.

d) The Lenders and the Procurer shall, simultaneously have the right to commence the process of substitution of the Seller by the Selectee in

accordance with these terms and the Seller hereby irrevocably consents to the same.

6. Process of Substitution of Seller

The Lenders' Representative may, on delivery of a Substitution Notice notify the Procurer and the Seller on behalf of all the Lenders about the Lenders' decision to invite and negotiate, at the cost of the Lenders, offers from third parties to act as Selectee, either through private negotiations or public auction and / or a tender process, for the residual period of the PPA. Subject to and upon approval of the Procurer, such Selectee shall be entitled to receive all the rights of the Seller and shall undertake all the obligations of the Seller under the PPA and other Project Documents executed between the Seller and the Procurer, in accordance with these terms of substitution.

The Lenders and the Seller shall ensure that, upon the Procurer approving the Selectee, the Seller shall transfer absolutely and irrevocably, the ownership of the Project to such Selectee simultaneously with the amendment or novation of the PPA and other Project Documents executed between the Seller and the Procurer in favour of the Selectee as mentioned in clause 1 (b).

7. Modality for Substitution

7.1 Criteria for selection of the Selectee.

The Lenders and / or the Lenders' Representative shall in addition to any other criteria that they may deem fit and necessary, apply the following criteria in the selection of the Selectee:

(a) if the Seller is proposed to be substituted during the Construction Period, the Selectee shall possess the technical and financial capability used to pre-qualify bidders in the RfQ stage (including the methodology prescribed therein) to perform and discharge all the residual duties, obligations and liabilities of the Seller under the PPA. If the Seller is proposed to be substituted during the Operation Period, this criteria shall not be applicable.

(b) the Selectee shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues, if any, of the Seller to the Procurerunder and in accordance with the PPA and also payment of the Total Debt Amount to the Lenders upon terms and conditions as agreed to between the Selectee and the Lenders:

(c) the Selectee shall have not been in breach of any agreement between the Selectee and any Bank or any Lender or between the Selectee and the Procurer, involving sums greater than Rupees twenty (20) crores at any time in the last two (2) years as on the date of the substitution of the Seller.

(d) any other appropriate criteria, whereby continuity in the performance of the Selectee's obligations under the PPA is maintained and the security in favour of the Lenders under the Financing Agreements is preserved.

8.4 At any time prior to taking a decision in respect of the Proposal received under clause 8.1, the Procurer may require the Lender / Lenders' Representative to satisfy it as to the eligibility of the Selectee. The decision of the Procurer as to acceptance or rejection of the Selectee. shall be made reasonably and when made shall be final. conclusive and binding on the Parties.

8.5 The Procurer shall convey its approval or disapproval of such Proposal to the Lender / Lender's Representative. Such decision shall be made by the Procurer at its reasonably exercised discretion within twenty one (21) days of:

(a) the date of receipt of the Proposal by the Procurer; or
(b) the date when the last of further and other information and clarifications in respect of any data, particulars or information included in the Proposal requested by the Procurer under clause 8.2 above is received; whichever is later.

Notwithstanding anything to the contrary mentioned in this Agreement, the approval of the Procurer for the Selectee shall not be withheld in case the Selectee meets the criteria mentioned in Clause 7.1.

8.6 Upon approval of the Proposal and the Selectee by the Procurer, the Selectee mentioned in the Proposal shall become the Selectee hereunder.

8.7 Following the rejection of a Proposal, the Lenders and/or the Lenders' Representative shall have the right to submit a fresh Proposal, proposing another Selectee (if the rejection was on the grounds of an inappropriate third party proposed as Selectee) within sixty (60) days of receipt of communication regarding rejection of the Selectee previously proposed. The provisions of this clause shall apply mutatis mutandis to such fresh Proposal.

8.8 The substitution of the Seller by the Selectee shall be deemed to be complete upon the Selectee executing all necessary documents and writings with or in favour of the Seller, Procurer and the Lenders so as to give full effect to the terms and conditions of the substitution, subject to which the Selectee has been accepted by the Lenders and the Procurer and upon transfer of ownership and complete possession of the Project by the Procurer or the Seller, as the case may be, to the Selectee. The Procurer shall novate all the Project Documents, which it had entered in to with the Seller in order to make the substitution of the Seller by the Selectee effective. The quantum and manner of payment of the consideration payable by the Selectee to the Seller towards purchase of the Project and assumption of all the rights and obligations of the Seller under the PPA and the Project Documents as mentioned in this Agreement shall be entirely between the Seller, Selectee and the Lenders and the Procurer shall in no way be responsible to bear the same.

8.9 Upon the substitution becoming effective pursuant to sub-clause 8.8 above, all the rights of the Seller under the PPA shall cease to exist:
Provided that, nothing contained in this sub-clause shall prejudice any pending / subsisting claims of the Seller against a Procurer or any claim of the Procurer against the erstwhile Seller or the Selectee.

8. Modalities

The following modalities shall be applicable to any substitution of the Seller by the Selectee pursuant to this Agreement:

8.1 The Lenders' Representative shall on behalf of the Lenders propose to the Procurer (the "Proposal") pursuant to sub-clause 8.2 below, the name of the Selectee for acceptance, seeking:

(a) grant of all the rights and obligations under the PPA and the other Project Documents executed between the Procurer and the Seller, to the Selectee (as substitute for the Seller);

(b) amendment of the PPA and the other Project Documents executed between the Procurer and the Seller, to the effect that the aforementioned grant to the Selectee, shall be such that the rights and obligations assumed by the Selectee are on the same terms and conditions for the residual period of the PPA as existed in respect of the Seller under the original PPA and the other Project Documents executed between the Procurer and the Seller; and

(c) the execution of new agreements as necessary, by the proposed Selectee for the residual period of the PPA on the same terms and conditions as are included in this Agreement.

8.2 The Proposal shall contain the particulars and information in respect of the Selectee the data and information as the Procurer may reasonably require. The Procurer may intimate any additional requirement within thirty (30) days of the date of receipt of the Proposal.

8.3 The Proposal shall be accompanied by an unconditional undertaking by the Selectee that it shall, upon approval by the Procurer of the Proposal:

(a) observe, comply, perform and fulfil the terms, conditions and covenants of the PPA and all Project Documents executed between Seller and the Procurer or a new power purchase agreement or respective Project Document (in the case of the novation thereof), which according to the terms therein are required to be observed, complied with, performed and fulfilled by the Seller, as if such Selectee was the Seller originally named under the PPA; or the respective Project Document; and

(b) be liable for and shall assume, discharge and pay the Total Debt Amount or then outstanding dues to the Lenders under and in accordance with the Financing Agreements or in any other manner agreed to by the Lenders and the Procurer as if such Selectee was the Seller originally named under such Financing Agreements.

8.10 The Selectee shall, subject to the terms and conditions of the substitution, have a period of ninety (90) days to rectify any breach and / or default of the Seller subsisting on the date of substitution and required to be rectified and shall incur the liability or consequence on account of any previous breach and / or default of the Seller.

8.11 The decision of the Lenders and the Procurer in the selection of the Selectee shall be final and binding on the Seller and shall be deemed to have been made with the concurrence of the Seller. The Seller expressly waives all rights to object or to challenge such selection and appointment of the Selectee on any ground whatsoever.

8.12 The Lenders shall be solely and exclusively responsible for obtaining any and all consents/approvals or cooperation, which may be required to be obtained from the Seller under this Agreement and the Procurer shall not be liable for the same.

8.13 All actions of the Lenders' Representative hereunder shall be deemed to be on behalf of the Lenders and shall be binding upon them. The Lenders' Representative shall be authorised to receive payment of compensation and any other payments, including the consideration for transfer, if any, in accordance with the Proposal and the Financing Agreements and shall be bound to give valid discharge on behalf of all the Lenders.

9. Seller's Waiver

9.1 The Seller irrevocably agrees and consents (to the extent to which applicable law may require such consent) to any actions of the Lenders, the Lender's Representative and the Procurer or exercise of its rights under and in accordance with these terms.

9.2 The Seller irrevocably agrees and consents (to the extent to which applicable law may require such consents) that from the date specified in clause 8.9, it shall cease to have any rights under the PPA or the Financing Agreements other than those expressly stated therein.

9.3 The Seller warrants and covenants that any agreement entered into by the Seller, in relation to the Project, shall include a legally enforceable clause providing for automatic novation of such agreement in favour of the Selectee, at the option of the Lenders or the Procurer. The Seller further warrants and covenants that, in respect of any agreements which have already been executed in relation to the Project and which lack a legally enforceable clause providing for automatic novation of such agreement, the Seller shall procure an amendment in the concluded agreement to incorporate such clause.

10. Interim Protection Of Service And Preservation Of Security

10.1 Appointment of a Receiver

10.1.1 In every case of the Lenders issuing a Substitution Notice and the Procurer refusing to takeover the Project and the Seller failing to operate the Project in accordance with Clause 5(c) above and the Procurer not electing to act as Receiver as per sub-clause 10.1.1A hereof, the Lenders may institute protective legal proceedings for appointment of a receiver (the "Receiver") to maintain, preserve and protect the assets

held as security by the Lenders if such right is granted under the terms of the Financing Agreements.

10.1.1A Provided that in event of the Procurer refusing to take over the Project and the Seller failing to operate the Project in accordance with Clause 5 (c) above, and if the assets of the Project are, in the opinion of the Procurer, necessary and required for the operation and maintenance of the Project, the Procurer shall be entitled to elect to act as the Receiver for the purposes of this Clause and be entitled to maintain, preserve and protect the said assets by engaging an operator/service provider to act on their behalf and the Lenders and Seller hereby consent and agree to the same. Upon the Procurer so intimating the Seller and the Lender's representative their desire to act as Receiver, the Seller and the Lender's representative shall co-operate with the Procurer to facilitate the same.

10.1.2 Upon appointment of the Court appointed Receiver or the Procurer acting as Receiver, all the Receivables received by such Receiver shall be deposited by the Receiver in the bank account jointly designated by the Procurer and the Lenders. The Receiver shall be responsible for protecting the assets in receivership and shall render a true and proper account of the receivership to the lenders in accordance with the terms of its appointment.

10.1.3 When acting as a Receiver or operator in accordance with this clause 11 or clause 5(b), Procurer shall be entitled to be remunerated for such services as may be determined by Central Electricity Regulatory Commission. Furthermore, when acting as a Receiver, the Procurer shall not be liable to the Lenders, the Lenders' Representative, Seller or any third party for any default under the PPA, damage or loss to the Power Station or for any other reason whatsoever, except for wilful default of the Procurer.

11. Substitution Consideration

11.1 The Lenders and Procurer shall be entitled to appropriate any consideration received for the substitution of the Seller as hereinabove provided, from the Selectee towards the payment of Lenders' and the Procurer's respective dues, to the exclusion of the Seller.

11.2 The Seller shall be deemed to have nominated, constitutes and appoints the Lenders' Representative as its constituted attorney for doing all acts, deeds and things as may be required to be done for the substitution of the Seller by the Selectee pursuant to these terms.

12. Change in the Procurer or Lenders

The Parties hereto acknowledge that during the subsistence of the PPA, it is possible that the Procurer may cease to be a party to this Agreement by reason of termination of PPA vis-à-vis the Procurer and any Lender may cease to remain as a Lender by

reason of repayment of the debt or otherwise. Further it may possible that the Lender may be substituted or a new Lender may be added. In the event of the Procurer ceasing to be a party to the PPA or Financing Agreement respectively, the term and conditions as prescribed in this Schedule shall cease to automatically apply to the Procurer or Lender as the case may be. Further, upon any entity being added as a Lender and in the event such entity is given the right to substitute the Seller under the Financing Agreement and then the contents of this Schedule shall be applicable to the exercise of such right by the said new entity.