

"Main Meters"	shall have the meaning as specified in CEA's installation and operation of Meters Regulation 2006 as amended and revised from time to time.
"Maintenance Outage"	shall have the meaning ascribed there to in IEGC/ GEGC
Maximum Continuous Rating 'MCR'	shall have the meaning as defined in the Grid Code or GERC Regulation
"Metering Date"	Means the 00:00 hours of the first day of each calendar month and initial meter reading will be taken on the Date of Installation of Meters
"Monthly Bill"	Will have the meaning ascribed to it in Article 11.
"Metering System"	shall have the meaning ascribed thereto in Article 9 of this Agreement;
"Month"	means a calendar month;
"Normative Availability"	shall be as per GERC Tariff Norms/ Regulations as amended/ applicable or as approved from time to time.
"Normative Auxiliary Energy Consumption"	shall be as per GERC Tariff Norms/ Regulations as amended/ applicable or as approved from time to time
"Normative Station Heat Rate"	means, the heat energy input to the Project in terms of Gross Calorific Value, to generate one (1) kWh of Electrical Energy at Generator Terminal and shall be as per GERC Tariff Norms/ Regulations as amended/ applicable or as approved from time to time.
"Notice"	shall mean a notice relating to any eventuality as prescribed under this PPA and shall be understood to have a Notice relating to that particular event in context of which used.
"Operation Period"	in relation to the Power Station means the period from its Commissioned Date until the expiry or earlier termination of this Agreement in accordance with Article 2 of this Agreement;
"Operating Procedures"	shall have the meaning ascribed thereto in IEGC/ GEGC;



"Operator"	means one or more contractors appointed as operator of power generation facilities of the Project pursuant to an O&M Contract, if any;
"Outage(s)"	shall mean the event(s) of non-Availability of the Generating Stations.
"Party" and "Parties"	has the meaning specified in the recital to this Agreement;
"Performance Test "	means the test of a Unit's rated capacity and after commissioning of the Power Station, of the Power Station's rated capacity as a whole carried out in accordance with Schedule 3 of this Agreement and relevant Test Code(s);
"Preliminary Termination Notice"	shall have the meaning ascribed thereto in Article 14 of this Agreement;
"Project"	means the ownership, design, financing, engineering, procurement, construction, operation, maintenance, repair, refurbishment, development and insurance of the Unit/Power Station undertaken by the Seller in accordance with the terms and conditions of this Agreement;
"Project Documents"	Means Contract with Construction Contractor; Fuel Supply Agreements, including the Fuel Transportation Agreement, if any and any other agreement designated as such from time to time by the Procurer or the Seller;



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<b>"Prudent Practices"</b>	<b>Utility</b>	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 Power Station;  b) the requirements of Indian Law; and  c) the physical conditions at the Site;
<b>"Repeat Test"</b>	<b>Performance</b>	shall have the meaning ascribed thereto in Article 8 and Schedule 3 of this Agreement and as per relevant Test Code(s);
<b>"Revised Notice"</b>	<b>Capacity</b>	means the revision in Capacity Notice, as per applicable Grid Code or Applicable ABT order.
<b>Revised COD</b>	<b>Scheduled</b>	Shall mean that if the seller intends to prepone the Scheduled COD of any unit /power station, the same shall be intimated by the seller to the procurer and STU within 12 months from the effective date of this Agreement.
<b>"Reference Rate"</b>	<b>Exchange</b>	means in relation to any currency other than Rupees in which debt or Equity component of the capital cost may be financed in accordance with the Financing Agreements, the weighted average selling rate in Rupee for relevant currency at which Seller purchased / converted such currency for raising debt and / or Equity, as the case may be, on the date on which Seller raised the debt, or as the case may be, the Equity, to finance the Project.
<b>"Rupees" or "Rs."</b>		means the lawful currency of India;
<b>"Scheduled CoD" or "Scheduled Commercial Operation"</b>		means the date falling 60 months from the Zero Date ;





<b>Date"</b>	
<b>"Scheduled Connection Date"</b>	shall mean the date falling 30 days before the Scheduled Synchronisation Date;
<b>"Scheduled Energy"</b>	means the quantum of energy at the Interconnection point as scheduled by the State Load Dispatch Centre;
<b>"Scheduled Generation"</b>	at any time or for any period or time block means schedule of generation in MW at Interconnection Point, given by the Control Center, in accordance with the Grid Code, ABT order and this Agreement.
<b>"Scheduled Outage"</b>	shall have the meaning ascribed thereto in IEGC/ GEGC;
<b>"Scheduled Synchronisation Date"</b>	means the date which falls 30 days before the Scheduled CoD of the any Unit of the project;
<b>"Settlement Period"</b>	means the time block for issue of daily declaration, generation and drawal schedules as may be defined by IEGC/GEGC or the ABT order [presently fifteen (15) minute block];
<b>"Site"</b>	means the site of the Generating Stations, as more particularly described in Schedule-2
<b>"SLDC Charges"</b>	Means the charges levied by any of the relevant SLDCs for the supply of power by the Seller to the Procurer(S);
<b>"State Transmission Utility" or "STU"</b>	means the Utility as defined in the Electricity Act 2003;
<b>"Supplementary Invoice"</b>	means an Invoice other than a Monthly Invoice raised by either Party in accordance with Article 11;
<b>"Tariff Payment"</b>	means the payments under Monthly Invoices as specified in Schedule 5 and the relevant Supplementary Invoices;
<b>"Tariff"</b>	means the tariff payable in accordance with Schedule 5;
<b>"Technical Specifications"</b>	means the technical requirements and parameters prescribed in relation to the Project, forming a part of the Construction Contract. Provided these shall always comply with the requirements of Schedule 2 of this Agreement;



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"Tested Capacity"	in relation to a Commissioned Unit, or the Power Station as a whole (if the Power Station has been commissioned) means the results of the most recent Performance Test or Repeat Performance Test carried out in relation to the Unit in accordance with Schedule 3 of this Agreement;
"Termination Notice"	shall have the meaning ascribed thereto in Article 14 of this Agreement;
"Term of Agreement"	has the meaning specified in Article 2.1;
"Total Debt Amount"	<p>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 notification of Force Majeure Event)</p> <p>(a) the principal amount of the debt incurred by the Seller (as per the terms of the Financing Agreements) to finance the Project according to the Capital Structure Schedule as approved by the Commission which remains outstanding on the date of notification of Force Majeure Event after taking account of any debt repayments which could have been made out of the Monthly Payments received by the Seller on or before the date of notification of Force Majeure Event as per the terms provided in the Financing Agreements; and</p> <p>(b) all accrued interest and financing fees payable under the Financing Agreements on the amounts referred to in Article (a) above since the Fixed Charge Payment immediately preceding the date of notification of Force Majeure Event or, if Fixed Charges have not yet fallen due to be paid, from the most recent date when interest and financing fees were capitalised, and</p> <p>(c) if this Agreement is terminated during the Construction Period, any amounts owned 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 or this Agreement being terminated);</p>



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"Unit" or "Power Station" or Generating Station	means a block of Boiler, Steam Turbine, Generator along with associated auxiliaries and balance of plant in case of single such Unit and shall be called "Unit" or "Power Station".
"Unscheduled Interchange"	means as defined in relevant ABT Order;
"Variable Charge" or "Fuel Charge"	shall have meaning as specified in Schedule 5;
"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 STU or any other agency for the transfer of power from the Plant switchyard end to the Procurer's network
"Zero Date"	means the date when Notice to proceed for Main Plant & Machinery is issued to the successful bidder.

## 1.2 Interpretation

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

- 1.2.1 A "Recital", an "Article", a "Schedule", a "Paragraph" and a "Clause" shall be construed as a reference to a Recital, an Article, a Schedule, a Paragraph and a Clause respectively of this Agreement.
- 1.2.2 An "affiliate" of any person shall be construed as a reference to a subsidiary or holding company, or a subsidiary of a holding company, of such person
- 1.2.3 "this Agreement" shall be construed as including a reference to its Schedules and Annexes;
- 1.2.4 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);
- 1.2.5 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.



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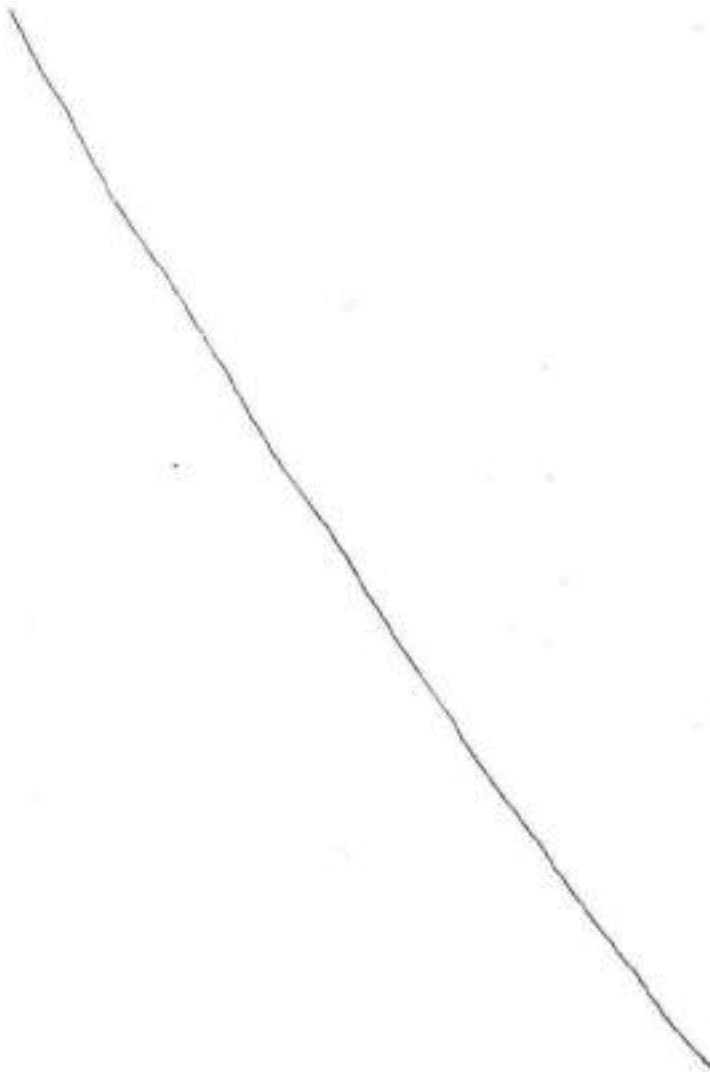
- 1.2.6 "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.7 A "person" shall be construed as a reference to any person, firm, company, corporation, society, 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.
- 1.2.8 A "subsidiary" of a company or corporation shall be construed as a reference to any company or corporation:
- a) which is controlled, directly or indirectly, by the first-mentioned company or corporation; or
  - b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or
  - c) which is a subsidiary of another subsidiary of the first-mentioned company or corporation and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and / or to control the composition of its board of directors or equivalent body
- 1.2.9 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.
- 1.2.10 Words importing the singular shall include the plural and vice versa.
- 1.2.11 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.
- 1.2.12 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time.
- 1.2.13 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.



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- 1.2.14 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.
- 1.2.15 The table 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.
- 1.2.16 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.



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## ARTICLE 2 TERM OF AGREEMENT

### 2.1 Effective Date and Term of Agreement

This Agreement is effective from the date of its signing by both the parties.

The Agreement shall have a term from such effective date until the Expiry Date ("Term of Agreement"), when it shall automatically terminate, unless:

- i. terminated earlier, pursuant to Article 2.2, or
- ii. extended, pursuant to Article 2.3.

### 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 14 or Article 3.3; or
- ii. in such other circumstances as the Seller and Procurer may subsequently agree, in writing.

### 2.3 Extension of Term

2.3.1 Prior to at least Three hundred and Sixty Five (365) days before the Expiry Date, Procurer may give a written notice to the Seller that it wishes to extend this Agreement for an additional period to be specified by that Procurer.

2.3.2 If such written notice is delivered to the Seller by the Procurer, this Agreement can be extended to such date. Upon the receipt of such notice, the Parties shall meet and discuss an extension of this Agreement, which may be extended on such terms including the period of extension, tariff, capacity and operating characteristics as the Parties may mutually agree in writing. Such extension shall commence upon the end of the last day of the Term of Agreement.

2.3.3 On Expiry of any extension of the Term under Article 2.3.2, the provisions of this Agreement, including this Article 2.3 itself shall apply mutatis mutandis in relation to either Party's right.



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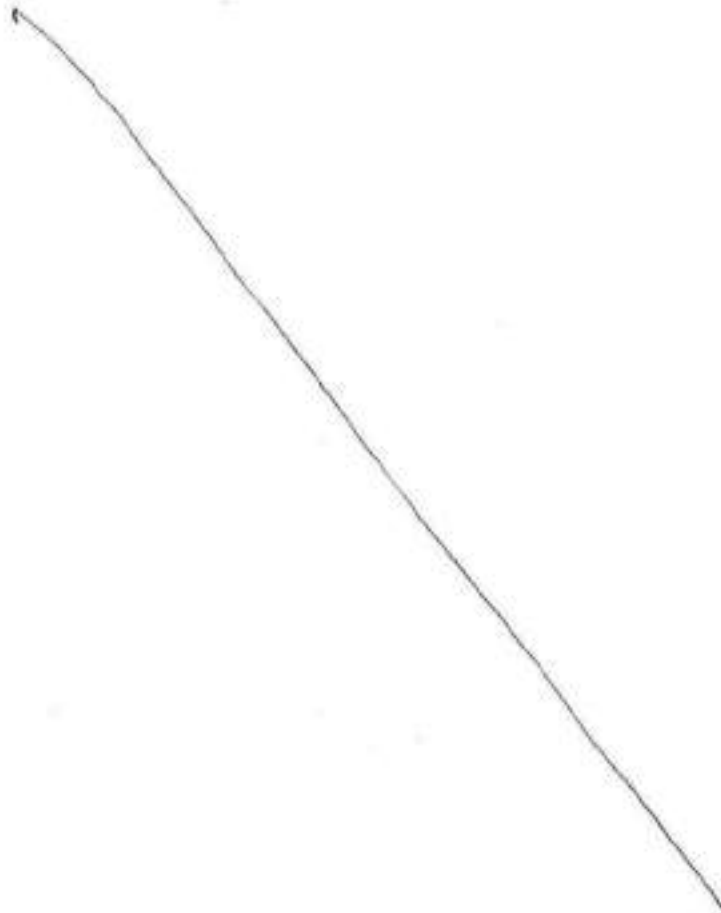


**2.4 Consequences of Procurer or Seller not extending**

2.4.1 In the event that the Procurer or Seller choose not to automatically extend the PPA under Article 2.3, the PPA shall expire and no rights and obligations by Procurer to the Seller or vice versa shall be owed by any party to another.

**2.5 Survival**

2.5.1 The expiry or termination of this Agreement shall not affect accrued rights and obligations of the Parties under 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.



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**ARTICLE 3**  
**CONDITIONS SUBSEQUENT**

**3.1 Satisfaction of conditions subsequent by the Seller**

Notwithstanding anything to the contrary specified in this Agreement and unless specifically waived in writing by either Party, the other Party agrees and undertakes to duly perform and complete the following within twelve (12) months from the effective date of this Agreement:

- i. the Seller shall have received the Initial Consents as mentioned in Schedule 1, either unconditionally or subject to conditions which do not materially prejudice its rights or the performance of its obligations under this Agreement ;
- ii. the Seller shall have appointed the Construction Contractors, if Seller itself is not the Construction Contractor, for the design, engineering, procurement, construction and Commissioning of the Project and shall have given to such Contractor an irrevocable notice to proceed.
- iii. the Seller shall have achieved Financial Closure in relation to the Project;
- iv. the Seller shall make available to the Procurer the data with respect to the Project for design of Interconnection Facilities and Transmission Facilities, if required;
- v. the specific Interconnection Point has been identified by Parties at the out going gantry of the Power Station;
- vi. the Seller shall have got vacant possession of the Sites and shall have obtained valid, enforceable, unencumbered and insurable freehold or leasehold title thereto and such other real property rights including way-leaves as may be required for the Project or the performance of its obligations under this Agreement.

**3.2 Reports**

The Seller shall notify the Procurer in writing atleast once in two months on the progress made in satisfying the conditions in Article 3.1 and shall also mention whether the actual Commercial Operation Date shall be as per the Scheduled Commercial Operation Date or is likely to be preponed or postponed and by how much time.



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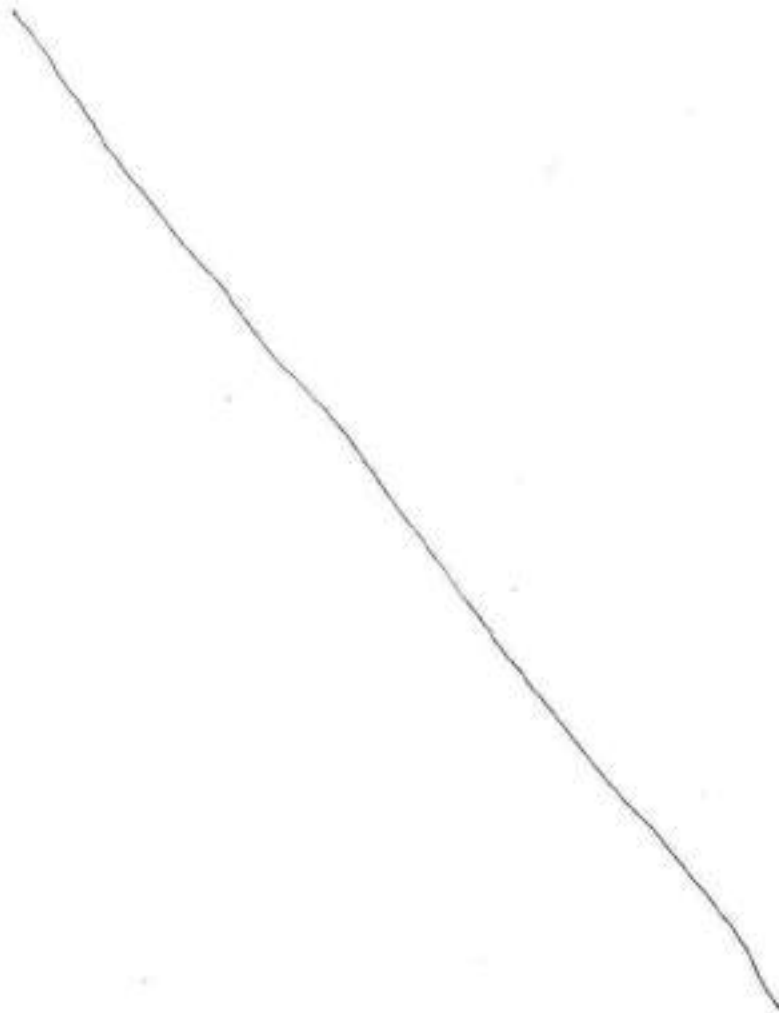
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3.3 Consequences of non-fulfillment of conditions under Article 3.1

3.3.1 If any of the conditions specified in Article 3.1 is delayed beyond a period of one year (12) months then either Party may terminate this Agreement without any obligation or liability;

3.3.2 In case of Force Majeure affecting the Seller, the time period of twelve (12) months for Condition Subsequent, shall be extended for the purpose of termination as per Article 3.3 subject to a maximum extension period of 10 months continuous or non continuous in aggregate.



**ARTICLE 4**  
**DEVELOPMENT OF THE PROJECT**

**4.1 The Seller's obligation to build, own and operate the Power Station**

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

- a) obtaining and maintaining in full force and effect any 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 Operation Date and such that as much of the Installed 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 Operating Period of the Power Station;
- c) owning the Power Station throughout the term of this Agreement free and clear of encumbrances except those expressly permitted by Article 18;
- d) procure the requirements of electricity at the Power Station (including construction, commissioning and start-up power) to meet in a timely manner all formalities for getting such a supply of electricity;
- e) shall be responsible for informing about the project to the STU and procuring the Interconnection and Transmission Facilities upto the Interconnection Point to enable the Power Station to be connected to the Grid System of the STU not later than the Scheduled Connection Date and to facilitate transmission of power from the Power Station to Interconnection Point; and Co-ordinating with the STU regarding the Availability of Interconnection and Transmission facilities through out the Term of this Agreement.
- f) fulfilling all other obligations undertaken by him under this Agreement.

**4.2 Procurer' obligation**

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

- a) endeavour its best (without any legal obligation) to assist the Seller



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in procuring the electricity required as per Article 4.1 (d); and

- b) using all reasonable endeavours to facilitate the commissioning and testing of the Units and after commissioning of the Power Station, as a whole that are within it's power to do.

#### 4.3 Purchase and sale of Available Capacity and Electrical Output

4.3.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Procurer, and Procurer undertake to pay the Tariff for the Available Capacity and Electrical Output of the Power Station throughout its Operating Periods.

4.3.2 The Seller shall sell all the Available Capacity of the Power Station to the Procurer pursuant to Schedule Generation given by the Procurer or SLDC.

#### 4.4 Right to Available Capacity / Electrical Output

4.4.1 The available Capacity of the Unit or the Power Station, as the case may be, shall be used exclusively for the benefit of the Procurer and the Seller shall not grant to any third party or allow any third party to obtain any entitlement to the Available Capacity and Electrical Output.

4.4.2 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 to the power plant and the Colony attached to the Power Plant if it is allowable as per the Act or regulations issued by the Appropriate Commission for Distribution and it has to be within the overall ceiling of Normative Auxiliary Energy Consumption as provided in Article 1.

#### 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 required date because of any default of the Procurer; or
- (b) a Unit, or the Power Station cannot be Commissioned by its Scheduled Commercial Operations Date because of Force Majeure Event; or
- (c) a Unit, or the Power Station cannot be Commissioned by its Scheduled Commercial Operations Date due to delay caused by relevant authority and situations beyond the control of the Seller, for the clearances to be obtained by the Seller as per Schedule 1.



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whereby, delay needs to be justified by the Seller.

- (d) 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 to permit the Seller through the use of due diligence, to overcome the effects of the Force Majeure Event or in the case of the Procurer's material default till such time the material 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 in accordance with Article 17.

4.5.3 The Scheduled Commercial Operations Date of any Unit or the Scheduled Commercial Operations Date of the Power Station as a whole, may not be extended by more than a total of twelve (12) months from the Scheduled Commercial Operations Date first determined pursuant to this Agreement by reason of one or more Force Majeure Events, and the new date shall be deemed the Scheduled Commercial Operations Date for the purposes of this Agreement. If the original Scheduled Commercial Operations Date is delayed beyond twelve (12) months, this Agreement shall terminate as detailed in Article 14.

#### 4.6 Liquidated damages for delay due to Procurer default

##### 4.6.1

- a) If a Unit cannot achieve COD by its Scheduled Commercial Operations Date, due to a Procurer Event of Default 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 ;

such Unit shall, until the effects of the Procurer Event of Default 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 achieved COD with effect from the Scheduled COD without taking into account delay due to such Procurer Event of Default and shall be treated as follows.



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