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No. 27044/CSD

- The Registrar, NEPRA,
2nd Floor, OPF Building,
G-5/2, Islamabad.

Subject:

POWER PROCUREMENT REQUEST UNDER NEPRA'S INTERIM POWER PROCUREMENT REGULATION-2005.

Ref:

S.R.O 265(I)/2005 Notification dated 16.03.2005.

M/S Galaxy Textile Mills has offered 11.6MW Gas based power to FESCO. FESCO intends to purchase the power from M/S Galaxy Textile Mills and hereby request for acquisition of power under IPPR-2005(interim power procurement regulation-2005).

The information as per part-II of Power acquisition permission clause-3(3) is as under please:

- a. The firm's expected capacity is 11.6 MW, except in non gas month (Dec, Jan, Feb).
 - b. Type of fuel is gas.
 - c. Expected time for commercial operation of the generation facility is 240 days after the signing of the agreement (MOU has been signed on 30.05.2011).
 - d. The FESCO demand of 11.6 MW will be met through proposed procurement of power.
 - e. The interconnectivity setup of 11KV Voltage will be sole discretion and responsibility of the power purchaser at its own cost and risk. Cost of synchronization arrangement will be born by the power producer.
- Information as per Clause-3(4) of IPPR-2005 is attached on the forms under **Schedule -1**
- Copy of MOU between FESCO and M/S Galaxy Textile Mills as per clause-5(1) (power acquisition contract) is attached.
- Tariff**

The policy frame work for new captive power producer (N-CPPs) inclusive of the Tariff approved by BOD PEPCO and endorsed by Ministry of Water & Power vide its No: PA/JS(P)/2009-Misc dated 14.07.2009 received to FESCO vide CPPA letter No: GM/CPPA/F-75/2996-3015 dated 15.07.2009 in this case the below mentioned Tariff at Para-3(ii) of N-CPPs policy was further changed to the extend of financial cost component only(Rs. 1.28/Kwh to Rs. 1.57/Kwh) with the approval of MD PEPCO as intimated by CPPA vide No: CPPA/DT-II/F-67/2690-92 dated 25.03.2011. The change in the financial cost component was due to the

Regist 3173
Dy. No. 23-86-11
Dated: 23/6

✓ PAR-58
MF
Faisalabad Electric Supply Company Limited PUE

OFFICE OF THE
CHIEF EXECUTIVE OFFICER
FESCO FAISALABAD

Dated: - **18.06.2011.**

- DG (Train) M. A. N.
AD(Z)
AD(R)

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reduction in the amortization/pay back period to 05 years instead of 07 years as permissible under N-CPP policy (policy frame work available at PEPCO website www.pepco.gov.pk for your perusal please).

Standard Assumption for Tariff and Calculation of Financial Cost Component Rs.1.57/Kwh.
(Fixed cost component kept Par with fixed cost component allowable to other CPPs).

Capital Cost/KW	(US\$ 560)
Financial Cost Recovery	5 Years.
Tariff without Financial Cost Component	9 Years.
Availability	95%
Discount Rate	10%
Foreign Component	75%
Local Component	25%
Total Cost US\$	6.496 Million
Dollar Rate Rs.	80
Total Cost Rs.	519.680 Million

The methodology of payment as per mutually agreed Tariff allowed by NEPRA and guidelines issued in this respect vide No: NEPRA/R/LAG-60/7320 dated 28.04.2008 is given below:-

(ii)

TARIFF DETAIL				
ILLUSTRATION OF PAYMENT METHODOLOGY				
Scenario	Fuel Cost Component at Reference Gas Price of Rs.238.38/MMBT U HHV	Fixed Cost Component (Rs./Kwh		Total Cost(Rs./K wh)
Gas Committed Months	2.89	1.53		5.99
Non Gas Committed Months/No Despatch	0.00	0.12		1.69
Power Producer Ready to Deliver; but no despatch by the Power Purchaser	0.00	0.26		1.83
Payment when Company Fails to Achieve COD OR Gas Months/No Despatch by Power Producer if Power Purchaser ready to Purchase Power	0.00	0.00		0.00
Payment when Power Purchaser fails to arrange Power Evacuation at COD	0.00	0.26	1.57	1.83

5. Being the firm capacity and installation of new machinery for power house, FESCO is of the view that Tariff determination is the prerogative of NEPRA in this case, however if NEPRA has no objection on the Tariff, approved by CPPA in the N-CPP Policy mentioned in the above table, FESCO can adopt and own the Tariff.

FESCO will appreciate if permission for power acquisition is allowed alongwith endorsement of Tariff adopted by CPPA under N-CPP policy or Tariff determination be made by NEPRA as the case may be.

DA as above:


Ghazanfar Ali Khan
Chief Engineer/CS Director
FESCO Faisalabad.

C.CTO: PA to Chief executive FESCO.
• CE (P&D) FESCO Faisalabad.
• Finance Director FESCO Faisalabad.

} For information please.

CDPs BETWEEN FESCO AND MEPCO				
NAME OF GRID STATION	CDPs Code	Circuit	KW	
			Import	Export
132 KV Grid station Tandlianwala	045981	132 KV Tandlianwala-Sahiwal	71,710	23,740
66 KV Grid station Mankera	032281	66 KV Mankera- Chowbara	6,088	706
66 KV Grid Station A.P Sial	022781	66 KV A.P Sial- Kot Addu	20,000	5,000
132 KV Grid station chowk Azam	073081	132 KV Chowk Azam- Bhakkar	0	0
132 KV Grid station Kabirwala	008781	132 KV Kabirwala- Shorkot City	0	0
132 KV Grid station Chichawatni	002781	132 KV Chichawatni- Muridwala	66,300	0
132 KV Grid station Chichawatni	002782	132 KV Chichawatni- Kamalia	44,100	0
132 KV Grid station Chichawatni	002791	66 KV Chichawatni- T.T Singh	0	0
66 KV Grid station Chowbara	002981	66 KV Chowbara- G.M Raja	0	0
220 KV Grid Station Jaranwala Road	042084	132KV Grid Station Jaranwala Road - Sahiwal	0	98,650
Total			208,198	128,096

4. CDPs BETWEEN FESCO AND LESCO

NAME OF GRID STATION	CDPs Code	Circuit	KW	
			Import	Export
132 KV Grid station Jaranwala	007381	132 KV Jaranwala-Bucheki	168,168	58,204
132 KV Grid station Bucheki	001981	132 KV Bucheki- Nishatabad	74,300	60,274
132 KV Grid station Shahkot	019291	132 KV Shahkot-Bandala	96,850	60,500
220 KV Grid station Nishatabad	070086	66 KV Nishatabad-Sangla Hill-I	0	24,810
	070087	66 KV Nishatabad-Sangla Hill-II	0	23,750
132 KV Shah Kot	019281	11 KV Mima Cotton Mill	0	0
	019282	11 KV Ibrahim Textile Mill	0	0
	019283	11 KV Bilal Textile Mill	0	0
	019284	11 KV Kohistan Textile Mill	0	0
	019285	11 KV Mari Textile Mill	0	0
	019286	11 KV Rafi Textile Mill	0	0
Total			339,318	227,538

5. CDPs BETWEEN FESCO AND IESCO

Location	CDPs Code	Circuit	KW	
Name of Grid Station			Import	Export
132-KV Grid Station Head Faqirian	058581	132 KV H.FAQIRIAN - DANDOOT	0	7,770
132-KV Grid Station Mianwali	013481	66 KV MIANWALI.- D.S. BLAWAL	6,054	11,633
66-KV Danda Shah Bhalwal	025981	11 KV SCACER	0	0
66-KV Noor Pur Sethi	059781	11 KV PADRAR	0	0
TOTAL			6,054	19,403

6. CDPs BETWEEN FESCO AND PESCO

Location	CDPs Code	Circuit	KW	
Name of Grid Station			Import	Export
132-KV Grid Station Daud Khel	045891	66 KV Daud Khel -Taja Zai	0	22,180
220-KV Grid Station Daud Khel (MARI)	045892	132 KV Mari- Kohat-1	0	84,740
	099581	132 KV Mari- Kohat-2	0	81,500
132-KV L.B Chashma	074481	11 KV Bilot	0	0
TOTAL			0	188,420

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DPs BETWEEN FESCO AND GEPCO

Location Name of Grid Station	CDPs Code	Circuit	KW	
			Import	Export
132-KV Grid Station Khutiala Sheikhan	008581	132 KV Bhalwal -K. Sheikhan	60,710	38,630
132-KV Grid Station Mandi Bahauddin	031881	132 KV H.FAQIRIAN - M. Baha-ud-din	40,620	73,990
66-KV Grid Station Malik Wal	032181	66 KV Malikwal - H.Faqirian	11,670	21,170
132-KV G/S Head Faqirian	058582	11-KV Daffar	0	0
	058583	11-KV Bar Musa	0	0
	058584	11-KV Sanda	0	0
	058585	11-KV Mona	0	0
66 KV Grid Station Bhabra	058586	11-KV Jassowal	0	0
	058587	11-KV Bherowal	0	0
TOTAL			113,000	133,790

8. CDPs BETWEEN FESCO AND SPP

Location Name of Grid Station	CDPs Code	Circuit	KW	
			Import	Export
Sitara Energy	099681	FESCO -1 TO FESCO -6	0	0
Crestex Power House	099781	CTM-2	0	0
Kohinoor Power	099481	PC-1, PC-2, Rafhan, Susan Road	0	0
Shakar Ganj Power House		Glaxy & Ujala	0	0
Nishat Power House		Rehmatabad	0	0
Techno E Power (PVT) Ltd		LINE NO. 1	0	0
		LINE NO. 2	0	0
TOTAL			0	0

9. CDPs BETWEEN FESCO AND IPP

Liberty Power Tech Limited	LINE NO. 1	50,616	0
	LINE NO. 2	50,472	0
	LINE NO. 3	50,443	0
	LINE NO. 4	48,772	0
TOTAL		200,303	0

DISCO- WISE PEAK DEMAND AND DEMAND AT INTER CONNECTION POINT (MW)

Description		FESCO
System Demand (Peak) 2006-2007	Demand at Inter Connection Points	1686
	Load shedding	313
	Peak Demand	1999
System Demand (Peak) 2007-2008	Demand at Inter Connection Points	1652
	Load shedding	551
	Peak Demand	2203
System Demand (Peak) 2008-2009	Demand at Inter Connection Points	1437
	Load shedding	828
	Peak Demand	2265
System Demand (Peak) 2009-2010	Demand at Inter Connection Points	1442
	Load shedding	856
	Peak Demand	2298
System Demand (Peak) 2010-2011 (upto 14 June 2011)	Demand at Inter Connection Points	1434
	Load shedding	1028
	Peak Demand	2462

NOTE:- Load Shedding (MW) Figures Constitute of "Schedule Load Management + Forced Shedding"

MEMORANDUM OF UNDERSTANDING

WITH REGARD TO THE

POWER PURCHASE AGREEMENT

BY AND BETWEEN

FAISALABAD ELECTRIC SUPPLY COMPANY LIMITED

(FESCO)

AND

GALAXY TEXTILE MILLS LIMITED

RELATING TO

11.6 MW (NET) GALAXY TEXTILE MILLS LIMITED

AT

GALAXY TEXTILE MILLS LIMITED, 3 - KM MUDDOKI ROAD JHANG

MADE AT

LAHORE, PAKISTAN

ON ____ DAY OF MAY, 2011

THIS MOU OF THE POWER PURCHASE AGREEMENT (this "Agreement") is made at Lahore on this 30th Day of May 2011

BY AND BETWEEN

1. **Faisalabad Electric Supply Company Limited** (the "Power Purchaser"), a public limited company incorporated under the Laws of Pakistan, with its principal office at Faisalabad, Pakistan, and shall include its successors and assignees;

AND

2. **Galaxy Textile Mills Limited** (the "Company"), a public limited company incorporated under the Laws of Pakistan, with its head office at 3 KM Muddoki Road, Jhang and shall include its successors and assignees

Each of the Power Purchaser and the Company is hereinafter referred to as a "Party" and collectively, as the "Parties".

RECITALS

- A. **WHEREAS** the Parties duly acknowledge the New Captive Power Policy of 2009, approved by the PEPCO (as defined hereinafter) and endorsed by the Federal Ministry of Water and Power, Government of Pakistan, whereby new captive power plants may be established by the industrial sector with new investments made on new machines and engines running on natural gas, biogas or bagasse and offering sale of surplus power between 10 MW and 49 MW, after fulfilling their power requirements, to Distribution Companies (as defined hereinafter) through bi-lateral agreements with Distribution Companies.
- B. **WHEREAS** the Company has represented to the Power Purchaser that the Company will build, own and operate, with fresh investment, a Generation Facility (as defined hereinafter) to be run on Gas (as defined hereinafter) to meet the Company's power requirements and, simultaneously, offer surplus power not below 10 MW and not exceeding 49 MW for sale to the Power Purchaser on the terms and conditions contained herein;
- C. **WHEREAS** the Company wishes to sell and the Power Purchaser wishes to purchase the Available Capacity (as defined hereinafter) up to the Contract Capacity (as defined hereinafter) and all of the Despatched Net Electrical Output (as defined hereinafter) on and pursuant to the terms and conditions contained herein;
- D. **WHEREAS** the Company has applied for issuance for the Generation Licence (as defined hereinafter) by the NEPRA (as defined hereinafter).

NOW, THEREFORE, in view of the foregoing premises and in consideration of the mutual benefits to be derived and the representations and warranties, covenants and Agreements contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound, subject to the approval of the Board of Directors of Power Purchaser, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS; RULES OF INTERPRETATION

Section 1.1 Definitions

Whenever the following capitalized terms appear in this Agreement, they shall have the meanings stated below:

- (a) "Agreement" – This MOU to the Power Purchase Agreement, dated as of the date first written above between the Power Purchaser and the Company, as may be amended by the Parties from time to time.
- (b) "Available Capacity" – The power declared by the Company to be available in any hour for despatch to the Power Purchaser up to the maximum of the Contract Capacity.
- (c) "Average Availability" – The sum of Monthly power generation available for the Power Purchaser during a period specified in this Agreement divided by the number of Months in such period.
- (d) "Back-Up Metering System" – All meters and metering devices (including any remote terminal units and an electronic data recording system) installed by the Company and thereafter owned and maintained by the Company as back-up to the Metering System.
- (e) "Billing Cycle" – The period starting from 12:00 hours of 1st Day of each Month up to 12:00 hours of each next Month.
- (f) "Business Day" – Any Day that banks in Lahore, Pakistan, are legally permitted to open for business.
- (g) "Commercial Operation Date" or "COD" – The Day immediately following the date on which the Generation Facility is commissioned and ready for commercial operation. This date shall not be later than 240 Days after signing of this Agreement.
- (h) "Company" – The Galaxy Textile Mills Limited, a public limited company incorporated under the Laws of Pakistan, with its head office at 3 KM Muddoki Road, Jhang, Pakistan, and its permitted successors and permitted assigns and any permitted transferees.
- (i) "Contract Capacity" – An amount of net generation capacity of **11.6 MW** which the Company commits to provide to the Power Purchaser under this Agreement and any subsequent increase therein, in blocks or units, subject to the condition that the overall net generation capacity of the Company shall not exceed a total of 49 MW.
- (j) "Day" – A period of twenty four (24) hours, commencing at 12:00 midnight of each Day, and "Daily" shall be construed accordingly.
- (k) "Despatch" – The exercise by the Power Purchaser (or its designee, subject to the Laws of Pakistan) of its right to commence, increase, decrease or cease the net electrical energy generated by the Company by issuing instructions in accordance with this Agreement.

- (l) "Despatched Net Electrical Output" – The required net electrical energy to be generated by the Generation Facility during the relevant period, as stated in a Despatch instruction or revised Despatch instruction, as the case may be, including Net Electrical Output delivered during start-up and shut-down periods and ramp-up and ramp-down periods.
- (m) "Dispute" – Any dispute or disagreement or difference arising under, out of, in connection with or relating to this Agreement, including any dispute or difference concerning the existence, legality, validity or enforceability of this Agreement or any provision hereof, or the obligations or performance of a Party under any provision hereof.
- (n) "Distribution Company" – Means a distribution company licensed by NEPRA to engage in the distribution of electric power.
- (o) "Dollar" or "\$" – The lawful currency of the United States of America.
- (p) "Due Date" The twenty fifth Day following the Day the invoice is received by the Power Purchaser; provided that, if such date is not a Business Day, the Due Date shall be the next following Business Day.
- (q) "Financial Cost Component" – The tariff component payable to the Company by Power Purchaser at the rate of Rs.1.57 (reference) per kWh for the Net Electrical Output subject to onetime adjustment as per Section 5.2.
- (r) "Fixed Cost Component" – The tariff component payable at the rate of Rs.1.53 per kWh for the Net Electrical Output, including, but not limited to, O & M cost, tax on income of the Company, insurance cost, return on investment, duties, etc. This component will remain at par with the Fixed Cost Component allowable to other pre-existing generation facilities already supplying power to Distribution Companies through bilateral contracts on take-and-pay basis. Provided, however, the Power Purchaser shall index the Fixed Cost Component after every two Calendar Years starting from the COD as per Section 5.1 (a).
- (s) "Gas" – means pipeline quality natural Gas.
- (t) "Gas Cost Component Amount" – The amount determined on the basis of the Gas Cost Component Rate and payable for Despatched Net Electrical Output delivered by the Company during the Month or part of the Month.
- (u) "Gas Cost Component Rate" – The rate of Rs.2.89 applied at the Reference Gas Price and adjusted for any variation in Gas Price from time to time.
- (v) "Gas Price" – The price of the Gas delivered at the Generation Facility, excluding General Sales Tax applicable for the Billing Cycle as notified by OGRA.
- (w) "General Sales Tax" – The general sales tax levied, charged and payable under the Sales Tax Act, 1990 read with Sales Tax Special Procedure Rules of 2007 (both) as may be amended or superseded from time to time.
- (x) "Generation Facility" – The Gas fired electric power generation station located at 3 KM Muddoki Road, Jhang, Pakistan, having a generation capacity of 11.6 MW (net, at reference conditions) to be established, owned, commissioned, operated and maintained by the Company during the Term, including all equipments or facilities together with (i) voltage recorder and (ii) frequency

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recorder necessary for delivery and sale of electric power to the Power Purchaser at the Interconnection Point.

- (y) "Generation Licence" – The licence No. _____, dated _____ issued by NEPRA permitting the generation and supply of electricity by the Company from the Generation Facility in accordance with the terms and conditions of such license and any additional or modified license issued by NEPRA permitting increase by the Company in net generation capacity of the Company, in blocks or units, subject to the maximum of 49 MW.
- (z) "GOP" – The Government of Islamic Republic of Pakistan.
- (aa) "Inflation Factor" - The Inflation Factor, as mentioned in Section 5.1(a) as determined from time to time and notified in the official gazette of GOP
- (bb) "Interconnection Point" – The physical point or points where the Generation Facility and the distribution network of the Power Purchaser are to be connected at 11kV voltage level.
- (cc) "KIBOR" – The average "ask side" Karachi Inter-Bank Offer Rate for Rupee deposits for a period equal to three (3) Months which appears on the appropriate page of the Reuters service at or about 11:30 a.m. in Karachi on the last available business Day, or in the event that the Reuter's service, or any successor thereto, no longer provides such information, such other service as agreed to by the Parties that provides the average "ask side" Karachi Inter-Bank Offer Rate for Rupee deposits in the Karachi interbank market.
- (dd) "Laws of Pakistan" – The federal, provincial and local Laws of Pakistan, and all orders, rules, regulations, executive orders, statutory regulatory orders, decrees, judicial decisions, notifications, or other similar directives issued by any public sector entity pursuant thereto, including the environmental standards, as any of them may be amended from time to time.
- (ee) "Metering System" – All meters of accuracy class of 0.5 for 11 kV and 0.2 for 132 kV and metering devices (including any remote terminal units and an electronic data recording system) to be procured by the Company and thereafter installed at the Interconnection Point (s) and tested by the Company and transferred to the Power Purchaser, and thereafter owned and maintained by the Power Purchaser and used to measure the Net Electrical Output from the Generation Facility.
- (ff) "Month" – A calendar Month according to the Gregorian calendar beginning at 12:00 midnight on the last Day of the preceding Month and ending at 12:00 midnight on the last Day of that Month, and "Monthly" shall be construed accordingly.
- (gg) "NEPRA" – The National Electric Power Regulatory Authority established by the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), and any successor or substitute regulatory agency with authority and jurisdiction over the electricity sector in Pakistan.
- (hh) "Net Electrical Output" – The net electrical energy expressed in kWh at a voltage level of 11kV and at 50 Hz frequency with a tolerance of $\pm 10\%$ in nominal voltage and $\pm 3\%$ in nominal frequency (Tolerance Limits) that is delivered to the Interconnection Point, as measured by the Metering System or the Back-Up Metering System, as the case may be.

- (kk) "OGRA" – The Oil and Gas Regulatory Authority established under the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002) and shall include its successors or assignees.
- (ll) "Party" – Each of the Power Purchaser and the Company, and the "Parties" means both of them.
- (mm) "PEPCO" – Pakistan Electric Power Company (Private) Limited established under the laws of Pakistan and having its registered office at Lahore, Pakistan and shall include its successors or assignees.
- (nn) "Power Purchaser" – Faisalabad Electric Supply Company Limited (FESCO), a public limited company established under the Laws of Pakistan, with its principal office at Faisalabad, Pakistan, and its permitted successors and permitted assigns.
- (oo) "Reference Date" – The Commercial Operation Date
- (pp) "Reference Gas Price" -- The Gas Price, presently, being Rs.238.38 per MMBTU (HHV) excluding General Sales Tax.
- (qq) "Rupee" or "Rs." – The lawful currency of Pakistan.
- (rr) "Standby Letter of Credit" or "SBLC" _ shall mean a three months revolving standby letter of credit established by the Power Purchaser, from a bank and in terms acceptable to the parties equivalent to the amount payable by the Power Purchaser to the Company in three consecutive Billing Cycles, including the amount payable towards the Fixed Cost Component, the Financial Cost Component and the Gas Cost Component Amount, The "SBLC" shall be renewed after every eleven months for the next twelve months in order to secure the Company from the non-payment by the Power Purchaser by the Due Date. The "SBLC" shall be current for the Term of the Agreement. The cost of opening the "SBLC" its commission charges and all other allied expenditures will be borne by the Company. The SBLC will be established 07 days before the COD but shall only be effective on the 60th day after the Commercial Operations Date (COD) has been achieved.
- (ss) "Termination Notice" – The Notice to terminate the Agreement issued by either Party under Section 9.
- (tt) "Year" – Each twelve (12) Month period commencing at 12:00 midnight on the thirty-first (31st) of December and ending at 12:00 midnight on the following thirty-first (31st) of December.

- (ii) "Non Gas Committed Months" – December, January and February, when the Gas is not committed by the Gas supplier to operate the Generation Facility. However, Gas may be made available on "as and when" basis to operate the Generation Facility at Contract Capacity or partially.
- (jj) "Notice of Intent to Terminate" – A notice delivered by the Company or the Power Purchaser, as the case may be, of its intent to terminate this Agreement due to a default of the other Party under Section 9.3.
- (kk) "OGRA" – The Oil and Gas Regulatory Authority established under the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002) and shall include its successors or assignees.
- (ll) "Party" – Each of the Power Purchaser and the Company, and the "Parties" means both of them.
- (mm) "PEPCO" – Pakistan Electric Power Company (Private) Limited established under the laws of Pakistan and having its registered office at Lahore, Pakistan and shall include its successors or assignees.
- (nn) "Power Purchaser" – Faisalabad Electric Supply Company Limited (FESCO), a public limited company established under the Laws of Pakistan, with its principal office at Faisalabad, Pakistan, and its permitted successors and permitted assigns.
- (oo) "Reference Date" – The Commercial Operation Date
- (pp) "Reference Gas Price" – The Gas Price, presently, being Rs.238.38 per MMBTU (HHV) excluding General Sales Tax.
- (qq) "Rupee" or "Rs." – The lawful currency of Pakistan.
- (rr) "Standby Letter of Credit" or "SBLC" – shall mean a three months revolving standby letter of credit established by the Power Purchaser, from a bank and in terms acceptable to the parties equivalent to the amount payable by the Power Purchaser to the Company in three consecutive Billing Cycles, including the amount payable towards the Fixed Cost Component, the Financial Cost Component and the Gas Cost Component Amount, The "SBLC" shall be renewed after every eleven months for the next twelve months in order to secure the Company from the non-payment by the Power Purchaser by the Due Date. The "SBLC" shall be current for the Term of the Agreement. The cost of opening the "SBLC" its commission charges and all other allied expenditures will be borne by the Company. The SBLC will be established 07 days before the COD but shall only be effective on the 60th day after the Commercial Operations Date (COD) has been achieved.
- (ss) "Termination Notice" – The Notice to terminate the Agreement issued by either Party under Section 9.
- (tt) "Year" – Each twelve (12) Month period commencing at 12:00 midnight on the thirty-first (31st) of December and ending at 12:00 midnight on the following thirty-first (31st) of December.

Section 1.2 Abbreviations

COD	Commercial Operation Date
FCC	Fixed Cost Component
F_{in}.CC	Financial Cost Component
KIBOR	Karachi Inter-Bank Offer Rates
kV	Kilo Volt
kWh	Kilo Watt Hour
MW	Mega Watt
NEPRA	National Electric Power Regulatory Authority
O&M	Operation and maintenance
OGRA	Oil & Gas Regulatory Authority
Rs.	Pakistani Rupees
SBLC	Standby Letter of Credit

ARTICLE II EFFECTIVE DATE AND TERM

Section 2.1 Effective Date

This Agreement shall be effective and in full force on the signing of the Contract Agreement after approval of the Board of Directors of Power Purchaser. The Company shall provide the Generation License issued to them by NEPRA at the time of signing of the Contract Agreement.

Section 2.2 Term

Unless terminated earlier in accordance with its terms, this Agreement shall continue in full force and effect for fourteen (14) Years as under (such period, the "Term"):

- i) In the first phase for first five (5) years with financial cost /kwh and
- ii) Second phase for nine (9) years without financial cost

Section 2.3 Extension of Term

On or before its expiry, the Term may be extended for a further period of six (6) years with the mutual consent of the Parties in writing.

ARTICLE III
SALE AND PURCHASE OF ENERGY AND CAPACITY

Section 3.1 Sale and Purchase of Energy and Capacity

Subject to the terms of this Agreement, from and after the Commercial Operations Date,-

- (a) The Company shall:
- (i) declare to the Power Purchaser the Available Capacity, and any change thereof, on daily basis;
 - (ii) make available to the Power Purchaser the Available Capacity up to the maximum of the Contract Capacity; and
 - (iii) deliver and sell to the Power Purchaser at the Interconnection Point the Despatched Net Electrical Output.
- (b) Subject to fulfillment of its obligations by the Company under this Agreement, the Power Purchaser shall issue Despatch instructions to the Company for delivering and selling the Available Capacity to the Power Purchaser.

Section 3.2 Sale of Power to Sister Concerns or any other Person/Company

The Company is entitled to sell the excessive power to its sister concerns or any other person in accordance with the Laws of Pakistan and guidelines of NEPRA subject, however, to fulfillment of the Company's obligations to the Power Purchaser under this Agreement, including, in particular, the ones provided under Section 3.1.

Section 3.3 Scheduled Outage Periods

The Company shall undertake scheduled outages only during Non-Gas Committed Months according to a schedule which shall be proposed by the Company and Power Purchaser will extend its acceptance.

Section 3.4 Adequate Gas Supply and Inventory; Gas supply Agreement

On or before the opening of SBLC, the Company shall provide reasonable evidence to the Power Purchaser that the Company has, or has secured from a reliable supplier through commercially reasonable Gas supply agreements, supplies of Gas during the Term as is contemplated in this Agreement. For avoidance of doubt, it is clarified that the procurement of supply of Gas shall be the sole responsibility of the Company.

ARTICLE IV METERING AND TESTING

Section 4.1 Metering Systems

- (a) The Parties acknowledge that for the purposes of determining Net Electrical Output of the Generation Facility, the Metering System and Back-Up Metering System of accuracy class 0.5 (TOU / TOD) for 11 kV are required prior to the delivery of any Net Electrical Output to the Interconnection Point for sale hereunder.
- (b) The Company shall, with the approval of the Power Purchaser, procure the Metering System at the cost and expense of the Power Purchaser and the Back-Up Metering System at the Company's own cost and expense.
- (c) Immediately after the COD, the Company shall invoice the Power Purchaser for the cost of procuring the Metering System along with original documents of the procurement of the Metering System and the Power Purchaser shall pay the invoice on Due Date.

Section 4.2 Installation and Testing of Metering System

The Company shall, at the cost and expense of the Power Purchaser, install the Metering System and at its own cost and expense install the Back-Up Metering System prior to delivery of any Net Electrical Output to the Interconnection Point and shall further test and commission, calibrate or recalibrate the Metering System and the Back-Up Metering System at the Interconnection Point.

Section 4.3 Testing of Metering System after Commercial Operation Date (COD)

- (a) After COD, the Power Purchaser shall test the accuracy of the Metering System at any time that the reading of electrical energy from the Metering System and the Back-Up Metering System differs by an amount of one half of one percent (0.5%). In such an event the Power Purchaser shall test the accuracy of Metering System and recalibrate the Metering System. The Power Purchaser shall give the Company not less than 48 hours notice for such test and Company shall have the right to witness such tests; provided that if the Company representatives fail to attend such tests, such right shall have been waived with respect to such test. The Metering System will be tested and recalibrated biannually.
- (b) After COD, the Company shall test the accuracy of the relevant Back-Up Metering System biannually. The Company shall give the Power Purchaser not less than 48 hours for such tests and the Power Purchaser shall have the right to witness such tests, provided that if the Power Purchaser representatives fail to attend such tests, such right shall have been waived with respect to such test. The Back-Up Metering System will be tested and recalibrated biannually.

Section 4.4 Meter Reading

The readings of the Metering System and the Back-Up Metering System shall be read on the COD and thereafter on a Monthly basis according to the Billing Cycle.

Section 4.5 Sealing of Metering System

The Metering System and Back-Up Metering System shall be jointly sealed by the Parties. Seals of the Metering System will be only broken by the Power Purchaser's personnel. The Power Purchaser shall give the Company at least 48 hours advance notice of the breaking of the seals or any part of the Metering System. Seals on the Back-Up Metering System shall be broken by the Company's personnel. The Company shall give the Power Purchaser at least 48 hours advance notice of the breaking of seals. Such notices shall specify the time at which the meter seals shall be broken.

Section 4.6 Tampering with the Metering System

The Company shall not tamper, and shall ensure that its employees, contractors or subcontractors of any tier do not tamper, with the Metering System. Should the Company breach the foregoing covenant, the Company shall (a) take all remediable action reasonably acceptable to the Power Purchaser to ensure that such tampering does not reoccur, including the development or addition of security systems, and (b) compensate the Power Purchaser for two (2) times the amount or reasonably estimated amount of any overpayment by the Power Purchaser resulting from such tampering, which for purposes of such determination shall be assumed to have occurred immediately after the last known accurate test of the Metering System.

**ARTICLE V
COMPENSATION, PAYMENT AND BILLING**

Section 5.1 Payments to Company

(a) Fixed Cost Component (FCC)

After the COD, the Power Purchaser shall pay the Company the Fixed Cost Component, as adjusted from time to time, on Monthly basis in arrear for the energy delivered by the Company at the Interconnection Point.

Inflation Factor

The Fixed Cost Component of the Reference Tariff payable pursuant to this Agreement that are stated in this Section 5.1(a) to be subject to indexation for inflation shall be adjusted with effect from the Reference Date on the Commercial Operation Date and bi-annually on each second anniversary of COD, thereafter, using the most current inflation values available on such date. The adjusted Fixed Cost Component payable to the Company in any bi-annual period, "p", will be calculated by multiplying the amount subject to bi-annual indexation for inflation by the Inflation Factor from the Reference Date through the calculation date "t", immediately preceding bisemi-annual period, "p".

The source indices for the calculation of the impact of Pakistan inflation shall be the Whole Sale Price Index for manufacturing ("WPI") as notified by the Federal Bureau of Statistics of the GOP and as available on its web site. The value of the WPI at the Reference Date shall be deemed to be the value for the Month in which COD is achieved and as rebased and agreed by the Parties, if required, as a result of re-basing by the Federal Bureau of Statistics of the GOP, from time to time

The Fixed Cost Component is directly escalable against Inflation Factor. The base date for application of indexation will be the Reference Date. The indexation will apply prospectively on the Commercial Operation Date and on each bi-annual anniversary of COD and similarly 1 January and 1 July thereafter.

The Fixed Costs Component shall be indexed as follows:

$$FCC(p) = FCC(Ref) \cdot (WPI_t / WPI(Ref))$$

Where

FCC (p) = the value of the Fixed Cost Component of the Tariff per kWh, expressed in Rupees, as adjusted at the relevant calculation date, p.

FCC (Ref) = the value of the Fixed Cost Component of the Reference Tariff per kWh, expressed in Rupees, at the Reference Date

WPI (t) = the average value of the end of Month values for the WPI (as described above) over the two years immediately prior to the date of calculation; provided, however, that if values for any of the Months are not available, then the average of the values of the most recent six Months as determined by NEPRA and notified in the official gazette of GOP, and

WPI (Ref) = the value of the Whole Sale Price index for manufacturing on the Reference Date.

(b) **Financial Cost Component (F_{in}.CC)**

After the COD, the Power Purchaser shall pay the Company the Financial Cost Component on Monthly basis in arrear for the energy delivered by the Company at the Interconnection Point subject to adjustment as provided hereinafter:-

(i)	Reference capital investment	=	US\$ 560 per KW
(ii)	<u>Financing tenure</u>	=	<u>Five (5) years from COD</u>
(iii)	Foreign currency investment	=	75%
(iv)	Local currency investment	=	25%
(v)	Plant availability	=	95%
(vi)	Reference interest rate	=	Quarterly KIBOR (13%) + 3% Spread
(vii)	Reference exchange rate	=	1 US\$ = Rs.80.00

(c) **Fin.CC for Increased Capacity**

There shall be paid to the Company by the Power Purchaser the Financial Cost Component for any subsequent increase in the Contract Capacity made by the Company with the prior consent of the Power Purchaser subject to the adjustments provided in clause (b) of this section, including the Financing tenure which shall not change on account of commercial operations date of the subsequent increase in the Contract Capacity.

Section 5.2 One Time Adjustment of F_{in}.CC at COD

- (a) The Financial Cost Component to the extent of the foreign component only will be adjusted at COD as per actual capital investment up to a maximum of 75% of US\$ 560 per kW (net) as per the following formula:-

$$F_{in}.CC (rev) = F_{in}.CC (ref) \times \frac{\text{Actual capital investment (US\$)}}{\text{Reference capital investment (US\$)}} \times \frac{\text{Average Exchange Rate}}{\text{Reference Exchange Rate}}$$

Whereas:

F _{in} .CC ref	:	Rs 1.57 per kWh Net Electrical Output
F _{in} .CC rev	:	The Financial Cost Component at time of COD
Actual capital investment	:	The actual cost of the capital investment of the project in US\$ which would be 75% of own the project cost subject to a maximum of US\$ 560 per kW (net)
Ref. capital investment	:	US \$ 420 per kW (net)

Weighted average exchange rate: The average exchange rate applicable on various draw down from the letter of credit established for import of equipment.

Reference exchange rate 01.00 US \$ = Rs.80.00

- (b) The Company shall provide certified copies of the details of the revised capital investment, one Month prior to the expected COD.

Section 5.3 Quarterly Indexation of Interest Charges

The Interest Adjustment Factor of the $F_{in,CC}$ will be adjusted due to variation in the interest rate as a result of variation in quarterly KIBOR according to the following formula:-

$$IAF = I * (KIBOR_t + 3\%) / (KIBOR_{ref} + 3\%)$$

Where:

- IAF = Interest Adjustment Factor for each quarter.
 I = Interest for the relevant period
 $KIBOR_t$ = the KIBOR on the Day prior to the own Commercial Operation Date and thereafter the last Day of the previous Quarter (31st March, 30th June, 30th September or 31st December, as applicable)
 $KIBOR_{ref}$ = Reference KIBOR rate is 13%
 t = time on which such calculation was made

Section 5.4 Gas Cost Component Amount

- (a) After the COD, the Power Purchaser shall pay the Company the Gas Cost Component Amount on Monthly basis in arrear for the energy delivered by the Company at the Interconnection Point, subject to adjustment as provided hereinafter.
 (b) The Gas Cost Component Amount will be adjusted for the Billing Cycle according to the following formula:

$$GCCA(rev) = GP(rev) / GP(ref) * GCCR(ref)$$

Where

- $GCCA(rev)$ = Revised Gas Cost Component Amount applicable for the Billing Cycle
 $GP(rev)$ = Revised Gas Price, excluding General Sales Tax applicable for the Billing Cycle as notified by OGRA for new captive power producers
 $GP(ref)$ = Reference Gas Price i.e. Rs.238.38 per MMBTU (HHV)

gmu

X

[Signature]

GCCR(ref) = Rs 2.89 per kWh

The General Sales Tax on sale of electricity (sale price of electricity being the sum of Gas Cost Component, Fixed Cost Component and Financial Cost Component), if applicable, shall be billed by the Company to the Power Purchaser on actual incurred basis.

Section 5.5 Payment during Non-Gas Committed Months

During the Non Gas Committed Months when the Gas would not be available, the Power Purchaser will pay the Financial Cost Component, adjusted from time to time, as provided hereinabove on Monthly basis in arrear based upon the Average Availability for the last nine (9) months preceding the commencement of the Non Gas Committed Months. In addition, the Fixed Cost Component at the rate of Rs.0.12/ kWh for the aforesaid Average Availability shall also be paid by the Power Purchaser to the Company in arrears on Monthly basis.

Section 5.6 Payment during Power Purchaser Non Despatch Period

In case the Generation Facility produces electric energy for Despatch but the Power Purchaser opt not to Despatch such electric energy or the system parameters are beyond the agreed Tolerance Limits then the Company will be entitled for the following payments based upon historical Average Availability for the last three (3) Months; however, if this scenario arises during the initial three (3) Months of COD then the Average Availability will be calculated on the basis of the Contract Capacity and is as follows:-

- (i) FCC @ Rs.0.26/ kWh
- (ii) F_m.CC @ Rs.1.57/ kWh (reference)

Section 5.7 Payment When No Despatch by the Company

For avoidance of doubt, it is clarified that the Power Purchaser will not make any payments to the Company against the following tariff components, in case the Company fails to deliver any Net Electrical Output at the Interconnection Point;

- (i) Gas Cost Component Amount
- (ii) Fixed Cost Component (FCC) @ Rs.0.26/ kWh
- (iii) The Financial Cost Component @ Rs.1.57/ kWh (reference).

Section 5.8 No Payment When Company Fails to Achieve COD

The Power Purchaser will not make any payment whatsoever, to the Company against the following tariff components till such times, the Company achieves COD;

- (i) Gas Cost Component Amount
- (ii) FCC @ Rs.0.26/kWh
- (iii) F_m.CC @ Rs.1.57/kWh (reference)

However, if the Company fails to achieve Commercial Operation Date for an extended period of 180 Days over and above COD period of 240 Days, then the Company will be responsible to reimburse all the Interconnection charges incurred by the Power Purchaser, provided however, the Power Purchaser will provide audited account with the invoice for reimbursement of Interconnection charges.

Section 5.9 Payment when Power Purchaser Fails to Arrange Power Evacuation at COD

The Company will be entitled for (a) FCC @ Rs.0.26 /kWh (b) F_m.CC @ Rs.1.57/kWh (reference) at COD, calculated on the basis of Contract Capacity, provided the Generation Facility is ready but Power Purchaser is not able to evacuate power due to non-completion of Interconnection Facilities, provided however, the Company shall provide a certificate from an independent engineer acceptable to both parties certifying the readiness of Generation Facility for commissioning.

Section 5.10 Illustration of Payment Methodology

For the purpose of simplicity and illustration of payments mentioned at Section 5.5, 5.6, 5.7, 5.8 and 5.9, please see Annexure-B.

Section 5.11 Invoicing and Payment

After the COD the Company will submit an invoice for metering System; and one (1) original invoice with three (3) copies to Power Purchaser along with the OGRA Notification of the Gas Price of the billing Month and meter reading on or before 5th Day of each Month. The Power Purchaser will make payment against each invoice submitted by the Company on or before 25th Day from the date of receipt of the invoice by the Power Purchaser. If the Power Purchaser fails to make the payment by Due Date then the Power Purchaser will pay to the Company late payment surcharge at the rate of 1% per Month on the unpaid balance which shall be calculated on daily basis. The Company may, at its option, at any time after 15 days of Due Date seek payment of any over-due amounts by calling on the SBLC.

If the Company chooses to call the SBLC for any over-due amount, the Power Purchaser shall, within fifteen (15) Business Days after such partial draw down on the SBLC, ensure that the SBLC is replenished to reflect the amount of SBLC then applicable.

ARTICLE VI LIABILITY

Neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory, for any indirect, consequential, incidental, punitive or exemplary damages. Neither Party shall have any liability to the other Party except pursuant to, or for breach of, this Agreement; provided, however, that this provision is not intended to constitute a waiver of any rights of one Party against the other with regard to matters unrelated to this Agreement or any activity not contemplated by this Agreement.

**ARTICLE VII
REPRESENTATIONS, WARRANTIES AND COVENANTS**

Section 7.1 Representations and Warranties

Each Party represents and warrants to the other Party that:

(a) Organization and Existence

Each is a company duly organized, validly existing and in good standing under the Laws of Pakistan and qualified to do business in Pakistan.

(b) Power and Authority

Each Party has the full power and authority to execute and deliver this Agreement and to perform all its obligations hereunder.

(c) Due Authorization

The execution, delivery and performance of this Agreement and the performance of its obligations hereunder and the consummation of the transactions described herein have been duly authorized by all requisite action on its part.

(d) Permits and Approvals

Each Party has obtained all permits and approvals for the performance of its obligations hereunder.

(e) No Conflict

Neither the execution and delivery of this Agreement, its compliance with the terms hereof, nor its fulfillment of any of the terms hereof conflicts with, results in a breach of or constitutes a Default under (i) any of the terms, conditions or provisions of its articles of association, charter, articles of incorporation, by-laws or other constituent documents, (ii) any federal, state or local law, any order, rule or regulation of any governmental authority having jurisdiction over it or its properties or by which it is bound, or (iii) any agreement or instrument to which it is a Party or by which any of its properties is bound or affected.

(f) Execution, Delivery and Performance

Each Party has duly executed and delivered this Agreement and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

**ARTICLE VIII
COMMISSIONING TEST AND ANNUAL TESTING AFTER COD**

The Term shall commence at 00:01 A.M on the Day following the completion from the Company:

- (a) Commissioning of all equipment; and
- (b) Operational Test(s) of 02.00 hours to demonstrate plant reliability at 11.6 MW net capacity measured at the Interconnection Point on the Metering System.

If the result of the operational test deviates from the agreed output 11.6 MW net, then, the Company shall retest within seven (7) Day(s) from the date of initial operational test after repair/modification of the equipment to correct the deficiency in performance. If the restart is not successful then the Company shall, in its sole discretion, replace or repair such deficient equipment or agree to reduce the Contract Capacity, without any upward adjustment in Financial Cost Component.

Satisfaction of performance regarding the Contract Capacity is to be determined by conducting additional six Monthly operational test(s) after COD in accordance with a mutually agreed test procedure. If the result of the operational test(s) shows any deficiency then the Company shall either (i) retest or (ii) within 7 Days from the date of un-successful Operational Test repair or modify the equipment to correct the deficiency in performance. Following the remedy described in (ii) above, the equipment shall be retested in accordance with the agreed test procedure. Upon successful retest, the equipment shall have met all performance warranties and the Company's obligations as to performance warranties shall be fulfilled. If the retest is not successful, the Company shall in its sole discretion replace or repair such deficient equipment, or agree to reduce the Contract Capacity, subject to proportionate downwards reduction in Financial Cost Component of the tariff in case of reduction of the Contract Capacity, according to the actual performance achieved during operational test(s) from the testing date till such time the Company determines to retest the equipment and demonstrate the Contract Capacity.

ARTICLE IX TERMINATION

Section 9.1 Company's Event of Default

The failure of the Company to make generation facility available for fifteen (15) consecutive days during the gas committed months.

Section 9.2 Power Purchaser's Event of Default

The following shall be the Power Purchaser's Event of Default:

- The Power Purchaser's failure to pay two consecutive Monthly invoices to the Company under the provisions of this Agreement on the due and payable date(s) for the relevant invoice(s);
- The Power Purchaser's failure to establish and make effective the SBLC, as per Section 1.1, as per the terms of this Agreement;
- The Power Purchaser's failure to renew SBLC every year for the Term of the Agreement;
- The Power Purchaser's failure to provide sufficient funds in the SBLC to meet the payment obligation of the Power Purchaser.

In the event of Power Purchaser's default, the Company may shut down its Generation Facility by giving the Power Purchaser not less than 48 hours notice for such shut down. However, the Power Purchaser shall continue to pay to the Company (a) Fin. CC of Rs.1.57/kWh and (b) FCC of Rs.1 53/kWh till the event of default is cured by Power Purchaser or this Agreement is terminated by the Company.

Section 9.3 Notice of Intent to Terminate

If the Company's event of default or the Power Purchaser's event of default, as the case may be, occurs and is continuing, the non-defaulting Party may deliver a notice ("**Notice of Intent to Terminate**") to the defaulting Party, which notice shall specify in reasonable detail the Company's event of default or the Power Purchaser's event of default, as the case may be, giving rise to the notice of intent to terminate.

Section 9.4 Termination Notice

- (a) In the event that a defaulting Party has not, following its receipt of a Notice of Intent to Terminate, remedied the Company's event of default or the Power Purchaser's event of default, as the case may be, within a cure period of 180 Days (Cure Period), the non-defaulting Party may terminate this Agreement by delivering a Termination Notice to the defaulting Party. This Agreement shall terminate on the date specified in the Termination Notice, which date shall not be earlier than the date that is ten (10) Business Days following the date on which the Termination Notice is delivered to the other Party or later than thirty (30) Days following the date of such delivery.
- (b) The Parties shall continue to perform their respective obligations under this Agreement pending the final resolution of any Dispute raised by the receiving Party of a Notice of Intent

to Terminate or a Termination Notice; provided that the notice of Dispute has been delivered to the Party claiming the occurrence of the Power Purchaser's event of default or the Company's event of default, as the case may be, before the end of the relevant cure period.

ARTICLE X RESOLUTION OF DISPUTES

Section 10.1 Resolution by Parties

Each of the Company and the Power Purchaser shall designate in writing to the other Party a representative who shall be authorized to resolve any Dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of such Party to make decisions by mutual agreement.

The Parties agree (i) to attempt to resolve all Disputes arising hereunder promptly, equitably and in a good faith manner within thirty (30) Days of such Dispute arising: and (ii) to provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.

Section 10.2 Arbitration

After the expiration of the thirty (30) Days period, either Party may submit any Disputes arising under this Agreement, which cannot be resolved by the Parties, to binding arbitration pursuant to the Arbitration Act, 1940 as amended or superseded. The process shall be initiated by either Party delivering to the other a written notice requesting arbitration, with the other Party to respond to such request within ten (10) business Days. The Parties shall select a single arbitrator with knowledge of and over five (5) years of professional experience in connection with similar transactions and who has not previously been employed or retained by either Party and who does not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such arbitrator shall be mutually agreed by the Parties within thirty (30) Days after written notice from either Party requesting arbitration, or failing Agreement, shall be selected under the Arbitration Act. Such Arbitration shall be held at Lahore. The Arbitration Act, 1940, as amended or superseded, shall apply to the extent not inconsistent with the rules herein specified. The arbitration shall be conducted according to the following procedures: (a) The arbitration hearing shall commence no later than thirty (30) Days after the selection of the arbitrator, (b) not later than seven (7) Days prior to the hearing date set by the arbitrator each Party shall submit a brief detailing its factual and legal position and a final offer for settlement of the Dispute, (c) the hearing shall be conducted on a confidential basis without continuance or adjournment, (d) each Party shall divide equally the cost of the arbitrator and the hearing and each Party shall be responsible for its own expenses and those of its counsel and representatives, and (e) evidence concerning the financial position of the Parties, any offer made or the details of any negotiation prior to arbitration and the cost to the Parties of their representatives and counsel shall not be permissible. The award of the arbitrator shall be made no later than thirty (30) Days after the date of closing of the hearing, or if oral hearings have been waived, after the date of transmitting the final statements and proof to the arbitrator; provided, however, that in no event shall any award be made later than one hundred and twenty (120) Days after the date of the original demand for arbitration hereunder. The arbitrator shall be required to render a reasoned decision accompanying any award. The decision of the arbitrator shall be final and binding on the Parties, enforceable in any Court of law, and shall not be appealed by either Party. The Parties shall have the right to get the Award administered as Rule of Court at Lahore

**ARTICLE XI
MISCELLANEOUS PROVISIONS**

Section 11.1 Notices

- (a) All notices and other communications required or permitted to be given by a Party shall be in writing and either delivered personally or by courier or sent by facsimile to the address or number of the other Party specified below:

- (i) If to the Power Purchaser:

Address: Faisalabad Electric Supply Company Limited
Canal Road, Abdullahpur, Faisalabad

Attention: Chief Executive Officer
Facsimile: 041-9220312

- (ii) If to the Company:

Address: Galaxy Textile Mills Limited
3- KM Muddoki Road Jhang Pakistan

Attention: Chief Executive Officer
Facsimile: 047-7626336

Provided that a Party may change the address to which notices are to be sent to it, by giving no less than thirty (30) Days' prior written notice to the other.

- (b) No notice or other communication shall be effective unless and until received or deemed received. Notices or other communications shall be deemed to have been received by the receiving Party:

- (i) When delivered, if personally delivered against the acknowledgment;
- (ii) One (1) Business Day after sending, if sent by courier; or
- (iii) Upon sending, if sent by facsimile, subject to confirmation of any uninterrupted transmission report and provided that a hard copy is despatched not later than the following Business Day to the recipient by courier or personal delivery.

Section 11.2 Amendment

An amendment or modification of this Agreement shall be effective or binding on a Party only if made in writing and signed by a duly authorized representative of each of the Parties.

Section 11.3 Third Parties

Except for the rights expressly granted to the Lenders herein, this Agreement is intended solely for the benefit of the Parties and nothing in this Agreement shall be construed to create any rights in, duty to, standard of care to, or any liability to, any Person not a Party.

Section 11.4 No Waiver

No default by either Party in the performance of or compliance with any provision of this Agreement shall be waived or discharged except with the express written consent of the other Party. No waiver by either Party of any default by the other in the performance of or compliance with any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default whether of a like or different character.

Section 11.5 Relationship of the Parties

- (a) This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligation or liability upon either Party.
- (b) Neither Party shall have any right, power, or authority to enter into any Agreement or undertaking for, to act on behalf of, or be an agent or representative of, or to otherwise bind, the other Party, and neither Party shall hold itself out to any third-Party as having such right, power, or authority.

Section 11.6 Language

This Agreement has been drafted in English and the English version shall prevail over any translations. All notices, certificates and other documents and communications (including copies) given or made under or in connection with this Agreement shall be in English.

Section 11.7 Governing Law

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

Section 11.8 Entirety

Upon the signing of this Agreement, it shall be the full and final expression of the Agreement between the Parties on the matters contained herein. All written or oral representations, understandings, offers or other communications of every kind between the Parties in relation to the Project prior to this Agreement are hereby abrogated and withdrawn.

Section 11.9 Confidentiality

- (a) This Agreement and all information disclosed hereunder or in connection with this Agreement shall be treated as confidential and (except as provided in sub-section (c) below) such information shall not be disclosed in whole or in part by either Party without the prior consent of the other Party.
- (b) This obligation does not apply to information that (when used or disclosed) has been made public other than through a breach of this Agreement or has been, or could have been, lawfully acquired by the Party.

- (c) Notwithstanding the provisions of sub-section (a) above, neither Party shall be required to obtain the prior consent of the other in respect of disclosure of information:
- (i) to directors and employees and affiliates of such Party, provided that such Party shall use reasonable endeavors to ensure that such affiliates keep the disclosed information confidential on the same terms as are provided in this section.
 - (ii) to persons professionally engaged by or on behalf of such Party; provided that such persons shall be required by such Party to undertake to keep such information confidential and that such Party shall use reasonable endeavours to secure compliance with such undertaking;
 - (iii) to any government department or any governmental or regulatory agency having jurisdiction over such Party but only to the extent that such Party is required by law to make such disclosure;
 - (iv) to
 - (A) any lending or other financial institution in connection with the financing of such Party's operations; or
 - (B) any bona fide intended assignee or transferee of the whole or any part of the rights and interests of the disclosing Party under this Agreement; orbut (in either case) only to the extent required in connection with obtaining such finance or in respect of such proposed assignment and subject to such institution or intended assignee or transferee first agreeing with such Party to be bound by confidentiality provisions substantially the same as those contained in this section.
 - (v) to any expert (including an expert) or arbitrator appointed pursuant to and under the terms of this Agreement.

Section 11.10 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective permitted successors and permitted assigns. With the prior consent of the Power Purchaser, which shall not be unreasonably withheld, the Company can assign the benefits of this Agreement, including any amount payable by the Power Purchaser to the Company hereunder and SBLC to any financial institution, or to any agent or security trustee of any financial institution, from which the Company has obtained, or may obtain, any financial facility.

Section 11.11 No Liability for Review

No review and approval by the Power Purchaser of any agreement, document, instrument, drawing, specifications, or design proposed by the Company nor any inspection of the EPC works or the Company interconnection works carried out by the Power Purchaser pursuant to this Agreement shall relieve the Company from any liability that it would otherwise have had for its negligence in the preparation of such agreement, document, instrument, drawing, specification, or design or the carrying

out of such works or failure to comply with the applicable Laws of Pakistan with respect thereto, or to satisfy the Company's obligations under this Agreement nor shall the Power Purchaser be liable to the Company or any other person by reason of its review or approval of an agreement, document, instrument, drawing, specification or design or such inspection.

Section 11.12 Affirmation

- (a) The Company hereby declares that it has not obtained or induced the procurement of this Agreement or any contract, consent, approval, right, interest, privilege or other obligation or benefit related to this Agreement or the project from the Power Purchaser, relevant authority or any public sector entity through any corrupt or illegal business practice.
- (b) Without limiting the generality of the foregoing, the Company represents and warrants that it has fully disclosed in writing all commissions, brokerage and other fees, and other compensation (other than compensation paid to employees of the Company for services provided) paid or payable to any Person within or outside Pakistan in relation to the Project and has not given or agreed to give and shall not give, or agree to give to any Person within or outside Pakistan either directly or indirectly through any natural or juridical Person, including its Affiliates, employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders, sponsors or subsidiaries (and any of their employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders or sponsors), any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of this Agreement or any contract, right, interest, privilege or other obligation or benefit related to this Agreement or the Project from the Power Purchaser, relevant authority or any public sector entity, except that which has been expressly declared pursuant hereto.
- (c) The Company accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of the representations and warranties contained herein and the declarations required hereby. It agrees that any contract, consent, approval, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to the Power Purchaser, be voidable and without legal effect at the option of the Power Purchaser.
- (d) Notwithstanding any rights and remedies that are available to and may be exercised by the Power Purchaser in this regard, the Company agrees to indemnify the Power Purchaser for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to the Power Purchaser in an amount equivalent to ten (10) times the amount of any commission, gratification, bribe, finder's fee or kickback paid or given by the Company (either directly or indirectly through any natural or juridical Person, including its Affiliates, employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders, sponsors or subsidiaries (and any of their employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders or sponsors)), as aforesaid for the purpose of obtaining or inducing the procurement of this Agreement or the Power Purchase Agreement or any contract, consent, approval, right, interest, privilege or other obligation or benefit related to this Agreement or the Project from the Power Purchaser, relevant authority or any public sector entity.

Section 11.13 Counterparts

This Agreement may be executed in two (2) or more original copies and each such copy may be executed by each of the Parties in separate counterparts, each of which copies when executed and delivered by the Parties shall be an original, but all of which shall together constitute one and the same instrument.

Section 11.14 Severability

If any term or provision of this Agreement is determined by a Court or other authority of competent jurisdiction to be invalid, void, illegal, unenforceable or against public policy, the remaining provisions of this Agreement shall remain in full force and effect and will not be affected by such determination in any way.

Section 11.15 Operating Procedures

The Parties shall prepare the operating procedures for declaration of plant availability, issuance of Despatch Instructions by the Power Purchaser, meter reading, operation of the Power Purchaser Inter Connection, emergency operation of complex and other relevant operations.

Section 11.16 Interconnectivity and up gradation of 11kV Voltage

- (a) The interconnectivity set up of 11 kV Voltage will be the sole discretion and responsibility of the Power Purchaser at its own cost and risk.
- (b) The Company shall provide appropriate space free of cost for such up gradation arrangements and facilities.
- (c) The Company shall provide independent approach and right of way to the above arrangements and facilities for smooth operation of the equipment to be installed by the Power Purchaser.
- (d) The Company will ensure unhindered access for the Power Purchaser or his directors, officers, and staff to the Generation Facility during the Term of this Agreement.

Section 11.17 Partial Invalidity

The illegality, invalidity or unenforceability of any provision of this Agreement in whole or in part under the law of any jurisdiction shall neither affect its (i) legality, validity or enforceability under the law of any other jurisdiction, nor (ii) the legality of any other provision or part thereof.

Section 11.19 Special Covenant

The Company hereby represents and warrants that the Company shall not, at any time during the period for which it shall receive the Financial Cost Component, use the lending or investment referred in Section 5.1(b) for any purpose other than the Generation Facility.

IN WITNESS WHEREOF, the Parties have arrived at and delivered this MOU to the Power Purchase Agreement in duplicate at Pakistan as of the date first above written.

Faisalabad Electric Supply Company Limited

Galaxy Textile Mills Limited


GHAZANFAR ALI KHAN

Chief Engineer / CSD

For & on behalf of

Faisalabad Electric Supply Company Limited


MUHAMMAD ARSHAD IQBAL

GM FINANCE/ Company Secretary

For & on behalf of

Galaxy Textile Mills Limited

Witness:

Witness:

Name: _____

Name: _____

NIC No. _____

NIC No. _____

Name: _____

Name: _____

NIC No. _____

NIC No. _____

GALAXY TEXTILE MILLS LIMITED

PROPOSAL FOR 11.6 MW POWER PLANT

Loan Amortization Schedule

Contract Capacity (MW)	11.6	Capital Cost (US \$ in Million)	6.496
Loan (In Millions Rs)	519.68	1 US \$	Rs. 80
Interest Rate Per Month	1.33%	Loan (US \$/KW)	560
Principal/Interest			
Repayment Period	60 Months	Annual Interest % (Kibor +3%)	16%
Monthly			
Installment(Rs. Million)	12.638		

AMORTIZATION TABLE								
(For loan of Rs.519.68 Million, @16%, in 5 equal annual installments of Rs.159 Million each)						Annual Energy		
Rs.in Millions						96.535 MkWh		
Year	Opening Balance	Annual Payment	Interest	Principal	Closing Balance	Cost(Rs/Kwh)		
	A	B	C	D	E	F=D:Annual Energy	G=C:Annual Energy	H=F+G
1	519.680	151.65	77.90	73.756	445.92	0.76	0.81	1.57
2	446	151.65	65.189	86.462	359.46	0.90	0.68	1.57
3	359	151.65	50.294	101.357	258.11	1.05	0.52	1.57
4	258	151.65	32.833	118.818	139.29	1.23	0.34	1.57
5	139	151.65	12.365	139.286	0	1.44	0.13	1.57

ILLUSTRATION OF PAYMENT METHODOLOGY

Scenario	Fuel Cost Component at Reference Gas Price of Rs.238.38/MMBTU HHV	Fixed Cost Component (Rs./Kwh)	Financial Cost Component reference (Rs./Kwh)	Total Cost(Rs./Kwh)
Gas Committed Months	2.89	1.53	1.57	5.99
Non Gas Committed Months/No Despatch	0.00	0.12	1.57	1.69
Power Producer Ready to Deliver; but no despatch by the Power Purchaser	0.00	0.26	1.57	1.83
Payment when Company Fails to Achieve COD OR Gas Months/No Despatch by Power Producer if Power Purchaser ready to Purchase Power	0.00	0.00	0.00	0.00
Payment when Power Purchaser fails to arrange Power Evacuation at COD	0.00	0.26	1.57	1.83