

BEFORE
THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
ISLAMABAD PAKISTAN

PETITION FOR TARIFF DETERMINATION

ON BEHALF OF JAPAN POWER GENERATION LIMITED

Vol. 1 of 3

ATTA UL MUSTAFA, LLM(The University of Warwick, UK)
ADVOCATE HIGH COURT,
DECURIOUS LAW FIRM,

2nd Floor, Yasin Plaza, Jinnah Avenue, Blue Area, Islamabad.
Tel: 051-8738715, www.decurious.com, a.ulmustafa@decurious.com

DATED: MARCH 02, 2015

JAPAN POWER GENERATION LIMITED

JIA BAGGA, RAIWIND ROAD, LAHORE. TEL: 042-35835864 - 6 FAX: 042-35835860
E-mail: jpogl@brain.net.pk Website: http://www.jpogl.pk.com



March 02, 2015

JPGL~2015/03/AA-024

The Registrar,

National Electric Power Regulatory Authority (NEPRA)
NEPRA Tower, Attaturk Avenue (East), Sector G-5/1,
Islamabad.

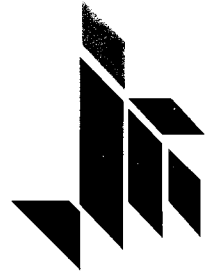
Dear Sir,

Subject: Tariff Petition on behalf of Japan Power Generation Limited under Rule 3 of the NEPRA Tariff (Standards and Procedure) Rules, 1998, read with section 7 & 31 of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997

This Tariff Petition is being filed by Japan Power Generation Limited ("JPGL" or the "Petitioner") before the National Electric Power Regulatory Authority (the "Authority" or "NEPRA") for modification of its applicable tariff pursuant to Rule 3 of the NEPRA Tariff (Standards and Procedure) Rules, 1998 ("**Tariff Rules**"), read with section 7 & 31 of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("**NEPRA Act**") and other applicable provisions of all other NEPRA laws.

The information required has been provided in the petition, the requisite supporting documents including an affidavit signed by the duly authorized Chief Executive Officer of JPGL are annexed with the petition. An application for deferment of NEPRA's tariff petition fee is also attached herewith for favorable consideration of the Authority.

We are mindful of the fact that JPGL is an independent power producer pursuant to the Government of Pakistan's Power Policy of 1994 with an upfront tariff. However, keeping in view the Applicable Law, we are of considered opinion that the Authority has the jurisdiction and the legal mandate to determine or modify the tariff petitioned herein. Be that as it may, if deemed necessary or appropriate by the Authority a hearing of the tariff petition may be arranged wherein the officers and the advisors of JPGL would be pleased to assist the Authority on any matter pertinent to the tariff petition.



We look forward to a just, equitable and informed decision by the Authority in the best interest of the consumers and all other stakeholders.

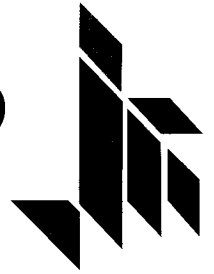
Thank you and with kind regards

Yours truly
For and on behalf of
JAPAN POWER GENERATION LIMITED

Amjad Awan
Chief Executive Officer

JAPAN POWER GENERATION LIMITED

JIA BAGGA, RAIWIND ROAD, LAHORE. TEL: 042-35835864 - 6 FAX: 042-35835860
E-mail: jpgl@brain.net.pk Website: <http://www.jpgl.pk.com>



March 02, 2015

JPGL~2015/03/AA-023

The Registrar,
National Electric Power Regulatory Authority (NEPRA)
NEPRA Tower
Attaturk Avenue (East), Sector G-5/1,
Islamabad.

Dear Sir,

Re: Deferment of NEPRA Tariff Petition Fee

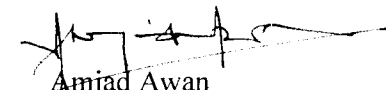
Japan Power Generation Ltd. owns a 135MW (gross) Independent Power Plant near Raiwind, Lahore, set up under the 1994 Power Policy of the Government of Pakistan. After supplying power to the national grid for several years, the plant was shut down in October 2012 due to various payment disputes with WAPDA. Since then, the Company has been reduced to a position of virtual bankruptcy and can no longer meet any of its financial obligations, including but not limited to payments to lenders, vendors, suppliers, regulatory bodies, government organizations, staff, etc.

Despite the lengthy shutdown, the JPGL plant has been maintained in good condition and remains fully capable of providing 120MW to the grid in this time of dire shortage of energy in the country. Keeping this in mind, JPGL is submitting a fresh tariff petition to NEPRA for its consideration, either under the existing PPA or on a take-and-pay basis. Due to our advantageous position on WAPDA's Merit Order of dispatch as one of the cheapest plant available in the country today, we are hopeful that NEPRA will view our request favourably.

As stated above, the precarious financial condition of the Company does not permit it to deposit NEPRA's tariff petition fee at this juncture. We shall, therefore, be highly obliged if NEPRA will allow deferment of this fee until our application is approved and the plant becomes operational again, at which time we undertake to pay the fee in full.

Thanking you for your consideration,

Yours truly,


Amjad Awan
Chief Executive Officer

BEFORE
THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
ISLAMABAD PAKISTAN

PETITION FOR TARIFF DETERMINATION

ON BEHALF OF JAPAN POWER GENERATION LIMITED

ATTA UL MUSTAFA, LLM(The University of Warwick, UK)

ADVOCATE HIGH COURT,

DECURIOUS LAW FIRM,

2nd Floor, Yasin Plaza, Jinnah Avenue, Blue Area, Islamabad.

Tel: 051-8738715, www.decurious.com, a.ulmustafa@decurious.com

Dated: March 02, 2015

1. JAPAN POWER GENERATION LIMITED

- 1.1 Japan Power Generation Limited ("JPGL" or the "Petitioner") is a listed company incorporated in Pakistan under the Companies Ordinance, 1984.
- 1.2 JPGL is 135 MW oil-fired Independent Power Producers ("IPPs") which is commissioned under the Federal Government's Power Policy 1994.
- 1.3 JPGL is principally sponsored by National Logistics Cell (NLC), Pak Oman Investment Company Limited, Saudi Pak Industrial and Agricultural Investment Company Limited and Patagonia Corporation (Private) Limited.
- 1.4 The principal lenders of the project are a consortium of 08 banks led by Faysal Bank Limited.
- 1.5 JPGL's registered office and plant site are situated in Lahore at Jia Bagga, Off Raiwind Road, near Jia Bagga Railway station.
- 1.6 The make, technology and other relevant information about the plant is tabulated as under;

Serial #	Description	Status
1.	Technology	Diesel Engines, using RFO (also run on HSD)
2.	<i>Make</i>	<i>24 engines of Mitsubishi having capacity of 5.65 MW each</i>
3.	<i>Fuel</i>	<i>Residual Furnace Oil (RFO)</i>
4.	<i>Fuel Supplier</i>	<i>Pakistan State Oil</i>
5.	<i>Daily Fuel Requirement at 60% plant factor</i>	<i>400 M. Ton</i>
6.	<i>Actual Efficiency</i>	<i>38.56%</i>
7.	<i>Efficiency per PPA Amendment 3</i>	<i>40.68 %</i>
8.	<i>Actual Heat Rate</i>	<i>8,847.40 BTU / KWh</i>
9.	<i>Heat Rate per PPA Amendment 3</i>	<i>8,385.80 BTU / KWh</i>

A.

2. BACKGROUND:

History:

- 2.1 JPGL accepted tariff offered under Government of Pakistan Power Policy, 1994 and entered into the Implementation Agreement dated May 30, 1995 (IA) with the Government of Pakistan and Power Purchase Agreement (PPA) dated March 21, 1995 and Fuel Supply Agreement (FSA) dated February 01, 1995 as amended from time to time for production and delivery of electricity to National grid.

Copies of the agreements are attached herewith as Annex-A

- 2.2 JPGL achieved its Commercial Operations ("COD") on 13-03-2000 and started delivering electricity to National Grid. The original tariff as per PPA was as under;

Component	Initial Tariff Rs./kWh
Fuel Cost	0.6490
Variable O&M	0.1000
Escalable Capacity	0.2930
Non-Escalable Capacity	0.6280
Total Rs. /kWh	1.6700
USCent/kWh @ Rs. 30.03/US\$	5.5611

- 2.3 In 1997-98, the government at that time wanted to reduce the tariff of IPPs and started applying various coercive tactics to get the IPPs tariff reduced. As a result the initial/original tariff was reduced substantially on 29-07-1999 from 5.5611 cents/kWh cents to 4.3000 cents/kWh through an MOU followed by the amendment in PPA.

Copies of the MoU dated 29-07-1999 and the original tariff table are appended herewith as Annex-B.

- 2.4 The above-mentioned reduction in original tariff from 5.5611 cents/kWh cents to 4.3000 cents/kWh is detailed herein. below:

Component	Old Tariff Rs./kWh	New tariff Rs./kWh	Reduction Rs./kWh	%
Fuel Cost	0.6490	0.6000	-0.0490	(7.55)%
Variable O&M	0.1000	0.1000	0.0000	0.00%
Escalable Capacity	0.2930	0.2751	-0.0180	(6.11)%
Non-Escalable Capacity	0.6280	0.3162	-0.3120	(49.65)%
Total Rs./kWh	1.6700	1.2913	-0.3790	(22.68)%
USCent/kWh @ Rs. 30.03/US\$	5.5611	4.300	-1.2610	(22.68)%

- 2.5 Major reductions were made in escalable and non escalable component of capacity payments and Fuel Cost Component of the tariff. JPGL was also forced to restrict its Dependable Capacity to 107 MW despite the installed capacity of 135 MW. These reductions seriously affected financial sustainability of the Petitioner and it started incurring heavy losses as plant operations continued on this reduced and unviable tariff. In addition to that, the petitioner had inherent

mismatch in actual fuel cost component and fuel cost component provided in Power Purchase Agreement which is a recurring loss to the Petitioner without any fault on its part. The cost of fuel disparity has essentially been funded by the sponsors.

- 2.6 Since JPGL already had a negative margin on fuel and capacity part, debt payments, higher dispatch and rising price of RFO in subsequent years further aggravated the problem as the negative energy margin increased. This fuel loss was being funded by using left-over cash from capacity payments. This resulted in payments defaults to the lenders/ local banks despite no returns having been paid to the shareholders. Therefore, no bank was willing to provide any further financing.
- 2.7 Recognizing the deplorable condition of electricity in Pakistan and considering the peculiar circumstances of JPGL, WAPDA, upon request of the petitioner, agreed to provide working capital to the company in the shape of fuel advances directly to Pakistan State Oil in May 2004 adjusting these advance payments against the EPP / GST invoices and, to a mutually agreed amount, from the CPP invoices of the Company at interest of 4% above Base Rate. Through an MOU, this practice was documented in December 30, 2009 and continued till October 2012.

Copy of the MOU is attached herewith as Annex-C

- 2.8 In December 2008, WAPDA stopped advance fuel payment to fuel supplier due to disputes between the petitioner and WAPDA in relation to indexation of non-escalable component (NEC) of Capacity Purchase Price (CPP) tariff from March 14, 2004 onwards wherein the petitioner and WAPDA agreed to appoint an expert to resolve the disputes between the parties in April 2006. The mutually agreed expert gave his recommendation in September 2007 which WAPDA failed to implement. Subsequently, the petitioner negotiated a 'Settlement Agreement' with WAPDA which was not approved by the Government of Pakistan which forced JPGL to initiate international arbitration in accordance



with PPA in January 2009. International Court of Arbitration Singapore has concluded the matter in 2014 and has announced its final award in May 2014 which is yet to be implemented. The International Court declared the "Settlement Agreement" as binding document on both parties and asked WAPDA to pay indexation of NEC to the Petitioner. The Court also directed WAPDA to pay Additional Capacity of 13.5 MW to the Petitioner.

Copy of the ICC Awards are attached herewith as Annex-D

- 2.9 Upon the request of the Petitioner and after comprehensive dialogue, the power purchaser i.e. WAPDA started advance fuel payments to fuel supplier in February 2010 and the petitioner resumed its operations till October 2012.

Current Status:

- 2.10 In October 2012, WAPDA arbitrarily not only stopped advance fuel payment to fuel supplier but also the company's CPP invoices upon which it solely depended for its income. This forced the petitioner to stop the operation of its plant. Since October 2012, the Petitioner is not generating electricity. However, the petitioner has capacity to generate and supply 120.5 MW electricity to national grid immediately on cheap rate comparatively, if its tariff is revised and adequate advance payments are made.

3. LEGAL Regime:

- 3.1 This Tariff Petition is being filed by JPGL before the National Electric Power Regulatory Authority (the "Authority" or "NEPRA") Pursuant to Rule 3 of the NEPRA Tariff (Standards and Procedure) Rules, 1998 ("**Tariff Rules**"), read with section 7 & 31 of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("**NEPRA Act**") and other applicable provisions of all other NEPRA laws for modification of its applicable tariff. For ease of reference, the relevant provisions of NEPRA Act and Tariff Rules are as under;

A.

Rule 3 of the aforesaid Tariff Rules states as follows:

“Filing of petitions and communications (1) any licensee consumer or person interested in the tariff may file a petition with the Authority by filing it with the Registrar along with such fees as may be determined by the Authority from time to time. The Authority may also initiate proceedings suo moto.”

(Emphasis added)

Further as per definition of petition provided in Rule 2(1)(g) of the Tariff Rules, petition means a petition made to the Authority for determination, modification or revision of tariff.

The aforesaid power and mandate arises out of inter alia section 7 (3) of the NEPRA Act, 1997 which reads as follows:

“the Authority shall (a) determine tariff rates charges and other terms and conditions for supply of electric power services by the generation companies.....

3.2 Neither the NEPRA Act nor the Tariff Rules bar a company or a Licensee including the Petitioner from applying for a new tariff or a modification in its existing tariff either on the existing technology and / or fuel or on a new technology and /or fuel. It is a general principle of law that where a statute is clear (such that the NEPRA Act and the tariff rules do not bar the determination/ modification of tariffs as aforesaid), it should be read as such without any insertion of words therein or deletion of words there from. Further, Honorable Supreme Court of Pakistan in recent judgments have clearly held that the determination of tariff is the sole and exclusive domain and jurisdiction of NEPRA under NEPRA Act.

3.3 JPCL is mindful of the fact that it is an independent power producer pursuant to the Government of Pakistan's Power Policy of 1994 with an upfront tariff. However, by a forced change in 1999, the tariff of the petitioner was reduced and it did not remain as was actually offered through 1994 Power Policy therefore the

argument that the tariff accepted under 1994 Policy cannot be changed subsequently has no legal validity in the case of the Petitioner as its applicable tariff is already different and reduced from what was offered and accepted under 1994 Power policy.

- 3.4 The project lenders have not been paid for many years and the shareholders have received no dividend at all. Furthermore, the shareholders have lost all of their initial investment also. If the Authority does not exercise its jurisdiction in respect of his matter, the 120.5MW capacity installed in the heart of the load center with no line losses would be discarded as there is absolutely NO possibility that the status quo could continue.

Considering the above reproduced provisions of NEPRA Act and Tariff Rules and dictum of Honorable Supreme Court of Pakistan, it is evidently clear that NEPRA is an exclusive regulatory authority and have complete jurisdiction to determine, revise or modify the tariff of the Petitioner and the subject petition is maintainable considering the facts, circumstances and issues faced by the Petitioner.

4. GROUNDS FOR RELIEF:

- 4.1 JPGL can generate and supply 120.5 MW of energy to NTDC without any further investment and can play an important role in reduction of load shedding in the country provided that only slight adjustment in its fuel cost component is made. JPGL consumes furnace oil at the rate of approximately 230 gms/kWH, however, can only bill for 211 gms/kWH due to insufficient fuel tariff and only an increase of around 5.49 paisa in fuel cost component can remove this mismatch. Further the increase in reference O&M component by 5 paisas/kWh and reference Non-Escalable Component of CPP by 22.95 paisas/KW (indexations shall be applicable on all EPP and CPP Components as per the existing PPA) can make it a viable and can enable to generate 120.5 MW of energy on a short notice. It is important to clarify that this increase of 33.44 paisas is just a fraction of the total reduction in JPGL tariff i.e. 121.93 paisas through amendment -2 to the PPA in 1999.

A.

- 4.2. The public at large and the aforesaid government institutions as the shareholders have suffered losses due to the prolonged closure of this plant. In addition to receiving no returns on their investments, their initial investments have been substantially eroded as JPGL's share price of PKR 10 / share at present has a market value of PKR 2.65 (Source Karachi Stock Exchange Daily Quotations dated 13 February 2015-**Annex-D**).
- 4.3 There is an installed capacity of 135 MW in the heart of the load centre which must not be allowed to be discarded. If the tariff is not adjusted and thereby the relief sought is not provided by the Authority the JPGL plant would be shut down and discarded an inevitable consequence which would not be in the interest of the Power Purchaser the consumer or the investment climate in Pakistan.
- 4.4 JPGL plant offers various benefits to the Power Purchaser including but not limited to the following
- (a) On account of its location in the heart of the load centre there are hardly any technical line losses. Less technical losses mean JPGL's actual tariff is and would be lower than the billed one; and
 - (b) Per the Power Purchaser's own acknowledgement JPGL plant is crucial for balancing of the system
- 4.5 Considering that the government of Pakistan and relevant agencies are striving to address the capacity shortfall it would be unwise and imprudent for the stakeholders to allow the JPGL plant to be discarded.
- 4.6 It is worth mentioning that despite the aforesaid fuel mismatch, the cost of generation of JPGL is significantly lower than many other power plants and IPPs as is evident from Merit Order of NTDC. Even if fuel loss incurred by JPGL is borne by power purchaser and slight increase in capacity part, as explained in above paragraph is made, even then, it remains much more economical other than GENCO plants and diesel fired IPPs which are being dispatched by NTDC due to closure of JPGL. Hence JPGL does qualify for full

A.

dispatch under NPCC's economic dispatch order and also due to its important location with no transmission line losses, it makes significant contribution through uninterrupted supply of 120.5 MW of electricity to Lahore/suburbs especially during this worst time of power crisis the country is facing.

- 4.7 Due to excessively prolonged closure of its plant with no payment coming forth from WAPDA since October 2012, JPGL has exhausted all of its financial resources and is left with core skeleton staff to keep the plant alive and in a ready to dispatch condition. However, due to scanty financial resources, it has defaulted on its obligations including those to its lenders, regulatory authorities and suppliers, the position has even worsened and currently the company is finding it difficult to manage its day to day petty expenses. If the status quo continues, the project shall be scrapped soon which will be an irreparable loss to the energy-starved nation of Pakistan and will also send most negative signals to the potential foreign and local investors in the country.
- 4.8 On one hand, the project can be scrapped and the national grid shall be deprived of 120.5 MW of immediately available capacity while on the other hand, the 120.5 MW plant can be saved by allowing minor adjustment in tariff which will allow it to reactivate its operations and generate much cheaper electricity than many other plants in the country.
- 4.9 With the ongoing free fall in the oil prices, this project would be ideal for NTDC to dispatch and receive 120.5 MW of cheap energy and reduce load shedding in the country. That the Petitioner is not seeking reversal of whole tariff reduced in the year 1999 and is ready to start its operation even with reduced capacity part of the tariff and is only requesting for adjustment of fuel component of its tariff to save it from recurring loss. Even with the adjustment of fuel cost of its tariff i.e. an increase of 5.49 paisas in its fuel cost component, the tariff of the Petitioner will remain economical, comparable and affordable and the total EPP tariff would be around Rs 8.0730/kWh at the furnace oil price of Rs. 35,100 per ton as on February 01, 2015.

A.

- 4.10 That there is no grid or transmission line or any other infrastructure requirement to start this plant as the entire infrastructure is already in place and the plant had been supplying electricity for the last 13 years before it was forcibly shut down two years ago due to non-payments and recurring losses.
- 4.11 Due to the tariff reduction and insufficient fuel cost component, JPGL suffered and continues to suffer loss and this is supported by documentary evidence referred to at **Annex-E**.
- 4.12 It is also important to state here that in order to make plant efficient, JPGL had also premeditated to install 9 MW steam turbines at JPGL plant that will improve the plant efficiency by 3 to 4%. For this purpose, JPGL required financial help from WAPDA/NTDC for implementation of steam turbines to mitigate the fuel loss upto 8 to 10 grams/kWh. The Company had taken the following steps for installation of two Steam Turbines of 6 MW:
- i. Technical study of 9 MW Steam Turbines and Feasibility study of 6 MW Steam Turbines had already been completed.
 - ii. Supply and Construction contracts of USD 6 million of 6 MW Steam Turbines were signed with Chinese Vendor in November 2011. The 1st shipment of Steam Turbines had been arrived at plant site in October 2012. However, the LC for 2nd shipment was not opened due to plant shutdown in October 2012.

Copies of Supply and Construction Contracts are attached as **Annexure-F**.

This petition is JPGL's latest effort to make its plant operations viable and in this regard seeks the Authority's kind indulgence to correct the prevailing situation.

5. RELIEF SOUGHT

- 5.1 In view of the foregoing submissions, the Petitioner requests the Authority to admit this petition for modification of tariff. In order to make the plant functioning and viable, the petitioner seeks increase of 5.69 paisas per kWh in

reference fuel cost component of its tariff, 5 paisas per kWh in reference O&M component and 22.95 paisas per kWh in reference Non-Escalable component of Capacity Purchase Price along with applicable indexations on EPP and CPP Components, the proposed tariff along with adjustments and working capital requirements is appended herewith as **Annex-G** hereto.

- 5.2 Alternately, the Petitioner is also ready and willing to start its operations on single part tariff on take and pay basis, proposed tariff along with proposed adjustments and working capital requirements is attached as **Annex-H**.
- 5.3 The authority is requested to allow any of the aforesaid reliefs as proposed in Annexure G & H. Since the Petitioner has already defaulted and the plant is shut down for the last two years and due to defaults to the banks and eroded balance sheet, no bank is willing or will be allowed by SBP to extend any further credit line to the petitioner therefore in order to start its operation on any of the tariff approved by the Authority, the petitioner may also be allowed an adequate amount of working capital from GoP / NTDC upfront. Any other relief that the Authority may find just and equitable may also kindly be allowed.
- 5.4 In addition to that, the Petitioner also seeks 7.5 Million USD for installation of 6 MW steam turbines to increase the plant efficiency from 3 to 4% which will make the plant efficient, competitive and economical in its operations.
- 5.5 Notwithstanding the proposed tariff submitted hereinabove, the Petitioner would be please to consider any viable option that the Authority may propose with a view to reviving the project and rendering it sustainable.

6. **Annexes**

Annex reference	Description
Annex-A	Copies of the agreements are attached herewith as Annex-A
Annex-B	Copies of MOU dated July 1999, and

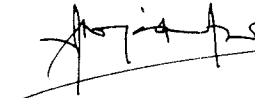


	original tariff table are attached herewith as Annex-B
Annex-C	Copy of 2009 MOU with WAPDA is attached herewith as Annex-C
Annex-D	Current Share Price of JPGL
Annex-E	Copy of Annual Report 2014 as documentary evidences on recurring losses
Annex-F	Copies of Supply and Construction Contracts of 6 MW steam turbines
Annex-G	Proposed Tariff calculation and modification under PPA (Relief-1)
Annex-H	Proposed Tariff calculation and modification under Take and Pay basis (Relief-2)

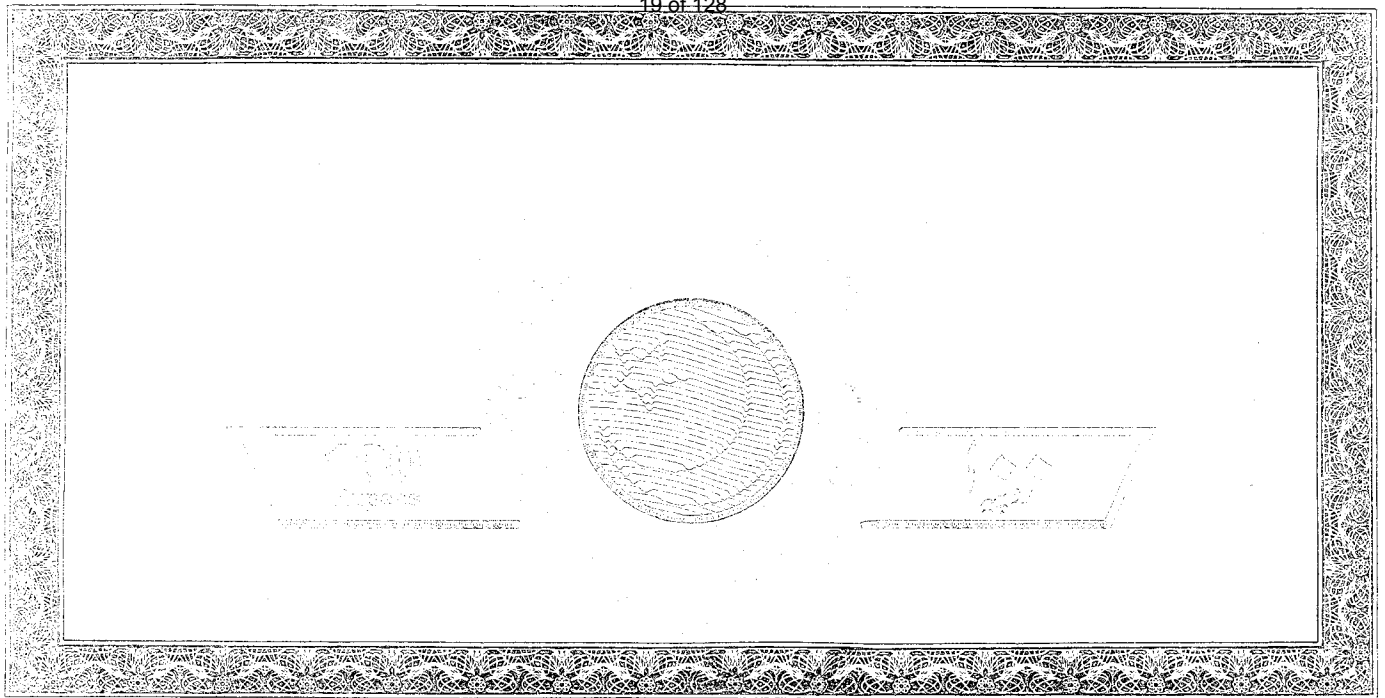
Concluding submissions:

- 6.1 JPGL shall be pleased to provide any additional information, clarification or explanation that may be required by the Authority in order to reach an informed just and equitable decision

For and on behalf of



Chief Executive



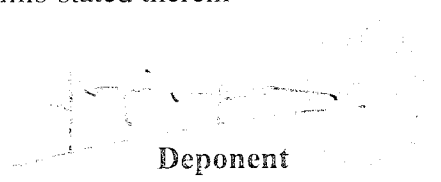
BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY
AUTHORITY

JAPAN POWER GENERATION LIMITED 135 MW POWER COMPLEX AT JIA
 BAGGA OFF RAIWIND ROAD DISTRICT LAHORE
 PAKISTAN

Affidavit

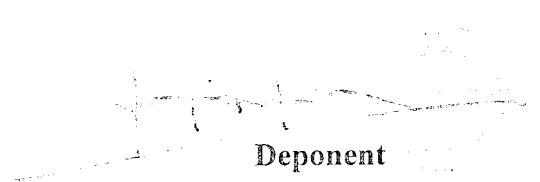
of Mr. Amjad Awan, Chief Executive Officer of Japan Power Generation Limited, duly authorized through a Board resolution dated February 25, 2015, do hereby affirm on oath as hereunder;

1. That the accompanying Tariff petition has been filed before the National Electric Regulatory Authority and the contents of the same may kindly be read as integral part of this affidavit.
2. That the contents of the accompanying Tariff Petition are true and correct to the best of my knowledge and belief and nothing has been concealed or mis-stated therein


Deponent

Verification

Verified on oath at Lahore on this 2nd day of March 2015 that what has been stated above is true and correct to the best of my knowledge and belief and nothing has been concealed there from.


Deponent

109-26-2015

الحمد لله الذي جعلنا من عباده الصالحين
 محمد بن عبد الله بن عبد الوهاب

degre

3509-3487425-1

POWER OF ATTORNEY

BEFORE

THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

ON BEHALF OF
JAPAN POWER GENERATION LIMITED

...PETITIONER

IN

**TARIFF PETITION UNDER RULE 3 OF THE NEPRA TARIFF
(STANDARDS AND PROCEDURE) RULES, 1998 ("TARIFF
RULES"), READ WITH SECTION 7 & 31 OF REGULATION OF
GENERATION, TRANSMISSION AND DISTRIBUTION OF
ELECTRIC POWER ACT, 1997 ("NEPRA ACT") AND OTHER
APPLICABLE PROVISIONS OF ALL OTHER NEPRA LAWS FOR
MODIFICATION OF ITS APPLICABLE TARIFF**

On behalf of the Petitioner:

I, the undersigned, do hereby nominate and appoint **Mr. ATTA UL MUSTAFA (ADVOCATE HIGH COURT) of DeCurious Law Firm Islamabad ("Counsel")** to be counsel in the aforesaid matter for the Petitioner and on their behalf to appear, plead, act and answer in the National Electric Power Regulatory Authority ("NEPRA"), and to sign and file petitions, statement, accounts, exhibits or other documents whatsoever, in connection with the aforesaid matter or any matter arising therefrom and also to apply for and receive all documents, depositions etc., and to employ any other legal practitioner authorizing him/her to exercise the power and authorities hereby conferred on the Counsel whenever they may think fit to do so.

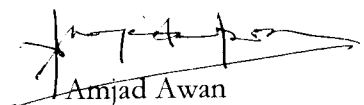
AND to do all acts legally necessary to manage and conduct the aforesaid case in all respects, whether herein specified or not as may be proper and expedient.

AND I hereby agree to ratify and confirm all lawful acts done on behalf of the Petitioner under or by virtue of these presents or of the usual practice in such matter.

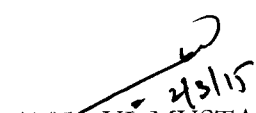
IN WITNESS whereof I have hereto signed at this Monday, 02 day of March 2015.

Executant :

For and on behalf of
JAPAN POWER GENERATION LIMITED


Amjad Awan
Chief Executive Officer

Counsel:


ATTA UL MUSTAFA,
LLM (The University of Warwick, UK),
Advocate High Court

DeCurious

DeCurious Law Firm
2nd Floor, Yasin Plaza, Jinnah Avenue,
Blue Area, Islamabad, Pakistan
T: 051- 8738715
C: 0300-8527556
E: a.ulmustafa@decurious.com
W: www.decurious.com

**National Electric Power Regulatory Authority
(NEPRA)
Islamabad – Pakistan**

GENERATION LICENCE

NO. IPGL/019/2004

In exercise of the Powers conferred upon the National Electric Power Regulatory Authority (NEPRA) under Section 15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the Authority hereby grants a Generation Licence to: -

Japan Power Generation Limited

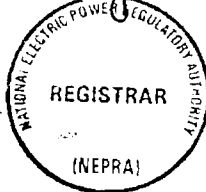
Incorporated under the Companies Ordinance, 1984
Under Certificate of Incorporation

No. L-07388 Dated 29th September 1994

to engage in generation business subject to and in accordance with the Articles of this Licence.

Given under my hand this 11th day of May, Two
Thousand & Four and expires on 10th day of May, Two
Thousand & Twenty.

11.05.04
Registrar



/s/

JAPAN POWER GENERATION LIMITED

JIA BAGGA, RAIWIND ROAD, LAHORE. TEL: 042-35835864 - 6 FAX: 042-35835860
E-mail: jvgl@brain.net.pk Website: <http://www.jvglpk.com>




EXTRACT OF THE MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF JAPAN POWER GENERATION LIMITED

The following resolution was passed by the Board of Directors of Japan Power Generation Limited in their meeting held on Wednesday, February 25, 2015 at Company's registered office /plant located at Jia Bagga Off Raiwind Road Lahore.

"RESOLVED THAT each of Mr. Amjad Awan (Chief Executive Officer) and Mr. Tariq Mahmood (Chief Financial Officer / Company Secretary) are hereby jointly and severally authorized on behalf of Japan Power Generation Limited to (i) file an application before the National Electric Power Regulatory Authority (NEPRA) for the modification/ determination of the generation tariff (including filing of any review petitions), (ii) file any documents in support thereof, (iii) make any oral/written representations in support thereof, (iv) agree to any amendments in the tariff petition or adjustment in tariff or its components, (v) sign any documents that may be required by NEPRA, the power purchaser (WAPDA) or the Government of Pakistan (PPIB) for this purpose, and (vi) may undertake any matters necessary or incidental thereto."

Company Seal


Company Secretary

Annex - A

THE PRESIDENT OF THE ISLAMIC
REPUBLIC OF PAKISTAN
for and on behalf of
THE ISLAMIC REPUBLIC OF PAKISTAN

- and -

M/S. JAPAN POWER GENERATION LTD.

IMPLEMENTATION AGREEMENT

- relating to -

a power generation complex near
Raiwind Road, near Lahore, Pakistan

MADE AT ISLAMABAD,
ISLAMIC REPUBLIC OF PAKISTAN

DATE MAY 30, 1995.

Counsel for the GOP:
Hunton & Williams
Riverfront Plaza-East Tower
Richmond, Virginia
United States



Counsel for the Company:
Syed Rashid Rahim
Advocate High Court
13/A, Abdul Rehman Road,
Lahore Cantt.

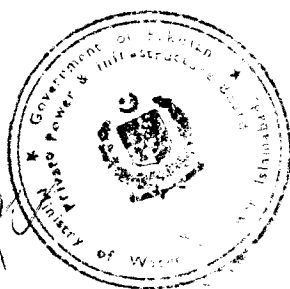
[Handwritten signature]

I N D E X

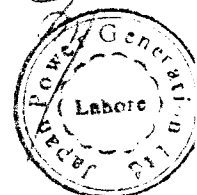
Page

ARTICLE I DEFINITIONS

1.1	"Abandonment	2
1.2	"Agent	2
1.3	"Affiliate	2
1.4	"Agreement Year	2
1.5	"Banking Day	2
1.6	"Capacity Payment	2
1.7	"Carrying Cost Period	2
1.8	"Change in law	2
1.9	"Commercial Operation	2
1.10	"Company	3
1.11	"Complex	3
1.12	"Consents	3
1.13	"Construction Contract	3
1.14	"Construction Contractor	3
1.15	"Contractors	3
1.16	"Costum Duties	3
1.18	"Day	4
1.19	"Dispute	4
1.20	"Dollar" and "\$"	4
1.21	"Environmental Liability	4
1.22	"Escrow Account	4
1.23	"Escrow Agreement	4
1.24	"Exchange Risk Insurance	4
1.25	"Feasibility Study	4
1.26	"Federal Entity	4
1.27	"Financila Closing	4
1.28	"Financing Documents	5
1.29	"Force Majeure Events	5
1.30	"Foreign Currency	5
1.31	"Foreign Investors	5
1.32	"Fuel Supply	5
1.33	"Fuel Supply Agreement	5
1.34	"GOP	5
1.35	"Guarantee	5



1.36	"Hazardous Material	5
1.37	"IDC	5
1.38	"Initial Share Holders	5
1.39	"Investors	5
1.40	"Lapse of Consent	6
1.41	"Laws of Pakistan	6
1.42	"Lenders	6
1.43	"Letter of Support	6
1.44	"Lein	6
1.45	"Loss	6
1.46	"Month	6
1.47	"NDFC	6
1.48	"O & M Agreement	6
1.49	"O & M Contractor	6
1.50	"Ordinary Share Capital	7
1.51	"PSEDF	7
1.52	"Pakistan	7
1.53	"Parties	7
1.54	"Party	7
1.55	"Performance Guarantee	7
1.56	"Permitted Liens	7
1.57	"Policies	7
1.58	"Power Purchase Agreement	7
1.59	"Preliminary Estimate	7
1.60	"Prescribed Fee	7
1.61	"Prescribed Form	7
1.62	"Project	7
1.63	"Provincial Government	8
1.64	"Public Sector Entity	8
1.65	"Relevant Authority	8
1.66	"Report.	8
1.67	"Required Commercial Operation Date	8
1.68	"Restoration	8
1.69	"Restoration Cost Estimate	8
1.70	"Restoration Schedule	8
1.71	"Rupees" & "Rs."	8
1.72	"Scheduled Commercial Operation's Date	8
1.73	"Security Package	8
1.74	"Shareholders Agreement	9
1.75	"Site"	9
1.76	"Standards"	9
1.77	"State Bank Of Pakistan"	9
1.78	"Termination Notice"	9
1.79	"Threshold Amount"	9



1.80	"WAPDA".	9
1.81	"World Bank".	10
1.82	"Year".	10

ARTICLE II
INTERPRETATION 11

ARTICLE III
TERM 12

ARTICLE IV
IMPLEMENTATION OF THE PROJECT BY THE COMPANY 13

ARTICLE V
GRANT OF RIGHTS TO THE COMPANY 14

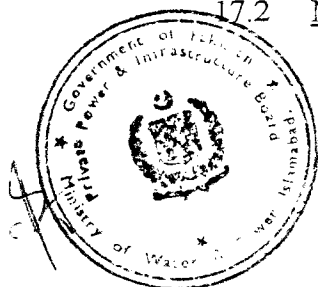
	<u>ARTICLE VI</u>	
	<u>ACQUISITION OF SITE, TRANSPORTATION, AND CONSENTS</u>	15
6.1	<u>Acquisition by the Company of Site and Transportation</u>	15
6.2	<u>Applications by the Company for Consents</u>	15
6.3	<u>Status of Consent Applications</u>	15

	<u>ARTICLE VII</u>	
	<u>SUPPORT OF THE GOP</u>	17
7.1	<u>Support to Obtain Site and Transportation</u>	17
7.2	<u>Support to Obtain Consents</u>	17
7.3	<u>Conditions to Consents</u>	17
7.4	<u>Support for Obligations</u>	18

	<u>ARTICLE VIII</u>	
	<u>CONSTRUCTION, OPERATION, MAINTENANCE, AND STAFFING</u>	19
8.1	<u>Pakistan Essential Services (Maintenance) Act 1952</u>	19
8.2	<u>Construction, Operation, and Maintenance of Complex; Appointment of Contractors</u>	19

	<u>ARTICLE IX</u>	
	<u>LIABILITY</u>	21
9.1	<u>Limitation of Liability</u>	21
9.2	<u>Indemnification</u>	21
9.3	<u>Indemnification for Fines and Penalties</u>	22
9.4	<u>Notice of Proceedings</u>	22
9.5	<u>Limitation on Indemnification</u>	22
9.6	<u>Defense of Claims</u>	22

9.7	<u>Double Jeopardy</u>	24
	<u>ARTICLE X</u>	
	<u>INSURANCE</u>	26
10.1	<u>Maintenance of Specified Policies</u>	26
10.2	<u>Application of Proceeds</u>	26
	<u>ARTICLE XI</u>	
	<u>IMMIGRATION CONTROLS</u>	27
	<u>ARTICLE XII</u>	
	<u>SECURITY PROTECTION</u>	28
	<u>ARTICLE XIII</u>	
	<u>IMPORT CONTROLS</u>	29
13.1	<u>Right to Import</u>	29
13.2	<u>Export and Reimport</u>	29
	<u>ARTICLE XIV</u>	
	<u>FOREIGN CURRENCY EXCHANGE AND TRANSFER OF FUNDS</u>	30
14.1	<u>Foreign Exchange Regulation</u>	30
14.2	<u>Use of Pakistan Bank Accounts; Exceptions</u>	30
14.3	<u>Consent to Foreign Currency Accounts</u>	30
14.4	<u>Availability of Foreign Exchange</u>	30
14.5	<u>Free Transfer of Necessary Funds</u>	31
14.6	<u>Exchange Risk Insurance</u>	32
	<u>ARTICLE XV</u>	
	<u>ASSIGNMENT AND SECURITY</u>	33
15.1	<u>Assignment</u>	33
15.2	<u>Creation of Security</u>	33
15.3	<u>Approval of Financing Documents</u>	34
	<u>ARTICLE XVI</u>	
	<u>RESTRICTIONS ON ACQUISITIONS AND TRANSFERS OF SHARES AND ASSETS</u>	36
16.1	<u>Assurance Against Discriminatory Action</u>	36
16.2	<u>Acquisition of Shares or Assets</u>	36
16.3	<u>Restriction on Transfer of Shares</u>	36
	<u>ARTICLE XVII</u>	
	<u>FORCE MAJEURE</u>	39
17.1	<u>Definition</u>	39
17.2	<u>Notification Obligations</u>	41



17.3	<u>Duty to Mitigate</u>	41
17.4	<u>Delay Caused by Force Majeure</u>	42
17.5	<u>Restoration</u>	42
17.6	<u>Appraisal Report and Use of Expert</u>	47
17.7	<u>Special Compensation for Force Majeure Events</u>	50
17.8	<u>Termination as a Result of a Force Majeure Event</u>	51

ARTICLE XVIII

TAXATION 53

18.1	<u>Taxation of the Company</u>	53
18.2	<u>Taxation of Lenders</u>	53
18.3	<u>Foreign Investors</u>	53
18.4	<u>Confirmation that Certain Taxes are not Applicable</u>	53

ARTICLE XIX

TERMINATION 55

19.1	<u>Termination for Default</u>	55
19.2	<u>Termination Notices</u>	59
19.3	<u>Notice to the GOP of [WAPDA/KESC]'s or Fuel Supplier's Default</u>	59
19.4	<u>Notice to the Lenders of the Company's Default</u>	60
19.5	<u>Other Remedies</u>	62

ARTICLE XX

RIGHTS AND OBLIGATIONS OF PARTIES UPON TERMINATION 63

20.1	<u>Compensation Upon Termination</u>	63
20.2	<u>Reimbursement</u>	65
20.3	<u>Obligations Upon Termination</u>	66
20.4	<u>Complex to be Free and Clear</u>	66

ARTICLE XXI

RESOLUTION OF DISPUTES 67

21.1	<u>Governing Law</u>	67
21.2	<u>Arbitration</u>	67
21.3	<u>Commercial Acts</u>	68

ARTICLE XXII

GUARANTEE 69

ARTICLE XXIII

NOTICES 70

23.1	<u>Address for Notices</u>	70
23.2	<u>Delivery</u>	71



Handwritten signature

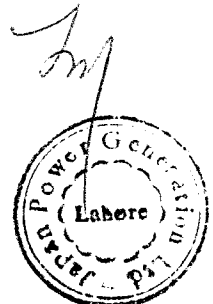
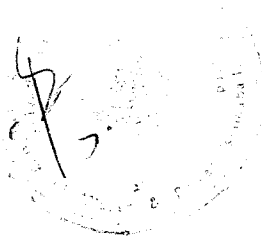
ARTICLE XXIV

MISCELLANEOUS PROVISIONS

24.1	<u>Variations in Writing</u>	72
24.2	<u>Entire Agreement</u>	72
24.3	<u>Waivers</u>	72
24.4	<u>Confidentiality</u>	72
24.5	<u>Accounts and Reports</u>	73
24.6	<u>Successors and Assigns</u>	74
24.7	<u>No Liability for Review</u>	75
24.8	<u>No Third Party Beneficiaries</u>	78
24.9	<u>Affirmation</u>	75
24.10	<u>Sovereign Immunity</u>	75
24.11	<u>Consent to Jurisdiction</u>	76
24.12	<u>Language of Agreement</u>	76

SCHEDULES

- 1 CONSENTS
- 2 COMPENSATION AMOUNTS
- 3 FORM OF GUARANTEE



THIS IMPLEMENTATION AGREEMENT (the "Agreement") is made at Islamabad as of May 30, 1995,

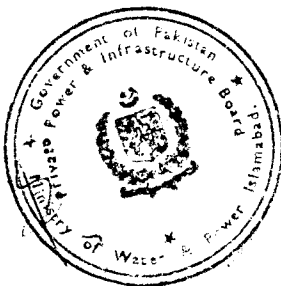
B E T W E E N:

- (1) THE PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN for and on behalf of THE ISLAMIC REPUBLIC OF PAKISTAN (the "GOP"); and
- (2) JAPAN POWER GENERATION LIMITED, a public limited company incorporated under the laws of Pakistan whose registered office is located in 26-Peshawar Block, Fortress Stadium, Lahore Cantt., Pakistan (the "Company").

W H E R E A S:

- (1) The GOP as a matter of policy has decided to involve the private sector in the generation of electricity for sale to the national grid.
- (2) Consistent with the GOP's policy and guidelines, the Company has proposed to design, insure, finance, acquire, construct, complete, own, operate and maintain an electric power plant (the "Complex") Raiwind Road, near Lahore, Pakistan, to supply electric power to the Pakistan Water and Power Development Authority ("WAPDA") using Furnace Oil purchased from Pakistan State Oil (the "Fuel Supplier").
- (3) Simultaneously herewith, the Company is entering into a Power Purchase Agreement with WAPDA and a Fuel Supply Agreement with the Fuel Supplier.
- (4) The GOP and the Company are entering into this Agreement so that the Company's proposal to build the Complex may be implemented in a manner that reflects the close cooperation between the public and private sectors in the generation of electricity for sale on the national grid.

NOW IT IS HEREBY AGREED as follows:



[Handwritten signature]

ARTICLE I
DEFINITIONS

1.1 "Abandonment" bears the meaning attributable thereto in the Power Purchase Agreement.

1.2 "Agent" bears the meaning attributable thereto in Section 15.2(b).

1.3 "Affiliate" means, with respect to the company, entity or person in question, a company, entity or person that (a) owns and controls the company, entity or person in question or (b) is owned and controlled by the company, entity or person in question or (c) is owned and controlled by the same company, entity or person that owns and controls the company, entity or person in question.

1.4 "Agreement Year" bears the meaning attributable thereto in the Power Purchase Agreement.

1.5 "Banking Day" or "Business Day" means any Day on which banks are open for business in Karachi, Pakistan.

1.6 "Capacity Payment" bears the meaning attributable thereto in the Power Purchase Agreement.

1.7 "Carrying Cost Period" bears the meaning attributable thereto in Section 17.5(b)(i).

1.8 "Change in Law" means (a) the adoption, promulgation, modification or reinterpretation after the date of this Agreement by any Public Sector Entity of any Law of Pakistan, or (b) the imposition by a Public Sector Entity of any material condition in connection with the issuance, renewal, extension, replacement or modification of any Consent after the date of this Agreement, that in either case establishes requirements for the construction, operation or maintenance of the Complex that are materially more restrictive than the most restrictive requirements (i) in effect as of the date of this Agreement, (ii) specified in any applications, or other documents filed in connection with such applications, for any Consent filed by the Company on or before the Commercial Operations Date or (iii) agreed to by the Company in any agreement in the Security Package.

1.9 "Commercial Operations Date" bears the meaning attributable thereto in the Power Purchase Agreement.

1.10 "Company" means M/S. JAPAN POWER GENERATION LIMITED, a public limited company incorporated under the Laws of Pakistan with its principal office located in 26-Peshawar Block, Fortress Stadium, Lahore Cantt. and its permitted successors and assigns.

1.11 "Complex" means the 120 MW (gross ISO) Furnace Oil power station to be owned and constructed by the Company Raiwind Road, near Lahore, Province of Punjab, whether completed or at any stage of construction, including without limitation or regard to level of development, land, engineering and design documents, all energy producing equipment and its auxiliary equipment, fuel storage and handling facilities and equipment, a switchyard, interconnection facilities (other than the Interconnection Facilities (as defined in the Power Purchase Agreement) and the Transmission Facilities (as defined in the Power Purchase Agreement)) necessary for delivery of electricity to WAPDA at the Interconnection Point (as defined in the Power Purchase Agreement), together with a colony to house certain employees of the Company, the Contractors and any subcontractors.

1.12 "Consents" means all such approvals, consents, authorizations, notifications, concessions, acknowledgements, licenses, permits, decisions or similar items required to be obtained from any Public Sector Entity for the Company or for the construction, financing, ownership, operation, and maintenance of the Complex, including without limitation those Consents listed in Schedule 1; provided, however, that in no event shall the Consents include any concessions or exemptions from the laws of Pakistan unless such concessions or exemptions are expressly granted to the Company pursuant to the terms of this Agreement.

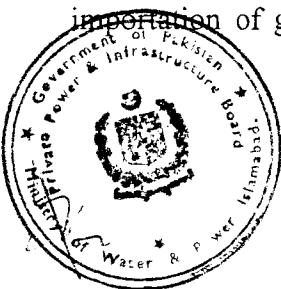
1.13 "Construction Contract" means the agreement entered into between the Company and the Construction Contractor for the design, engineering, procurement, construction, completion, start-up, testing, and commissioning of the Complex, as amended from time to time.

1.14 "Construction Contractor" means M/S. TOYOTA TSUSHO CORPORATION (JAPAN) and any successor thereto appointed by the Company and not objected to by the GOP pursuant to Section 8.2(b) of this Agreement.

1.15 "Construction Start" bears the meaning attributable thereto in the Power Purchase Agreement.

1.16 "Contractors" means the Construction Contractor and the O&M Contractor and any of their direct sub-contractors integrally involved in the Project.

1.17 "Customs Duties" includes customs duty levied under the Customs Act, 1969, as amended from time to time, sales tax levied under the Sales Tax Act, 1990, as amended from time to time, and a surcharge levied under Section 2 of the Finance Ordinance, 1982, as amended from time to time, the Iqra charge of five (5) percent, and import license fees of two (2) percent, but excludes charges for services of a commercial nature associated with the importation of goods.



1.18 "Day" means each twenty-four (24) hour period beginning and ending at 12:00 midnight Pakistan time.

1.19 "Dispute" bears the meaning attributable thereto in Section 21.2.

1.20 "Dollar" and "\$" means the lawful currency of the United States of America.

1.21 "Environmental Liabilities" means all losses, damages, and expenses (including, without limitation, the reasonable costs of investigation, testing, containment, removal, cleanup, abatement or remediation and reasonable attorneys' fees and costs), whether or not quantified in amount, relating to the presence in the environment of Hazardous Materials attributable to the Complex from and after the earlier of the date of acquisition by the Company of any immovable property portion of the Complex or the date of Financial Closing to the date of transfer of the Complex to the GOP or its designee, or the violation by the Company, its agents or employees of any environmental Laws of Pakistan or the Standards; provided, however, that Environmental Liabilities shall not include any losses, damages or expenses relating to, or arising out of, any act or omission, including the release of any such Hazardous Substances, that was lawful and in compliance with the laws of Pakistan and the Standards at the time of such act or omission.

1.22 "Escrow Account" means the escrow account or accounts to be established by the Company under the Escrow Agreement as required by the Lenders.

1.23 "Escrow Agreement" means the escrow agreement to be executed by and between the Company and the Lenders pursuant to the terms of or as part of the Financing Documents.

1.24 "Exchange Risk Insurance" means the insurance to be effected with the National Bank of Pakistan in respect of the insurance of exchange risks for foreign loans to be obtained by the Company.

1.25 "Feasibility Study" bears the meaning attributable thereto in the Power Purchase Agreement.

1.26 "Federal Entity" means any Public Sector Entity subject to the overall control or direction as to matters of policy, of the GOP and includes, without limitation, but only for so long as such entities are under the control of the GOP, WAPDA, the Fuel Supplier and the State Bank of Pakistan.

1.27 "Financial Closing" means (a) the execution and delivery of the Financing Documents (following resolution with the GOP of any objections of the GOP, in its sole but reasonable discretion, of the term sheet and the proposed principal repayment schedule related thereto) and the receipt of commitments for such equity as is required by the Company in order to satisfy the requirements of the Lenders and the Letter of Support.

1.28 "Financing Documents" means the loan agreements, notes, indentures, security agreements, guarantees and other documents relating to the construction and permanent financing (including refinancing) of the Complex or any part thereof.

1.29 "Force Majeure Events" bears the meaning attributable thereto in Section 17.1.

1.30 "Foreign Currency" means Dollars.

1.31 "Foreign Investors" means shareholders of the Company who are foreigners or non-resident Pakistanis holding dual nationalities.

1.32 "Fuel Supplier" means the Pakistan State Oil, its successors and permitted assigns.

1.33 "Fuel Supply Agreement" means the agreement dated as of February 01, 1995, between the Fuel Supplier and the Company for the supply of Furnace Oil to be used by the Complex to generate electricity, as amended from time to time.

1.34 "GOP" means the government of the Islamic Republic of Pakistan, and its successors.

1.35 "Guarantee" means the guarantee by the GOP of (i) the payment obligations arising out of the breach, default or non-performance of WAPDA under the Power Purchase Agreement (ii) the payment obligations arising out of the breach, default or non-performance of the Fuel Supplier under the Fuel Supply Agreement, and (iii) the obligations of the National Bank of Pakistan under the Exchange Risk Insurance, substantially in the form set out in Schedule 3, as may be amended from time to time.

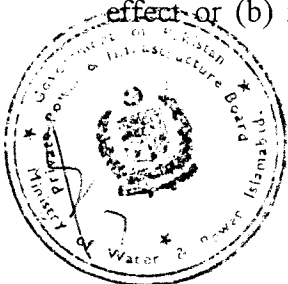
1.36 "Hazardous Material" means any pollutant, contaminant, solid waste, hydrocarbon product, toxic or hazardous substance or waste, any flammable, explosive or radioactive materials regulated under, or subject to, any Laws of Pakistan.

1.37 "IDC" bears the meaning attributable thereto in Section 17.5(b)(i).

1.38 "Initial Shareholders" means the shareholders of the Company that caused the incorporation of the Company, as per Memorandum and Articles of Association.

1.39 "Investor" means the holders from time to time of Ordinary Share Capital, as well as the holders of any securities that are convertible at the option of the holder into Ordinary Share Capital.

1.40 "Lapse of Consent" means any Consent (a) ceasing to remain in full force and effect or (b) not being issued or renewed upon application having been properly and timely



made and diligently pursued or (c) being made subject, subsequent to its grant, upon renewal or otherwise, to any terms or conditions that materially and adversely affect the Company's ability to perform its obligations under any document included within the Security Package, in each of the above instances through no fault of the Company.

1.41 "Laws of Pakistan" means the Federal, Provincial and local laws of Pakistan, and all orders, rules, regulations, statutory regulatory orders, executive orders, decrees, Policies, judicial decisions, notifications or other similar directives made pursuant thereto, as such laws, rules, regulations, statutory regulatory orders, executive orders, decrees, Policies, judicial decisions and notifications may be amended from time to time.

1.42 "Lenders" means the lenders party to the Financing Documents, together with their respective successors and assigns.

1.43 "Letter of Support" means that certain Letter of Support issued by the Ministry of Water and Power dated July 27, 1994, as the same may have been amended or clarified prior to the date of this Agreement.

1.44 "Lien" means any encumbrance, lien, charge or security interest upon or in the Complex.

1.45 "Loss" means any loss, damage, liability, payment and obligation (excluding any indirect or consequential loss, damage, liability, payment or obligation), and all expenses (including without limitation reasonable legal fees).

1.46 "Month" means a month according to the Gregorian calendar.

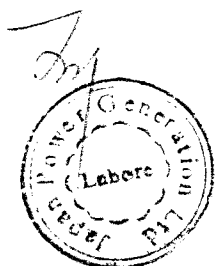
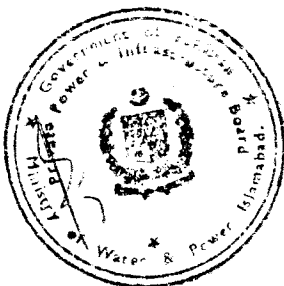
1.47 "NDFC" means the National Development Finance Corporation and its successors and assigns.

1.48 "O&M Agreement" means the Agreement between the Company and the O&M Contractor for the operation and maintenance of the Complex, as amended or superseded from time to time.

1.49 "O&M Contractor" means M/S. TOYOTA TSUSHO CORPORATION (JAPAN) and any successor thereto appointed by the Company and not objected to by the GOP pursuant to Section 8.2(c) of this Agreement.

1.50 "Ordinary Share Capital" means any shares of the Company with voting or other rights of management and control and any securities of the Company that are convertible into such shares at the option of the holder.

1.51 "PSEDF" means the Private Sector Energy Development Fund.



1.52 "Pakistan" means the Islamic Republic of Pakistan.

1.53 "Parties" means the GOP and the Company.

1.54 "Party" means either the GOP or the Company, as the case may be.

1.55 "Performance Guarantee" means the Performance Guarantee provided by the Company in favor of the GOP at the time the GOP issued the Letter of Support to the Company, which guarantees that the Company will achieve Financial Closing no later than twelve (12) months following the date of the Letter of Support.

1.56 "Permitted Liens" means minor imperfections of title and encumbrances that in the aggregate are not substantial in amount, do not detract from the value of the property subject thereto or impair the Complex, and existed at the date of acquisition of the Site or have arisen only in the ordinary course of business and consistent with normal utility practices.

1.57 "Policies" means such policies adopted by the GOP, any Federal Entity, the Provincial Government or, where applicable, any political subdivision thereof, as have been published in writing and are made available to the public.

1.58 "Power Purchase Agreement" means the agreement dated as of March 21, 1995 entered into between WAPDA and the Company for the purchase and sale of electric power generated by the Complex, as amended from time to time.

1.59 "Preliminary Estimate" bears the meaning attributable thereto in Section 17.5(b).

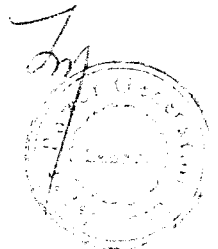
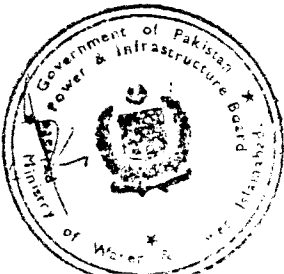
1.60 "Prescribed Fee" means, with respect to a particular Consent, the charge or fee, if any, prescribed by the Laws of Pakistan.

1.61 "Prescribed Form" means, with respect to a particular Consent the form, if any, (including all information and details) prescribed by the Laws of Pakistan for the application for, or renewal of, such Consent.

1.62 "Project" means the development, design, engineering, manufacture, financing, construction, permitting, completion, commissioning, insurance, ownership, operation and maintenance of the Complex and all activities incidental thereto.

1.63 "Provincial Government" means the Government of the PUNJAB.

1.64 "Public Sector Entity" means the GOP and the Provincial Government and any subdivision of either, any Federal Entity, any local governmental authority with jurisdiction over the Company, the Project or any part thereof, courts and tribunals in Pakistan, and any department, authority, instrumentality, agency or judicial body of the GOP, the Provincial Government, or any such local governmental authority, including, without limitation, Pakistan



Insurance Corporation, National Insurance Corporation and the State Bank of Pakistan, but excluding NDFC, WAPDA and the Fuel Supplier.

1.65 "Relevant Authority" means the department, authority, instrumentality or agency from which a Consent is to be obtained and any authority, body or other person having jurisdiction under the Laws of Pakistan with respect to the Company, the Complex or the financing, construction, operation or maintenance of the Complex (other than NDFC, WAPDA and the Fuel Supplier).

1.66 "Report" bears the meaning attributable thereto in Section 17.6(a).

1.67 "Required Commercial Operations Date" bears the meaning attributable thereto in the Power Purchase Agreement.

1.68 "Restoration" bears the meaning attributable thereto in Section 17.5(b).

1.69 "Restoration Cost Estimate" bears the meaning attributable thereto in Section 17.5(b).

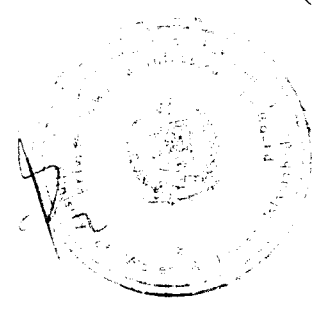
1.70 "Restoration Schedule" bears the meaning attributable thereto in Section 17.5(b).

1.71 "Rupee" and "Rs." mean the lawful currency of Pakistan.

1.72 "Scheduled Commercial Operations Date" bears the meaning attributable thereto in the Power Purchase Agreement.

1.73 "Security Package" consists of:

- (a) Implementation Agreement;
- (b) Power Purchase Agreement;
- (c) Fuel Supply Agreement;
- (d) O&M Agreement, if any;
- (e) Construction Contract, if any;
- (f) Shareholders' Agreement, if any;
- (g) Financing Documents;
- (h) Escrow Agreement;



- (i) Trust Deed;
- (j) Insurance Policies;
- (k) Exchange Risk Insurance;
- (l) Site Agreement with the Provincial Government or private parties;
- (m) Guarantee; and
- (n) Instruments conveying title to the Site.

1.74 "Shareholders' Agreement" means the agreement dated as of September 29, 1994 between the Initial Shareholders containing provisions for the management of the Company and certain restrictions on the transfer of Ordinary Share Capital by the Initial Shareholders, as amended from time to time.

1.75 "Site" means the land, spaces, waterways, roads, water wells and any rights acquired or to be acquired by the Company for the purposes of the Complex on, through, above or below the ground on which the Complex or any part thereof is to be built (including, without limitation, any working areas required by the Company and the Contractors, villages, townships, and camps for the accommodation of the employees of the Company and the Contractors and any subcontractors, all rights of way and access from public highways, and, where applicable, railway and seaward access).

1.76 "Standards" means the environmental guidelines and occupational health and safety standards of the World Bank as in effect on the date of this Agreement.

1.77 "State Bank of Pakistan" means the State Bank of Pakistan and its successors.

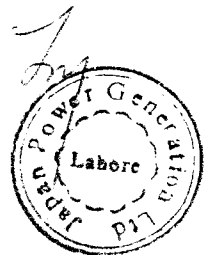
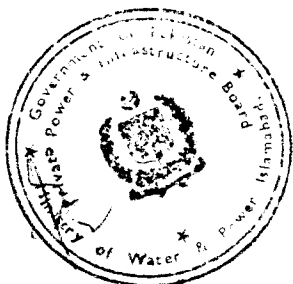
1.78 "Termination Notice" means a written notice of termination of this Agreement issued by the GOP or the Company, as the case may be, pursuant to Section 19.2(c) hereof.

1.79 "Threshold Amount" bears the meaning attributable thereto in Section 17.5(h).

1.80 "WAPDA" means the Pakistan Water and Power Development Authority and its successors and permitted assigns.

1.81 "World Bank" means the International Bank for Reconstruction and Development.

1.82 "Year" means a year according to the Gregorian calendar.



ARTICLE II
INTERPRETATION

In this Agreement:

2.1 capitalized terms defined in Article I shall be used herein as defined therein;

2.2 the headings are for convenience only and shall be ignored in construing this Agreement;

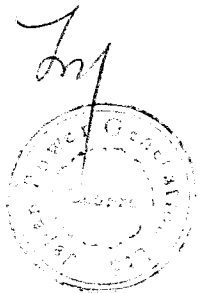
2.3 the singular includes the plural and vice versa;

2.4 references to Articles, Sections, and Schedules are, unless the context otherwise requires, references to Articles and Sections of, and Schedules to, this Agreement;

2.5 unless otherwise provided herein, whenever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed by either party;

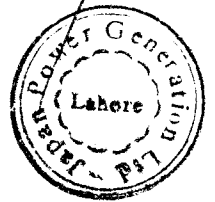
2.6 in carrying out its duties and obligations hereunder, each Party shall have an implied obligation of good faith; and

2.7 nothing shall be construed or interpreted as limiting, restricting, diminishing or prejudicing (i) the Company, the Contractors, the Investors or the Lenders to exercise any right that may be restricted or limited hereunder if and to the extent that it becomes otherwise permitted under the laws of pakistan for the Company, the contractors, the Investors or the Lenders to exercise such right.



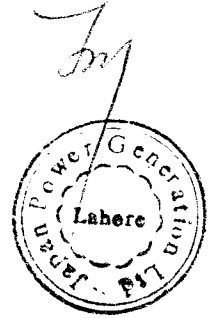
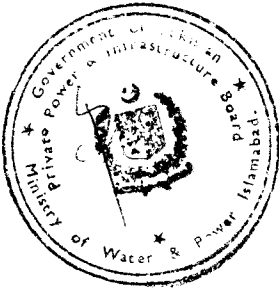
ARTICLE III
TERM

This Agreement shall commence and be effective on the date hereof, and shall, unless terminated earlier in accordance with the terms of this Agreement, continue in full force and effect for a period of the initial term of the Power Purchase Agreement, including any extension caused by the occurrence of a Force Majeure Event thereunder; provided, however, that in the case of any other extension of the Power Purchase Agreement, this agreement may be extended, as mutually agreed at that time.



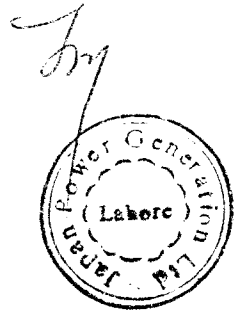
ARTICLE IV
IMPLEMENTATION OF THE PROJECT BY THE COMPANY

The Company shall design, insure, finance, acquire, construct, complete, own, operate, and maintain the Complex in accordance with all applicable Laws of Pakistan, the Consents, the Power Purchase Agreement, the Fuel Supply Agreement, and to the extent not inconsistent with the Laws of Pakistan, the Standards.



ARTICLE V
GRANT OF RIGHTS TO THE COMPANY

The GOP hereby grants to the Company the exclusive right to design, finance, insure, construct, complete, own, operate, and maintain the Complex in accordance with the terms and conditions contained in this Agreement and the Laws of Pakistan until the expiration or earlier termination of this Agreement, pursuant to its terms.



ARTICLE VI
ACQUISITION OF SITE, TRANSPORTATION, AND CONSENTS

6.1 Acquisition by the Company of Site and Transportation

The Company shall identify and purchase a suitable Site, obtain adequate water supplies for the Complex, make arrangements for delivery and receipt at port facilities in Pakistan of equipment and materials necessary to construct the Complex, and make arrangements for transport to the Site of all such equipment and materials from the port facilities. The Company shall complete these activities in compliance with the terms of this Agreement and the Power Purchase Agreement.

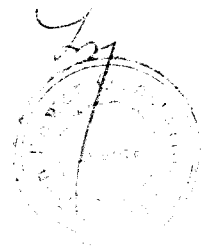
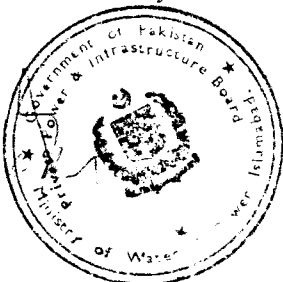
6.2 Applications by the Company for Consents

The Company shall make or cause to be made, in a timely fashion, all applications (whether initial or renewal applications) for the Consents in the Prescribed Form and with the Prescribed Fee to the appropriate Relevant Authorities and shall diligently pursue all such applications. The information supplied in the applications shall be complete and accurate and shall satisfy the substantive and procedural requirements of the applicable Laws of Pakistan.

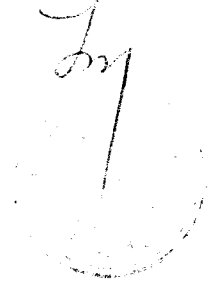
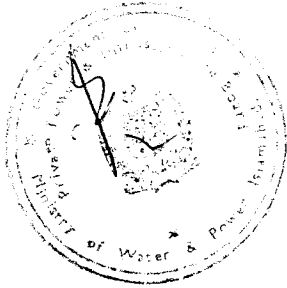
6.3 Status of Consent Applications

(a) The Company shall make or cause to be made, at least monthly prior to the Commercial Operations Date, and at least quarterly thereafter, reports listing its schedule for submitting Consent application forms or renewal application forms, the status of any Consent applications then outstanding, notifications of the granting or denial of any Consent or renewal Consent, and notifications of any violations of any Consent. Each report shall include copies of all applications and notifications discussed in the report which have not been provided with a previous report. The first section of each report shall also summarize any problems regarding any material Consent or Consent application that may affect the Company's performance under this Agreement or the Power Purchase Agreement. In the event of any Lapse of Consent, the Company shall submit a report pursuant to this Section 6.3 within three (3) Days after becoming aware thereof.

(b) The Company shall make application for all Consents specified in Schedule 1 within two (2) months of the execution of this Agreement. If the Company has complied and is in compliance with Section 6.2 and any of such Consents is not received within four (4) months following the later of the date of this Agreement or the filing of the application and the failure to receive such Consent is not the fault of the Company (or its Contractors), then, notwithstanding anything else contained in this Agreement to the contrary, the date by which Financial Closing is required to occur shall be extended on a day-for-day basis for each day that any of such Consents remains outstanding following the expiration of the four (4)-month



period. If such outstanding Consent or Consents have not been issued by the end of six (6) months beginning on the last day of the aforesaid four (4)-months period, such unobtained Consent or Consents shall constitute a default by GOP, permitting the Company to terminate this Agreement, the Power Purchase Agreement and the Fuel Supply Agreement with no further obligations to the GOP, WAPDA, and the Fuel Supplier, respectively. Upon such termination, the Performance Guarantee shall be returned to the Company without draws thereon or encashment thereof by the GOP.



ARTICLE VII SUPPORT OF THE GOP

7.1 Support to Obtain Site and Transportation

The Company may advise the GOP from time to time of any difficulties encountered in the activities it is required to perform under Section 6.1. If any such difficulties create a significant possibility that the Company will be prevented or materially impaired in meeting its obligations hereunder, then, upon the request of the Company, the GOP shall take such actions as are reasonable and appropriate under the circumstances to enable the Company to secure the necessary property or services; provided, however, that if the GOP reasonably determines that the Company has failed to comply with its obligations under this Agreement and that such failure is the principal cause of the Company's difficulties in performing such activities, the GOP may advise the Company of such determination and the GOP shall not be obligated to take any actions to assist the Company pursuant to this Section 7.1 until such time as the Company has fully complied with its obligations under this Agreement.

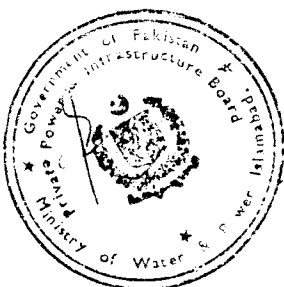
7.2 Support to Obtain Consents

Subject to the Company's timely submission of the reports required by Section 6.3, upon request of the Company, the GOP shall support and use all reasonable efforts to expedite the consideration of the Company's applications for the Consents or reissuances thereof filed pursuant to Section 6.2 and the timely issuance thereof or the reissuance of a Consent subject to a Lapse of Consent by the Relevant Authorities. Any request for support under this Section shall be accompanied with copies of the application for the Consent, any notice that the issuance or reissuance of the Consent was denied or deferred, and a statement of the Company's efforts in obtaining the issuance or reissuance of the Consent to date.

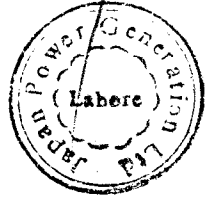
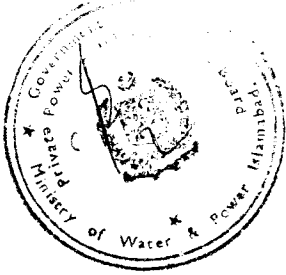
7.3 Conditions to Consents

The GOP or any Relevant Authority may attach such terms and conditions to the issuance or renewal of any of the Consents as are in accordance with the Laws of Pakistan, and the attachment of such terms and conditions shall not in and of itself constitute a breach of this Agreement by the GOP, a Force Majeure Event under Article XVII (unless it constitutes a Change in Law), or a GOP Event of Default under Section 19.1(b). The Company and the Contractors shall abide by all such terms and conditions. If the Company or any of the Contractors fails to abide by any term or condition of any Consent, then the exercise by the GOP or any Relevant Authority of a power pursuant to the Laws of Pakistan in respect of such failure shall not of itself constitute a breach of this Agreement by the GOP, a Force Majeure Event under Article XVII, or a GOP Event of Default under Section 19.1(b).

7.4 Support for Obligations



Upon reasonable request by the Company, the GOP shall use its good offices to support the Company's performance of its obligations to design, finance, insure, construct, own, operate, and maintain the Complex. By agreeing to use its good offices to support the Company's efforts, the GOP has not relieved, and does not relieve in any way, the Company of its obligations or potential liability under this Agreement, the Power Purchase Agreement, and the other documents comprising the Security Package.



ARTICLE VIII
CONSTRUCTION, OPERATION, MAINTENANCE, AND STAFFING

8.1 Pakistan Essential Services (Maintenance) Act 1952

The Company shall be treated on the same basis as any public sector power station for the purpose of the Pakistan Essential Services (Maintenance) Act 1952, as amended from time to time.

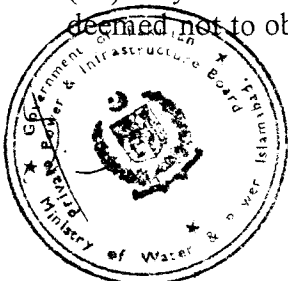
8.2 Construction, Operation, and Maintenance of Complex; Appointment of Contractors

(a) Construction, Operation, and Maintenance of the Complex

The Company shall design, construct, install, commission, operate and maintain the Complex; provided, however, that the Company may contract with the Construction Contractor to design, construct, install, and commission the Complex and the O&M Contractor to operate and maintain the Complex; provided, further, that the appointment of the Construction Contractor and the O&M Contractor by the Company shall not relieve the Company of any of its obligations or potential liability regarding the design, financing, insuring, acquisition, construction, completion, operation, or maintenance of the Complex.

(b) Construction Contract; Construction Contractor

The GOP acknowledges the Company's appointment of Toyota Tsusho Cooperation Japan as the Construction Contractor. The Company shall deliver to the GOP a copy of any proposed Construction Contract not later than thirty (30) Days prior to the execution thereof. The Company shall provide the GOP with a copy of any proposed amendment (a "Proposed Material Amendment") to the Construction Contract that would result in (i) a change in the Construction Contractor, or (ii) a change in a major piece of equipment as to either its company or country of manufacture, not later than seven (7) Days prior to the execution thereof. The GOP shall then have the right, but not the obligation, to review the Construction Contract or Proposed Material Amendment, and may notify the Company prior to the proposed execution date that it objects to the Construction Contract or Proposed Material Amendment because in its sole reasonable discretion the proposed Construction Contractor or the company or country of manufacture of a major piece of equipment is adverse to the national security interests of Pakistan; provided, however, that by not objecting to the Construction Contract or the Proposed Material Amendment the GOP shall not be construed as having approved of the Construction Contract or the Proposed Material Amendment nor as in any way having relieved the Company of its obligations under this Agreement, the Power Purchase Agreement, or the Fuel Supply Agreement. If the GOP does not object to the Construction Contract or the Proposed Material Amendment on or before the end of the thirty (30) Day or seven (7) Day period provided for herein, as the case may be, the GOP shall be deemed not to object to the particular Construction Contract or Proposed Material Amendment.

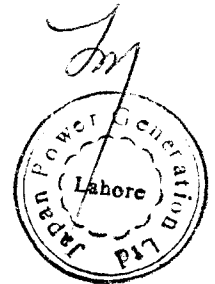
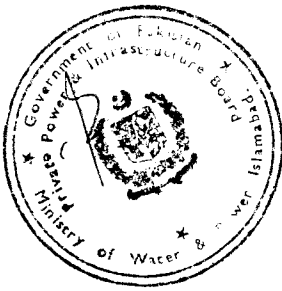


(c) O&M Agreement, O&M Contractor

The GOP acknowledges the Company's appointment of M/S. TOYOTA TSUSHO CORPORATION (JAPAN) as the O&M Contractor. The Company shall deliver to GOP a copy of any proposed O&M Agreement, including any proposed agreement with a successor O&M Contractor, not later than fifteen (15) Days prior to the execution thereof. The GOP shall then have the right, but not the obligation, to review the O&M Agreement, and may notify the Company prior to the proposed execution date that it objects to the O&M Contractor because in its sole but reasonable discretion the appointment of the proposed O&M Contractor would be adverse to the national security interests of Pakistan; provided, however, that by not objecting to the O&M Agreement the GOP shall not be construed as having approved of the O&M Agreement nor as in any way having relieved the Company of its obligations under this Agreement, the Power Purchase Agreement, or the Fuel Supply Agreement. If the GOP does not object to the O&M Agreement on or before the end of the fifteenth (15th) Day period provided for herein, the GOP shall be deemed not to object to the particular O&M Agreement.

(d) Operation of the Complex by the Company

Notwithstanding anything contained in this Article VIII to the contrary, the Company shall be entitled to engage its own personnel and operate the Complex or, in the case where the O&M Agreement then in effect has been terminated by the Company in accordance with its terms, engage some or all of the personnel of the former O&M Contractor and operate the Complex, in either case without prior notice to the GOP.



ARTICLE IX
LIABILITY

9.1 Limitation of Liability

Except as provided in Section 9.2, 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 or the Guarantee; 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 to any activity not contemplated by this Agreement.

9.2 Indemnification

(a) The GOP

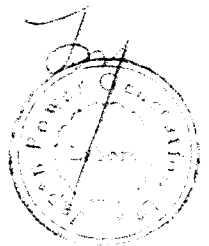
The GOP shall defend and indemnify the Company and its directors, officers and employees against, and hold the Company and its directors, officers and employees harmless from, at all times after the date hereof, any and all Losses incurred, suffered, sustained, or required to be paid, directly or indirectly, by, or sought to be imposed upon, the Company and its directors, officers and employees for personal injury or death to persons or damage to property arising out of the negligent or intentional act or omission of the GOP in connection with this Agreement.

(b) The Company

The Company shall defend, indemnify the GOP and its ministers, officers and employees against, and hold the GOP and its ministers, officers and employees harmless from, at all times after the date hereof, any and all Losses incurred, suffered, sustained, or required to be paid, directly or indirectly, by, or sought to be imposed upon, the GOP and its ministers, officers and employees for personal injury or death to persons or damage to property arising out of the negligent or intentional act or omission of the Company in connection with this Agreement.

(c) Joint Negligence

In the event that any Loss results from the joint or concurrent negligent or intentional acts or omissions of the Parties, each Party shall be liable under this indemnification in proportion to its relative degree of fault.



(d) Indemnification to Survive

The provisions of this Section 9.2 shall survive for a period of five (5) years following the termination of this Agreement (or such later date as the Company vacates the Site where the Complex has been or is to be transferred to the GOP or its designee).

9.3 Indemnification for Fines and Penalties

Any fines or other penalties incurred by the Company for non-compliance with applicable Laws of Pakistan or other governmental actions taken pursuant thereto or the Consents shall not be reimbursed by the GOP but shall be the sole responsibility of the Company.

9.4 Notice of Proceedings

Each Party shall promptly notify the other Party of any Loss or proceeding in respect of which it is or may be entitled to indemnification under Section 9.2. Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of the Loss or proceeding.

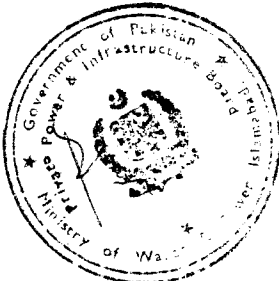
9.5 Limitation on Indemnification

(a) Each Party shall be solely liable, and shall not be entitled to assert any claim for indemnification under this Agreement, for any Loss that would otherwise be the subject of indemnification under this Agreement until all such Losses of such Party arising during the then-current Year exceed, in the aggregate, one hundred thousand Dollars (\$100,000). For purposes of this Section 9.5, a Loss (or claim for indemnification) shall be deemed to arise in the Year during which the event giving rise to the Loss (or claim for indemnification) occurred or, in the case where the event is continuing in more than one Year, in the Year during which the event ends.

(b) Neither Party shall be entitled to indemnity under Section 9.2 if and to the extent that a Party has received payment in full in respect of a Loss or proceeding under the indemnities contained in the Power Purchase Agreement, the Fuel Supply Agreement, or any other document comprising the Security Package in respect of the relevant act or omission.

9.6 Defense of Claims

(a) The indemnifying Party shall be entitled, at its option, and expense and with counsel of its selection, to assume and control the defense of any claim, action, suit or proceeding in respect of, resulting from, relating to or arising out of any matter for which it is obligated to indemnify the other Party hereunder, subject to the prior approval of such counsel by the indemnified Party, provided it gives prompt notice of its intention to do so to the indemnified Party and reimburses the indemnified Party for the reasonable costs and



Trj

expenses incurred by the indemnified Party in connection with the defense of such claim, action, suit or proceeding prior to the assumption by the indemnifying Party of such defense.

(b) Notwithstanding the provisions of Section 9.6 (a), unless and until the indemnifying Party acknowledges in writing its obligation to indemnify the indemnified Party and assumes control of the defense of a claim, suit, action or proceeding in accordance with Section 9.6(a), the indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with counsel of its own selection, any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder.

(c) Upon assumption by the indemnifying Party of the control of the defense of a claim, suit, action or proceeding, the indemnifying Party shall reimburse the indemnified Party for the reasonable costs and expenses of the indemnified Party in the defense of the claim, suit, action or proceeding prior to the indemnifying Party's acknowledgement of the indemnification and assumption of the defense.

(d) Neither Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other Party; provided, however, that after agreeing in writing to indemnify the indemnified Party, the indemnifying Party may settle or compromise any claim without the approval of the indemnified Party. Except where such consent is unreasonably withheld, if a Party settles or compromises any claim, action, suit or proceeding in respect of which it would otherwise be entitled to be indemnified by the other Party without the prior written consent of the other Party, the other Party shall be excused from any obligation to indemnify the Party making such settlement or compromise in respect of such settlement or compromise.

(e) Following the acknowledgement of the indemnification and the assumption of the defense by the indemnifying Party, the indemnified Party shall have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such indemnified Party, when and as incurred, unless (i) the employment of counsel by such indemnified Party has been authorized in writing by the indemnifying Party, (ii) the indemnified Party shall have reasonably concluded that there may be a conflict of interest between the indemnifying Party and the indemnified Party in the conduct of the defense of such action, (iii) the indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the indemnified Party to assume the defense of such action and shall have been so notified by the indemnified Party, or (iv) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party either that there may be specific defenses available to it that are different from or additional to those available to the indemnifying Party or that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the



Long

scope of this Agreement. If clause (ii), (iii) or (iv) of the preceding sentence shall be applicable, then counsel for the indemnified Party shall have the right to direct the defense of such claim, action, suit or proceeding on behalf of the indemnified Party and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

9.7 Double Jeopardy

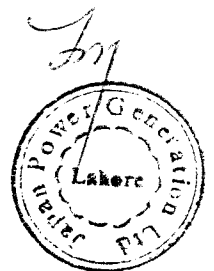
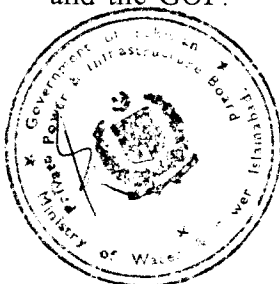
(a) Power Purchase Agreement

(i) Except disputes or breaches related to Articles IV (Term and Termination), XI (Insurance), and XIV (Taxes) and Section 3.1 (Permits, Licenses and Approvals) of the Power Purchase Agreement, settlement or waiver in writing by WAPDA of any dispute or breach under the Power Purchase Agreement shall be binding on the GOP with respect to the identical issue or claim, as the case may be. Settlement or waiver of any dispute or breach related to Articles IV, XI, and XIV and Section 3.1 of the Power Purchase Agreement shall be effective only if agreed to, in writing, by both WAPDA and the GOP.

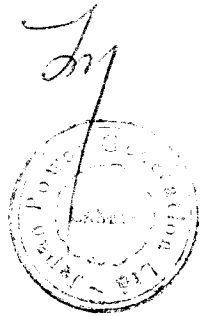
(ii) Notwithstanding any other provision in this Agreement to the contrary, WAPDA shall be responsible in the first instance for pursuing any claim against the Company based upon a failure of the Company to satisfy its obligations under the Power Purchase Agreement. The GOP shall not bring (or other than through WAPDA cause any proceedings to be brought) against the Company for any breach of its obligations under Article IV or Sections 6.1 or 6.2 (to the extent that such Article or Sections relate to substantially the same obligations of the Company under the Power Purchase Agreement) or Section 10.1 if WAPDA has fully pursued, or is then pursuing, the same claim against the Company based upon an alleged breach of the Power Purchase Agreement for failure to meet or satisfy substantially the same obligations. A final, non-appealable order issued in a proceeding initiated by WAPDA and based upon a claim of a breach of the Power Purchase Agreement shall be with prejudice to any proceedings against the Company based solely upon the same claim that the GOP could otherwise bring for breach by the Company of substantially the same obligations under this Agreement. Nothing in this Section 9.7 shall prevent the GOP and WAPDA from separately initiating proceedings to terminate this Agreement and the Power Purchase Agreement, respectively, pursuant to Section 19.2 of this Agreement and Sections 4.2 and 4.4 of the Power Purchase Agreement.

(b) Fuel Supply Agreement

(i) Except for disputes or breaches related to Article XV (Term) (Default) and Section 7.6 (Taxes) of the Fuel Supply Agreement, settlement or waiver in writing by the Fuel Supplier of any dispute or breach under the Fuel Supply Agreement shall be binding on the GOP with respect to the identical issue or claim, as the case may be. Settlement or waiver of any dispute or breach related to Article XV and Section 7.6 of the Fuel Supply Agreement shall be effective only if agreed to, in writing, by both the Fuel Supplier and the GOP.



(ii) Notwithstanding any other provision in this Agreement to the contrary, the Fuel Supplier shall be responsible in the first instance for pursuing any claim against the Company based upon a failure of the Company to satisfy its obligations under the Fuel Supply Agreement. The GOP shall not bring (or other than through the Fuel Supplier cause any proceedings to be brought) against the Company for any breach of its obligations under Article IV or Sections 6.1 or 6.2 (to the extent that such Article or Sections relate to substantially the same obligations of the Company under the Fuel Supply Agreement) or Section 10.1 if the Fuel Supplier has fully pursued, or is then pursuing, the same claim against the Company based upon an alleged breach of the Fuel Supply Agreement for failure to meet or satisfy substantially the same obligations. A final, non-appealable order issued in a proceeding initiated by the Fuel Supplier and based upon a claim of a breach of the Fuel Supply Agreement shall be with prejudice to any proceedings against the Company based upon the same claim that the GOP could otherwise bring for breach by the Company of identical obligations under this Agreement. Nothing in this Section 9.7 shall prevent the GOP and the Fuel Supplier from separately initiating proceedings to terminate this Agreement and the Fuel Supply Agreement, respectively, pursuant to Section 19.2 of this Agreement and Section 15.1 of the Fuel Supply Agreement.



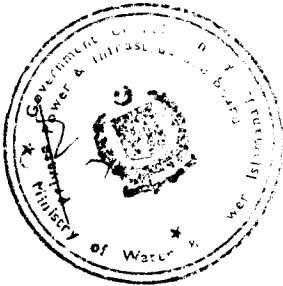
ARTICLE X
INSURANCE

10.1 Maintenance of Specified Policies

The Company shall obtain and maintain insurance from financially strong and internationally reputable insurance companies in accordance with Article XI of the Power Purchase Agreement. If and to the extent that the GOP can be named as an additional insured on all fire, perils, casualty and liability insurance policies covering the Complex, the GOP shall be so named by the Company; provided, however that the GOP shall agree to subordinate its interests in all such policies (except general liability coverage) to the interests of the Lenders therein.

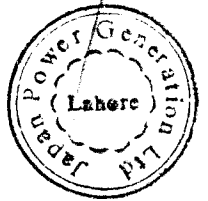
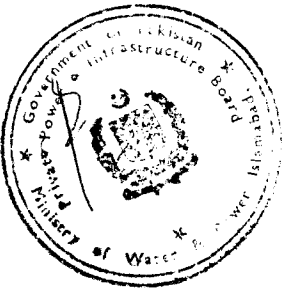
10.2 Application of Proceeds

If any claim is made by the Company under the insurance policies obtained and maintained from time to time under Section 10.1 any proceeds of the claim received by the Company shall be paid into an account established in accordance with the Escrow Agreement. Disbursements from such account shall be controlled by the terms of the Escrow Agreement.



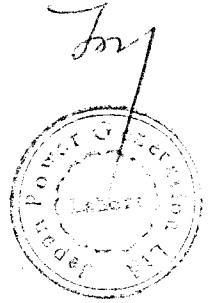
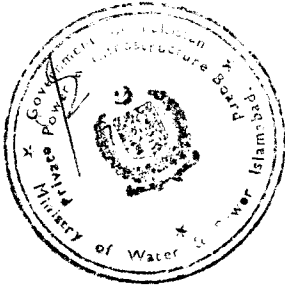
ARTICLE XI
IMMIGRATION CONTROLS

Provided the Company and the Contractors comply with all applicable Laws of Pakistan, the GOP will expeditiously grant applications of the Company and the Contractors for work permits, employment passes, visas, and other permits, as necessary, for individuals involved in the Project. Notwithstanding the foregoing, however, the GOP may, in any individual case, decline to grant an application, or expel a person previously admitted, to protect the national security interests and public health and safety of Pakistan, as reasonably determined by the GOP.



ARTICLE XII
SECURITY PROTECTION

The Company shall provide security personnel for the protection and security of the Site. From time to time, the Company may request additional security forces from the GOP to meet unusual security requirements. All such additional security forces shall remain under the exclusive control and direction of the GOP. All reasonable out-of-pocket expenses incurred by the GOP in providing such security forces requested by the Company shall be reimbursed to the GOP by the Company.



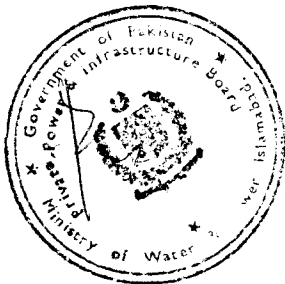
ARTICLE XIII
IMPORT CONTROLS

13.1 Right to Import

The GOP encourages the Company and its Contractors to incorporate as much locally produced material, equipment, and supplies as possible in the construction and operation of the Complex. Nonetheless, the Company and its Contractors shall be entitled to import without restriction, and, prior to the Commercial Operations date, without Customs Duties, all items required for the design, construction, completion, operation and maintenance of the Complex, including without limitation, spare parts and replacements to the spare parts inventory, subject to compliance with any restrictions imposed by the "Negative List" of Chapter 4 of the Import Policy Order (SRO 595 (I)/91, dated 1 July 1991) as modified and updated in the Gazette of Pakistan, Extra, 1 July 1993, 1031-Chapter 4. All items not consumed or incorporated into the Complex may be freely re-exported by the Company without incurring liability for Customs Duties in Pakistan. The GOP may, as provided by the Laws of Pakistan, require the Company to re-export any items or equipment used in the construction of the Complex that are not reasonably required for the Company to operate and maintain the Complex, unless the Company agrees to pay promptly the normal import duties and customs fees for those items and equipment. The Company shall be afforded a reasonable time, but not less than three (3) months following the Commercial Operations date, to re-export any such items or equipment required to be re-exported by the GOP.

13.2 Export and Reimport

The Company shall be entitled to export without restriction all items of plant and machinery imported by it under Section 13.1 for permanent installation in the Complex for the purpose of repair or refurbishment outside Pakistan and to re-import the same without payment of Customs Duties, and the GOP shall, at the request of the Company, use reasonable measures to expedite the issuance of any Consent required for the export and re-import of such plant and machinery.



For

ARTICLE XIV
FOREIGN CURRENCY EXCHANGE AND TRANSFER OF FUNDS

14.1 Foreign Exchange Regulation

The foreign currency exchange and transfer abroad of all funds related to the Project shall be governed by the Foreign Exchange Regulation Act 1947 of Pakistan in conjunction with the Protection of Economic Reforms Act of 1992 of Pakistan, both as amended from time to time.

14.2 Use of Pakistan Bank Accounts; Exceptions

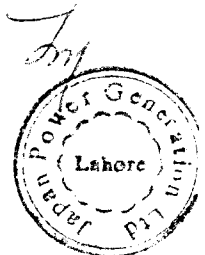
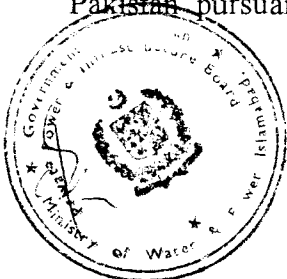
All of the Company's transactions related to the Project that require foreign exchange, including debt servicing and repatriation of earnings, will be initiated through bank accounts in Pakistan; provided, however, that foreign exchange provided by foreign Lenders and used to pay foreign Contractors or vendors in respect of services provided or equipment or materials purchased outside of Pakistan may be paid directly to such persons and not conducted through bank accounts in Pakistan.

14.3 Consent to Foreign Currency Accounts

The GOP shall ensure that the State Bank of Pakistan gives the Company and its Contractors consent for the opening, operation, and retention of earnings of foreign currency bank accounts inside Pakistan (including, without limitation, the payment of all foreign exchange received under the Financing Documents or otherwise by the Company into such accounts and withdrawals therefrom). The GOP shall ensure that the State Bank of Pakistan gives the Company permission to maintain bank accounts outside Pakistan, and transfer funds from its accounts in Pakistan to its accounts maintained outside Pakistan as are necessary to implement and carry out the Project in accordance with this Agreement, the Power Purchase Agreement, and the Fuel Supply Agreement, including, without limitation, such accounts as are reasonably required under the Financing Documents, the Construction Contract, the O&M Agreement and insurance policies related to the Project; provided, however, that nothing in this Agreement shall prevent the Company from opening, operating and retaining moneys in additional foreign currency bank accounts outside Pakistan from time to time after the date of this Agreement if and to the extent that it is or becomes otherwise permitted under the Laws of Pakistan.

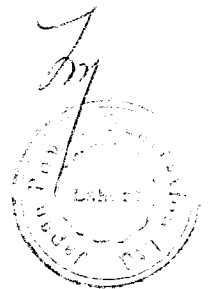
14.4 Availability of Foreign Exchange

(a) Upon application having been made by the Company in the Prescribed Form (such application having been made not less than fifteen (15) Days (excluding GOP declared holidays in Pakistan) prior to the requested date for the foreign currency), the GOP shall, on such requested date, make available to the Company through the National Bank of Pakistan pursuant to the Exchange Risk Insurance, to the extent that the National Bank of



Pakistan stated rate for buying foreign currency specified in the Exchange Risk Insurance is higher than the insured rate, sufficient additional Rupee funds for buying such foreign currency for the Company to purchase through normal commercial banking channels, foreign exchange for the Company's foreign currency debt service payments (whether scheduled or accelerated by the Lenders) and interest (including default interest), commissions, fees, costs, Lender make-whole payments and other pre-payment costs, proceeds from Lenders' foreclosure on assets or the realization of remedies under the Guarantee, with respect to any loans made under the Financing Documents or loans approved by the GOP in connection with a Restoration; provided, Exchange Risk Insurance has been obtained from National Bank of Pakistan for such foreign currency loans. Notwithstanding the foregoing, to the extent that foreign currency is not available through commercial banking channels, the GOP shall cause the National Bank of Pakistan to provide foreign exchange in the currency or currencies for which the Company has obtained Exchange Risk Insurance at the rate stated in the Exchange Risk Insurance (and the Company shall return any Rupee funds provided by the National Bank of Pakistan pursuant to the preceding sentence for that purchase).

(b) In addition, upon application having been made by the Company in the Prescribed Form (such application having been made not less than fifteen (15) Days (excluding GOP declared holidays in Pakistan) prior to the requested date for the Foreign Currency), the GOP shall, on such requested date, make available to the Company through the State Bank of Pakistan, to the extent that Foreign Currency is not available through normal commercial banking channels, Foreign Currency in the requested amount to the extent necessary for (i) meeting the Company's obligations under this Agreement, (ii) the repatriation by the Company of dividends (including distributions upon dissolution or liquidation) to Foreign Investors and repatriation upon conversion of Rupee proceeds of sales of Ordinary Share Capital purchased with foreign currency, which sales are made in accordance with the terms of this Agreement, (iii) after the Commercial Operations Date, the foreign currency expenses of the Project as permitted in Schedule 6 of the Power Purchase Agreement (including, without limitation, remuneration of the O&M Contractor, where applicable, fees, salaries and other monetary emoluments and the purchase of spare parts), (iv) the payment of premiums and fees to off-shore insurers and reinsurers, (v) all payments into, or out of, the Escrow Account that require foreign currency in accordance with the terms of the Escrow Agreement, and (vi) any compensation payments to be made by the GOP pursuant to Section 20.1 in the event of a termination. The rate applicable to such conversion shall be the State Bank of Pakistan's most favourable (to the Company) rate for like-kind purchases of Foreign Currency at 11:00 a.m. on the banking Day immediately preceding the requested date in such application, and the GOP shall ensure that the Company shall, upon receipt, be entitled to immediately remit or cause the remittance of any and all Foreign Currency received.



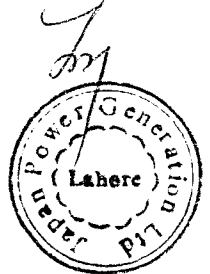
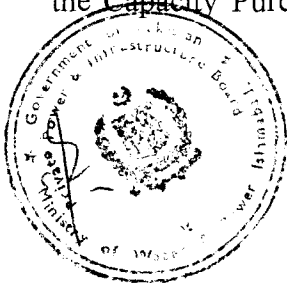
14.5 Free Transfer of Necessary Funds

Without prejudice to Section 14.4, the GOP shall permit the free transfer of all funds and financial settlements necessary to implement and carry out the Project or the implementation of this Agreement or any other agreement forming part of the Security Package and shall insure full and unencumbered repatriation rights with respect to all Foreign Currency converted from Rupees pursuant to Section 14.4 (a) and (b), whether converted through normal banking channels or directly by the state Bank of Pakistan.

14.6 Exchange Risk Insurance

(a) The GOP shall ensure that Exchange Risk Insurance is made available through the National Bank of Pakistan for foreign currency loans to the Company (other than loans from NDFC, as administrator of PSEDF) upon proper application by the Company in the Prescribed Form and payment by the Company of the Prescribed Fees.

(b) As soon as reasonably practicable, but in any event prior to the date by which Financial Closing is required to occur, the Company shall notify the Private Power & Infrastructure Board and WAPDA that it irrevocably elects (a) Exchange Risk Insurance through the National Bank of Pakistan, (b) escalation of the foreign debt portion of the non-escalable component of the Capacity Purchase Price as provided in Schedule 6 of the Power Purchase Agreement with a reduction in the Capacity Purchase Price paid to the Company equal to the Exchange Risk Insurance Component or (c) neither (a) or (b), but no reduction in the Capacity Purchase Price.



ARTICLE XV
ASSIGNMENT AND SECURITY

15.1 Assignment

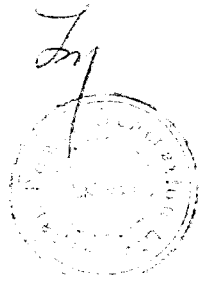
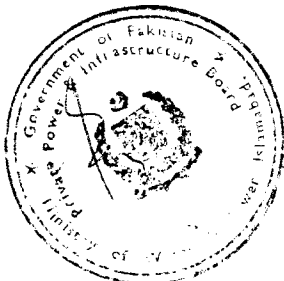
No assignment or transfer by a Party of this Agreement or such Party's rights or obligations hereunder shall be effective without the prior written consent of the other Party.

15.2 Creation of Security

(a) Notwithstanding the provisions of Section 15.1, for the purpose of financing the Project, the Company may, upon the satisfaction of the conditions of Section 15.3, assign to, or create a security interest in favour of the Lenders in, its rights and interests under or pursuant to (i) this Agreement, (ii) any agreement included within the Security Package, (iii) the Complex, (iv) the Site, (v) the movable property and intellectual property of the Company, or (vi) the revenues or any of the rights or assets of the Company. The GOP shall execute all such acknowledgements of any security created in accordance with this Section 15.2 as are reasonably requested by the Company to give effect to the foregoing.

(b) The Lenders shall have no rights (except as expressly provided herein) or obligations to the GOP under this Agreement until such time as the Lenders or their designees succeed to the Company's interest under this Agreement, whether by exercise of their rights or remedies under the Financing Documents or otherwise, in which case the Lenders or their designees shall give notice in writing of such succession to the GOP and shall assume liability for all of the Company's obligations under this Agreement, including payment of any amounts due and owing to the GOP for payment defaults by the Company under this Agreement (other than , so long as the liability insurance required by Section 10.1 has been and is in effect, damages or penalties incurred by the Company under Section 9.2(b)) prior to the date of succession, arising during the period prior to the Lenders' or such designees' succession to the Company's interest in and under this Agreement; provided, that any liability of the Lenders or their designees shall be strictly limited to the Lenders' interest in the Complex. Notwithstanding the foregoing, the GOP shall not be prevented from terminating this Agreement in respect of any liability of the Company arising under Section 9.2(b) that is not assumed by the Lenders. Except as otherwise set forth in the immediately preceding sentence, none of the Lenders or their designees shall be liable for the performance or observance of any of the obligations or duties of the Company under this Agreement, nor shall the assignment by the Company of this Agreement to the Lenders pursuant to Sections 15.2(a) give rise to any duties or obligations whatsoever on the part of any of the Lenders owing to the GOP.

Upon notification in writing by the Lenders or the Agent to the GOP of the occurrence and continuance of an event of default under the Financing Documents and the succession of the Lenders to the Company's interests in and under this Agreement, the Lenders shall have the right, among others, to (i) take possession of the Complex and prior to the



Commercial Operations Date, complete construction of the Complex and operate the same and, after the Commercial Operations Date, operate the same and (ii) cure any continuing Company Event of Default as provided under Section 19.4 of this Agreement. Notwithstanding the foregoing the Lenders shall have no obligation to cure any Company Event of Default that is not capable of being cured, including, but not limited to, a default under Sections 19.1(a)(vi) (operating losses), (vii) (assignment of Company's rights), (viii) (winding up of the Company), (ix) (material misrepresentation) or (x) (acceleration of loans), and no right will exist for the GOP to terminate this Agreement based upon such Company Events of Default occurring prior to the Lenders' notice. Without the requirement of obtaining any further consent from the GOP, upon the exercise by the Lenders or their designees of any of the remedies set forth in the Financing Documents, the Lenders may assign their rights and interests and the rights of the Company under this Agreement to any Transferee (hereinafter defined) so long as such Transferee shall assume in writing for the benefit of the GOP all of the obligations of the Company under this Agreement. Upon such assignment and assumption, the Lenders shall be relieved of all obligations under this Agreement arising after such assignment and assumptions.

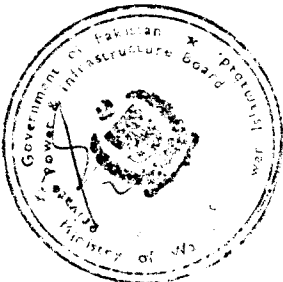
Upon notice to the GOP of a default under the Financing Documents, the GOP shall, at the request (and expense) of the Agent, cooperate with the Lenders in the Lenders' exercise of such rights under this Agreement and the Financing Documents.

(c) As used herein, a "Transferee" shall be a person who (i) either is an experienced power plant operator or shall have agreed to engage the services of a person who is an experienced power plant operator, (ii) shall have paid all amounts, if any, then due and payable to the GOP under this Agreement, and (iii) shall have expressly assumed in writing for the benefit of the GOP the ongoing obligations of the Company under this Agreement (including but not limited to) the obligation of the Company to maintain and operate the Complex in accordance with the requirements of the Power Purchase Agreement.

(d) At the request of the Company, delivered to the GOP not less than thirty Days in advance, the GOP shall execute and deliver at the Financial Closing acknowledgements to the Lenders or their designees with respect to any security created pursuant to this Article XV and the rights of such parties under this Agreement, as the Lenders may reasonably request in accordance with customary practices in transactions of this nature.

15.3 Delivery of Financing Documents; Evaluation of Principal Repayment Schedule

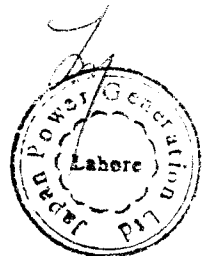
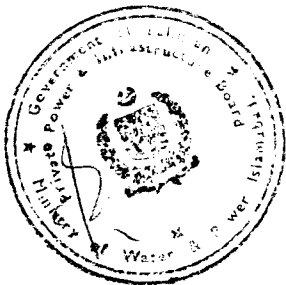
(a) The Company shall deliver to the GOP a schedule or a copy of a proposed term sheet related to the Financing Documents setting forth the expected principal repayment schedule together with other principal financial terms (viz., the principal amounts, the interest rate or rates, and a schedule or formula for the computation of any and all fees and charges payable to the Lenders upon the winding up for early termination of the loans under the Financing Documents) not later than forty-five (45) Days prior to the Financial Closing, and the GOP may evaluate the principal repayment schedule and other principal financial terms to ensure that the other principal financial terms are consistent with the principal repayment



77

schedule, and that the principal repayment schedule is consistent with the Bulk Power Tariff and its underlying assumptions and to evaluate the GOP's obligations upon any termination of this Agreement. If the GOP has any objections to the terms specified in such term sheet or schedule, it shall inform the Company thereof within fifteen (15) Days of its receipt thereof; otherwise, it shall be deemed not to have objected to those terms, and the Company shall be entitled thereafter to execute Financing Documents containing those terms and a principal repayment schedule of the specified term or a shorter term without further notice to or approval by the GOP. Such schedule or term sheet shall be the basis upon which compensation upon termination of this Agreement and acquisition of the Complex by the GOP shall be based. Each loan agreement constituting part of the Financing Documents will provide that any liquidated damages received by the Company from its Construction Contractor for capacity or other testing shortfalls shall be used either to reduce the outstanding principal amount of debt under such loan agreement or in an effort to correct such shortfalls. The Company shall provide the GOP with a copy of the loan agreements executed on the date of Financial Closing not later than fifteen (15) Days after Financial Closing. The GOP shall not unreasonably object to any term sheet or proposed or final principal repayment schedule related to any Financing Documents.

(b) The Company shall deliver to the GOP copies of all non-material amendments to the executed Financing Documents within ten (10) days after the execution of each such document. The Company shall not execute any material amendment or modification related to the repayment of principal (including any refinancing or restructuring of payment obligations under any Financing Document) without submitting to the GOP no less than thirty (30) Days prior to execution of the loan documents a schedule or term sheet setting forth the proposed revised principal repayment schedule and the other principal financial terms or material modifications related thereto. The GOP shall notify the Company of any objections to the term sheet or schedule related to the proposed modification to the principal repayment schedule or material modifications as soon as reasonably possible, and in any case within fifteen (15) Days of receipt of the term sheet or schedule. If the GOP does not object to the principal repayment schedule on or before the end of the period provided for above, the GOP shall be deemed not to object to refinancing on those terms. The GOP shall not object to a refinancing or the terms thereof so long as the principal repayment schedule and other principal financial terms are consistent with the assumptions underlying the Bulk Power Tariff and do not affect its rights or obligations arising upon termination of the Agreement.



ARTICLE XVI
RESTRICTIONS ON ACQUISITIONS AND TRANSFERS OF SHARES AND ASSETS

16.1 Assurance Against Discriminatory Action

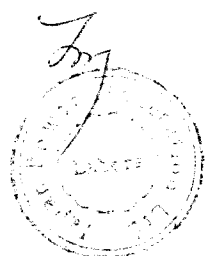
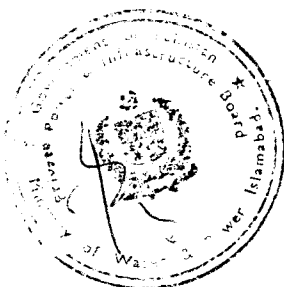
Neither the GOP nor any Federal Entity shall take any discriminatory action which materially and adversely affects the Project or the performance of the Company's obligations or the enjoyment of its rights or the interests of the Investors under the Security Package or expropriate or, except as hereinafter provided, acquire the Complex or the Company, whether in whole or in part. Nothing in the foregoing shall apply to any actions taken by the GOP, WAPDA, or any Federal Entity pursuant to their respective rights and obligations arising under this Agreement, the Power Purchase Agreement and the other documents comprising the Security Package.

16.2 Acquisition of Shares or Assets

The GOP undertakes to the Company that neither it nor WAPDA, the Fuel Supplier, NDFC, or any Federal Entity will expropriate, compulsorily acquire, nationalize, or otherwise compulsorily procure any Ordinary Share Capital or assets (except as provided in Section 20.1 or through the enforcement by NDFC, as administrator of PSEDF, of its security interest in such assets) of the Company. The GOP further undertakes to the Company that during the term of this Agreement neither it nor WAPDA, the Fuel Supplier, NDFC, or any Federal Entity nor any corporation or company directly or indirectly owned or controlled by the GOP and/or any Federal Entity will, otherwise than as mentioned in the preceding sentence, acquire any Ordinary Share Capital if the result would be for the GOP and/or any Federal Entity and/or any corporation or company directly or indirectly owned or controlled by the GOP and/or any Federal Entity to own or control twenty-six percent (26%) or more of the issued Ordinary Share Capital or to control or direct the composition or decisions of the board of directors or the management of the Company. Notwithstanding the foregoing, nothing in this Agreement shall be construed as a waiver by the GOP or WAPDA of WAPDA's exercise of its power of eminent domain so long as it is exercised in accordance with the Laws of Pakistan and the effect of such exercise does not materially adversely affect the Company's ability to perform its obligations and enjoy its benefits under the Power Purchase Agreement or, without just and adequate compensation, adversely affect its use and enjoyment of the Site.

16.3 Restriction on Transfer of Shares

(a) With respect to the transfer of the registered ownership of any Ordinary Share Capital, the Company shall make appropriate provisions in its Articles of Association to ensure compliance with the following provisions of this Section 16.3, shall include appropriate legends on all share certificates evidencing Ordinary Share Capital of the Company to put prospective purchasers of such Ordinary Share Capital on notice of the restrictions in the following provisions and, to the extent permitted by the Laws of Pakistan, shall not register



or give effect to any purported transfer of Ordinary Share Capital that is not in compliance with such restrictions or do not bear such legend.

(b) The Company shall decline to register the transfer of issued Ordinary Share Capital to persons of a nationality that is specifically proscribed in the Consent Order issued to the Company by the Controller of Capital Issues. The GOP undertakes that it shall not proscribe any nationalities under the Consent Order issued by the Controller of Capital Issues or any renewed Consent other than those nationalities that the GOP considers in its sole discretion to be prejudicial to the national security of Pakistan for persons having such nationality to hold Ordinary Share Capital. The Company shall use reasonable means under the circumstances to investigate the declaration of nationality stated on any application for registration or transfer of Ordinary Share Capital, if as a result of such transfer, the Investor making such application would hold five percent (5%) or more of the issued Ordinary Share Capital of the Company. In all other cases, the Company shall be entitled to rely on such declaration to determine whether registration is permitted under this Section 16.3(b). Where any such declaration discloses Pakistani nationality or the nationality of a state not proscribed by the Consent Order issued by the Controller of Capital Issues, then the Company shall be at liberty to register the transfer or issue of the shares.

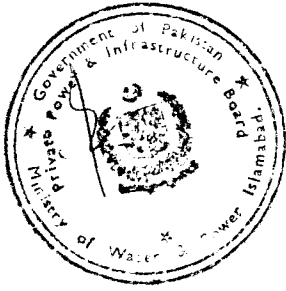
(c) No Initial Shareholder shall transfer any Ordinary Share Capital owned by it at any time prior to the Commercial Operations Date or for a period of six (6) years after the Commercial Operations Date, except for:

- (i) a transfer to another Initial Shareholder;
- (ii) subject to the national security interests of Pakistan as such interests shall be determined in the sole discretion of the GOP, a transfer to an Affiliate of any Initial Shareholder;
- (iii) a transfer required by any Laws of Pakistan or by the operation of the Laws of Pakistan or by order of a court, tribunal, or governmental authority or agency with appropriate jurisdiction;
- (iv) a transfer resulting from the creation or enforcement of a security interest in or over any Ordinary Share Capital in accordance with the Security Package;
- (v) a transfer to which the GOP has given its prior written approval, which approval shall be deemed to be given unless it is denied in writing within thirty (30) Days of the GOP's having received a written request therefor; or
- (vi) a transfer as part of a public offering or private placement; provided, that the Initial Shareholders retain more than fifty-one (51%) percent of the outstanding Ordinary Share Capital.



Signature

(d) No Initial Shareholder shall transfer any Ordinary Share Capital after the expiry of a period of six (6) years from the Commercial Operations Date except with the prior written approval of the GOP; provided however, that the GOP hereby agrees that such approval shall be granted unless the GOP determines in its sole discretion that such a transfer would be prejudicial to the national security interests of Pakistan; provided further, that such approval shall be deemed given unless it is refused in writing within thirty (30) Days of the GOP's receiving a written request therefor.



ARTICLE XVII
FORCE MAJEURE

17.1 Definition

A "Force Majeure Event" shall mean any event or circumstance or combination of events or circumstances that is beyond the reasonable control of a Party and which, or the effects of which, on or after the Day of Financial Closing materially and adversely affects the performance by that Party of its obligations under or pursuant to this Agreement; provided, however, that any such event or circumstance, or combination of events or circumstances, shall not constitute a "Force Majeure Event" hereunder to the extent that it could have been prevented, overcome, or remedied by the affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts or activities to protect a Party's facilities or operations from a casualty event, which acts or activities are reasonable in light of the likelihood of such event, the probable effect of such event if it should occur, and the likely efficacy of the protection measures. "Force Majeure Events" hereunder shall include each of the following events and circumstances, but only to the extent that each satisfies the above requirements:

(a) political events that occur inside or directly involve Pakistan ("Pakistan Political Force Majeure Events"), including, but not limited to:

(i) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism, or sabotage;

(ii) a Lapse of Consent that (A) shall itself have existed for twenty-six (26) Days or more, (B) together with any and all other Lapses of Consents that have occurred in the same Agreement Year, shall have existed in the aggregate for thirty (30) Days or more in such Agreement Year, or (C) together with any and all other Lapses of Consents that have occurred in the same and in the two (2) immediately preceding Agreement Years, shall have existed, in the aggregate, for thirty-five (35) Days or more;

(iii) radioactive contamination or ionizing radiation originating from a source in Pakistan or resulting from another Pakistan Political Force Majeure Event; or

(iv) strikes, works to rule or go-slows that extend beyond the Complex or are widespread or nationwide.

(b) Changes in Law;

(c) other events beyond the reasonable control of the affected Party ("Other Force Majeure Events"), including, but not limited to:



(i) uncontrollable events, including, but not limited to:

(A) lightning, earthquake, tsunami, flood, storm, cyclone, typhoon, or tornado;

(B) fire, explosion or chemical contamination (other than resulting from an event described in Section 17.1(a), in which case it shall be a Pakistan Political Force Majeure Event);

(C) epidemic or plague;

(D) a Lapse of Consent, unless it qualifies as a pakistan political Force Majeure Event; or

(E) prior to the Commercial Operations Date, a delay beyond the thirtieth (30th) Day after the scheduled receipt date of the receipt at the Site of a major piece of equipment that has been timely ordered and must be manufactured expressly for the Project, when such delay is caused solely by a strike or an accident in transportation;

(ii) political events that occur outside Pakistan and do not directly involve Pakistan, including, but not limited to:

(A) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, or act of terrorism;

(B) radioactive contamination or ionizing radiation originating from a source outside Pakistan and not falling within Section 17.1(a)(iii); or

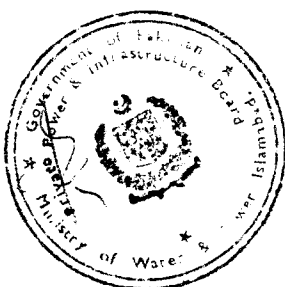
(C) strikes, works to rule, or go-slows that are widespread or nationwide.

(d) Force Majeure Events shall expressly not include the following conditions, except and to the extent that they result directly from a Force Majeure Event:

(i) except as provided in Section 17.1(c)(i)(E), late delivery of machinery, equipment, materials, spare parts or consumables (including fuel) for the Project;

(ii) a delay in the performance of any Contractor; or

(iii) normal wear and tear or random flaws in materials and equipment or breakdowns in equipment.



17.2 Notification Obligations

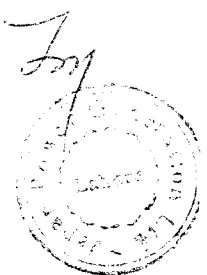
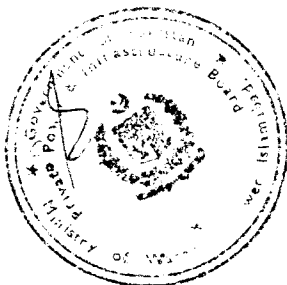
(a) If by reason of a Force Majeure Event a Party is wholly or partially unable to carry out its obligations under this Agreement, the affected Party shall (i) give the other Party notice of the Force Majeure Event(s) as soon as practicable, but in any event, not later than the later of forty-eight (48) hours after the affected Party becomes aware of the occurrence of the Force Majeure Event(s) or six (6) hours after the resumption of any means of providing notice between the Company and the GOP, and (ii) give the other Party a second notice, describing the Force Majeure Event(s) in reasonable detail and, to the extent that can be reasonably determined at the time of the second notice, providing a preliminary evaluation of the obligations affected, a preliminary estimate of the period of time that the affected Party will be unable to perform the obligations, and other relevant matters as soon as practicable, but in any event, not later than seven (7) Days after the initial notice of the occurrence of the Force Majeure Event(s) is given by the affected Party. When appropriate or when reasonably requested to do so by the other Party, the affected Party shall provide further notices to the other Party more fully describing the Force Majeure Event(s) and its cause(s) and providing or updating information relating to the efforts of the affected Party to avoid and/or to mitigate the effect(s) thereof and estimates, to the extent practicable, of the time that the affected Party reasonably expects it will be unable to carry out any of its affected obligations due to the Force Majeure Event(s).

(b) The affected Party shall also provide notice to the other Party of (i) with respect to an ongoing Force Majeure Event, the cessation of the Force Majeure Event, and (ii) the affected Party's ability to recommence performance of its obligations under this Agreement as soon as possible, but in any event, not later than seven (7) Days after the occurrence of each of (i) and (ii) above.

(c) Failure by the affected Party to give notice of a Force Majeure Event to the other Party within the forty-eight (48) hour period or six (6) period required by Section 17.2(a) shall not prevent the affected Party from giving such notice at a later time; provided, however, that in such case, the affected Party shall not be excused pursuant to Section 17.4 for any failure or delay in complying with its obligations under or pursuant to this Agreement until the notice required by Section 17.2(a)(i); has been given. If such notice is given within the forty-eight (48) hour period or six (6) hour period as required by Section 17.2(a)(i), the affected Party shall be excused for such failure or delay pursuant to Section 17.4 from the date of commencement of the relevant Force Majeure Event.

17.3 Duty to Mitigate

The affected Party shall use all reasonable efforts to mitigate the effects of a Force Majeure Event, including, but not limited to, the payment of all reasonable sums of money by or on behalf of the affected Party, which sums are reasonable in light of the likely efficacy of the mitigation measures.



17.4 Delay Caused by Force Majeure

So long as the affected Party has at all times since the occurrence of the Force Majeure Event complied with the obligations of Section 17.3 and continues to so comply, then (i) the affected Party shall not be liable for any failure or delay in performing its obligations (other than an obligation to make a payment) under or pursuant to this Agreement and (ii) any performance deadline that the affected Party is obligated to meet under this Agreement (including without limitation, the Required Commercial Operations Date and, with respect to an intervening Force Majeure Event, any Restoration Schedule) shall be extended; provided, however, that no relief, including without limitation, the extension of performance deadlines, shall be granted to the affected Party pursuant to this Section 17.4 to the extent that such failure or delay would have nevertheless been experienced by the affected Party had the Force Majeure Event not occurred. Other than for breaches of this Agreement by the other Party, and without prejudice to the affected Party's right to indemnification pursuant to Article IX or for payment pursuant to this Article XVII or Article XX, the other Party shall not bear any liability for any loss or expense suffered by the affected Party as a result of a Force Majeure Event. Notwithstanding the foregoing, the GOP shall not be entitled to claim for itself, and shall not be relieved of its obligations hereunder by the occurrence of, a Pakistan Political Force Majeure Event or a Change in Law.

17.5 Compensation; Restoration

(a) If there occurs such a Pakistan Political Force Majeure Event or Change in Law, the GOP shall within twenty-five (25) Days of demand from the Company, pay to the Company, for each Month (or portion thereof) of the Carrying Cost Period (as defined below) an amount equal to (A) the interest accruing under the Financing Documents (the "IDC") if the Pakistan Political Force Majeure Event or the Change in Law occurred prior to the Commercial Operations Date, or (B) the full Capacity Payment if the Pakistan Political Force Majeure Event or the Change in Law occurred after the Commercial Operations Date (but only to the extent that the Capacity Payment is not paid to the Company by WAPDA). The term "Carrying Cost Period" shall mean (i) if the Pakistan Political Force Majeure Event or Change in Law occurs prior to the Commercial Operations Date, the period beginning on the Scheduled Commercial Operations Date prevailing immediately prior to the occurrence of the Pakistan Political Force Majeure Event or Change in Law and ending on (A) if no termination of this Agreement results, the earlier of the date notice was given pursuant to Section 17.2(b)(ii) or the last Day of the Restoration Schedule (as such Restoration Schedule may have been extended due to an intervening Force Majeure Event or pursuant to Section 17.8(b)) or (B) if termination of this Agreement does result, the Day that compensation is paid by the GOP in connection with termination under Articles XVII or XIX; or (ii) if the Pakistan Political Force Majeure Event or Change in Law occurs after the Commercial Operations Date, the period beginning with the onset of the Pakistan Political Force Majeure Event or the Change in Law (unless a timely notice was not given under Section 17.2(a)(i), in which case from the time such notice was given) and ending on either, as appropriate, (A) the earlier of the date notice was given pursuant to Section 17.2(b)(ii) or the last Day of the Restoration Schedule (as such

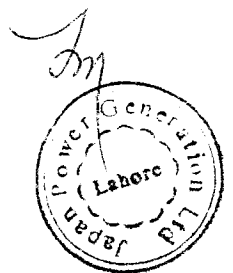
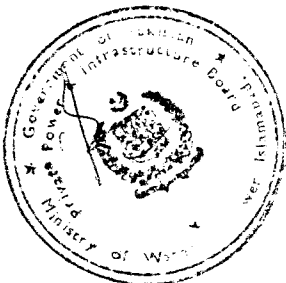


[Handwritten signature]

Restoration Schedule may have been extended due to an intervening Force Majeure Event or pursuant to Section 17.8(b)); or (B) the day that compensation is paid coincident with or following termination of this Agreement under Articles XVII and XIX. In addition, if the Pakistan Political Force Majeure Event occurs prior to the Commercial Operations Date, the GOP shall pay to the Company Monthly, within twenty-five (25) Days of demand by the Company, an amount equal to any principal repayments required to be paid by the Company to the Lenders under the Financing Documents, pro-rated on a monthly basis (the "Principal Payments") beginning not earlier than the Scheduled Commercial Operations Date prevailing immediately prior to the Pakistan Political Force Majeure Event or Change in Law until the earlier of the Commercial Operations Date or the last Day of the applicable Carrying Cost Period. Notwithstanding any contrary provision of this Agreement or the Power Purchase Agreement, all amounts payable under this paragraph are to be paid to the Company no later than the Day the compensation amount determined in accordance with Article XX is paid. In the event that the GOP has made any Principal Payments to the Company during or following a Pakistan Political Force Majeure Event or Change in Law, the GOP and the Company will agree on a schedule for repayment of those Principal Payments, beginning on the Commercial Operations Date, plus interest, paid monthly, on the outstanding balance of any such Principal Payments at the weighted average interest rate prevailing on the loans under the Financing Documents on which the principal repayment was made until the Principal Payments have been repaid in full.

(b) In the event that a Pakistan Political Force Majeure Event results in damage to the Complex or that compliance by the Company with a Change in Law requires a material modification or a material capital addition to the Complex (each such event referred to as "Restoration"), the Company shall, within twenty-eight (28) Days after the date by which it was first required to provide notice to the GOP under Section 17.2(a) or, if the Force Majeure Event has not ended by the time of such notice, within twenty-eight (28) Days of the notice required by Section 17.2(b)(i), develop and deliver to the GOP a preliminary written estimate (the "Preliminary Estimate") of: (i) the projected range of cost to effect the Restoration, less any insurance proceeds available or likely to become available to the Company (the "Restoration Cost Estimate"); and (ii) a preliminary schedule for the completion of the Restoration (such schedule and each such schedule contained in the Report to be delivered pursuant to Section 17.5(d) in connection with an Other Force Majeure Event shall be referred to herein as a "Restoration Schedule"). The Company shall make the Preliminary Estimate as comprehensive and as complete as possible under the circumstances. The GOP and the Company shall meet within fifteen (15) days of the delivery of the Preliminary Estimate to discuss the conclusions set forth therein.

(i) If the Company concludes that the Restoration Cost Estimate will be less than the Threshold Amount (as defined in Section 17.5(f)) and the GOP, within fifteen (15) Days of its receipt of the Preliminary Estimate, agrees with the Restoration Cost Estimate and with the Restoration Schedule, then the Company shall, subject to Section 17.5(f), proceed with the Restoration in accordance with the Restoration Schedule.



(ii) If (A) the Company concludes that the Restoration Cost Estimate will be less than the Threshold Amount and the GOP, within fifteen (15) Days of its receipt of the Preliminary Estimate, notifies the Company that the GOP disagrees with the Company's conclusion and/or that it disagrees with the Restoration Schedule or (B) the Company concludes that the Restoration Cost Estimate will be greater than the Threshold Amount and the GOP, within fifteen (15) Days of its receipt of the Preliminary Estimate, agrees with such conclusion, then the Company shall proceed with the preparation of a Report (as defined in Section 17.6(a)) and the provisions of Section 17.5(c) shall apply.

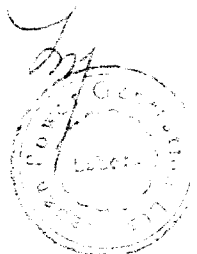
(iii) If the Company concludes that the Restoration Cost Estimate will be greater than the Threshold Amount and the GOP, within fifteen (15) Days of its receipt of the Preliminary Estimate, disagrees with the Preliminary Estimate, such matter (and any disagreement regarding the Restoration Schedule) shall be referred to an expert for resolution pursuant to Section 17.6(c) within twenty (20) Days of the date that the GOP delivers notice to the Company that the GOP disagrees with the Restoration Cost Estimate. If the expert concludes that the Restoration Cost Estimate is less than the Threshold Amount, the provisions of Section 17.5(b)(i) shall apply. If the expert concludes that the Restoration Cost Estimate is greater than the Threshold Amount, then the Company shall proceed with the preparation of a Report and the provisions of Section 17.5(c) shall apply.

(c) If a Report is required to be prepared, then at the conclusion of the meeting or meetings of the Parties to discuss the Report (as required by Section 17.6(b)), the Parties shall either agree or disagree with respect to the Restoration Cost Estimate and the Restoration Schedule. If the Parties reach agreement on such matters, or, in the case of a disagreement, after resolution by an expert pursuant to Section 17.6(c), the GOP shall, within fifteen (15) Days of such agreement or resolution, provide the Company with a written notice of its election to either (i) terminate this Agreement pursuant to Section 17.7(a) and pay the applicable compensation pursuant to Section 20.1(e)(i) or (ii) authorize the Company to proceed with Restoration, in which case the following provisions shall apply:

(i) the Company shall proceed in good faith to try to secure financing for the cost of Restoration on terms satisfactory to the Company and the GOP. If the Company is unable to arrange such financing, then, unless the GOP arranges or agrees to provide financing for the Restoration, the failure to secure financing shall be treated as an election by the GOP to terminate the Agreement pursuant to Section 17.7(a), in which case the GOP will be required to pay the applicable compensation pursuant to Section 20.1(e)(iii);

(ii) if financing for the Restoration has been secured, then the Company shall proceed with the Restoration in accordance with the Restoration Schedule and, upon completion of the Restoration, the Company shall be entitled to special compensation pursuant to Section 17.7(b) or 17.7(c), as the case may be; and

(iii) the Company shall provide the GOP with a summary of all costs actually incurred in implementing the Restoration, together with copies of all invoices for such



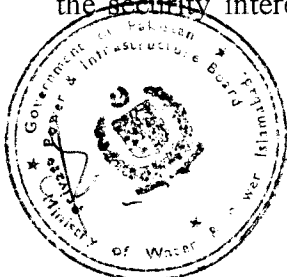
work. During any extension of the term of the Power Purchase Agreement pursuant to Section 4.1(b) of the Power Purchase Agreement resulting from a Pakistan Political Force Majeure Event, the Company shall pay to the GOP an amount equal to the aggregate of the non-escalable component of the Capacity Payments paid to the Company by the GOP under this Section 17.5, Rupee for Rupee, without interest or indexation, as and when received by the Company pursuant to Section 4.1 of the Power Purchase Agreement.

(d) If the Complex or any part thereof is damaged as a result of an Other Force Majeure Event and the Company fails to restore the operation of the Complex within thirty (30) Days following the date that the Company becomes aware of the Other Force Majeure Event, then the Company shall prepare and deliver a Report pursuant to Section 17.6.

(i) If the Company concludes that the Complex can be restored such that the Company can continue to meet its obligations under the Power Purchase Agreement, then the Company shall proceed with the Restoration in accordance with the Restoration Schedule contained in the Report. The cost of the Restoration shall be the sole responsibility of the Company and no special compensation shall be paid to the Company so long as the term of the Power Purchase Agreement is extended Day-for-Day for the period of the Other Force Majeure Event (including the effect thereof).

(ii) If the Company concludes that the Complex can be restored such that the Company can continue to meet its obligations under the Power Purchase Agreement but the GOP does not agree with the Restoration Schedule contained in the Report, then the GOP shall notify the Company within fifteen (15) Days of the receipt of the Report and shall, in such notice, propose an alternative Restoration Schedule. The Company and the GOP shall try, in good faith, to agree upon a revised Restoration Schedule. If the Parties cannot agree upon a revised Restoration Schedule within the fifteen (15) Day period following the notice, then either Party may submit the matter to an expert pursuant to Section 17.6(c) to determine the proper Restoration Schedule. Notwithstanding the foregoing, the Company shall, subject to satisfying any of the conditions or requirements of the entity providing the financing for the Restoration (including any insurance company paying a claim to the Company), have the option to proceed with the Restoration while the issue of the Restoration Schedule is being resolved.

(iii) If the Company concludes that the Complex cannot be restored such that the Company can continue to meet its obligations under the Power Purchase Agreement, then the Company shall have the right to terminate this Agreement, in which case the Company shall not be entitled to any compensation from the GOP and the GOP shall have no further rights to or interest in the Complex; provided, however, that if the GOP wants to acquire the Complex, then, upon delivery of notice to the Company within thirty (30) Days of the termination of this Agreement by the Company, the Parties shall enter into good faith negotiations to establish the terms and conditions pursuant to which the Complex will be sold to the GOP, subject, however, to the salvage rights of any insurance companies and subject to the security interests of the Lenders.



Trg

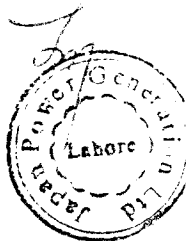
(e) In the event of the occurrence of a force majeure event under (i) the Power Purchase Agreement that prevents the operation of the Complex for more than thirty (30) Days following the occurrence of such force majeure event because WAPDA is unable to receive power from the Complex or (ii) the Fuel Supply Agreement that prevents the operation of the Complex for more than thirty (30) Days following the occurrence of such force majeure event because the Fuel Supplier is not capable of providing fuel to the Complex, the GOP shall prepare and deliver, or cause to be prepared and delivered, a Report pursuant to Section 17.6.

(i) If the GOP concludes that the force majeure event under the Power Purchase Agreement or under the Fuel Supply Agreement, as the case may be, can be resolved within one hundred eighty (180) Days of its occurrence such that operation of the Complex can be restored to enable the Company to continue to meet its obligations under the Power Purchase Agreement, then the GOP shall work with WAPDA or the Fuel Supplier, as the case may be, to resolve such force majeure event. If such force majeure event has not been resolved within one hundred eighty (180) Days of its occurrence, then the Company or the GOP shall have the option to terminate this Agreement after such one hundred eighty (180) Day period and, upon such termination, the GOP shall be required to pay to the Company the appropriate level of compensation as provided in Section 20.1(f).

(ii) If the GOP concludes that the force majeure event cannot be resolved within 180 Days of its occurrence, it shall be deemed an election by the GOP to terminate this Agreement pursuant to Section 17.7(a). and the GOP shall be required to pay to the Company the amount of compensation provided in Section 20.1(f).

(f) Notwithstanding any provision of this Article XVII to the contrary, the Company shall not be obligated hereunder to proceed with any Restoration unless and until the Company has received all necessary Consents therefor. The Company shall use good faith efforts to obtain such Consents as soon as reasonably practicable. If, despite the Company's good faith efforts, the Company is unable for any reason other than its own fault to obtain any such Consents within a reasonable period of time not to exceed six (6) months after the date that the Company becomes obligated to proceed with any Restoration, then either Party shall have the right to terminate this Agreement. Upon any such termination which is due to the Company's inability to obtain any Consents, GOP shall be required to pay to the Company the applicable compensation pursuant to Section 20.1(g).

(g) Upon the occurrence of, and during the continuance of, any Pakistan Political Force Majeure Event or Change in Law that, in either case, does not require a Restoration, but, prior to the Commercial Operations Date, results in an extension of the Required Commercial Operation Date or, after the Commercial Operations Date, results in a decrease of the Capacity Payment (a "Non-Restoration Event"), then the GOP shall pay to the Company, within twenty-five (25) Days of its demand, for each Month (or portion thereof) of the Carrying Cost Period (as defined below) (i) the IDC if the Pakistan Political Force



Event or the Change in Law occurred prior to the Commercial Operations Date and (ii) the full Capacity Payment if the Pakistan Political Force Majeure Event or the Change in Law occurred after the Commercial Operations Date but only to the extent that the Capacity Payment is not paid to the Company by WAPDA. The term "Carrying Cost Period" for purpose, of this Section 17.5(f) only shall have the same meaning as it bears in Section 17.5(a), except all references to the Restoration Schedule shall be ignored. The GOP shall also make Principal Payments to the Company for the purpose, in the manner, and for the period described in Section 17.5(a). If the GOP paid Principal Payments to the Company in connection with this Pakistan Political Force Majeure Event or Change in Law, the Company shall repay them and pay interest on the outstanding balance, all in the manner set out in Section 17.5(a).

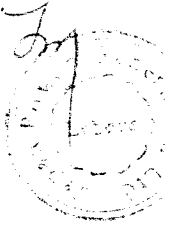
(h) For purposes of this Article XVII, the term "Threshold Amount" shall mean an amount equal to: (i) 10% of the Construction Contract price through the fifth (5th) anniversary of the Commercial Operations Date; (ii) 7.5% of the Construction Contract price after the fifth (5th) anniversary of the Commercial Operations Date through the tenth (10th) anniversary of the Commercial Operations Date; and (iii) 5% of the Construction Contract price after the tenth (10th) anniversary of the Commercial Operations Date through the end of the initial term of the Agreement. If more than one event that requires a Restoration occurs during the term of this Agreement, the calculation of the Threshold Amount shall aggregate amounts spent on Restoration, taking into account properly incurred expenditures on prior Restorations and the amount estimated to be necessary for the Restoration under consideration; and the amount shall equal 12% of the Construction Contract price.

(i) Notwithstanding anything herein to the contrary, in the event of the occurrence of a Pakistan Political Force Majeure Event that continues for a period exceeding one hundred eighty (180) Days (not including the effects thereof), either Party shall have the option to terminate this Agreement after such one hundred eighty (180) Day period by delivering written notice of such termination to the other Party, and, upon such termination, the GOP shall be required to pay to the Company the compensation provided in Section 20.1(e)(v).

17.6 Appraisal Report and Use of Expert

(a) When required by Section 17.5(b), 17.5(d), or 17.5(e), the Company or the GOP, as the case may be, shall commence the preparation of an appraisal report (the "Report") within thirty (30) Days after the date it was required to provide a notice under Section 17.2(a)(i) (and deliver a copy of such Report to the other Party within fifty-eight (58) Days after it was required to provide such notice). The Report shall address, in such detail as is practicable under the circumstances and accompanied by reasonable supporting data, the following matters (to the extent applicable):

(i) in the case of a Force Majeure Event covered by Section 17.5(b) or 17.5(d), (i) describe the Force Majeure Event and the damage to, and/or the other effects or impacts on, the Complex, (ii) estimate in good faith the time it will take to restore the



Complex (as much as it may be possible to do so) to its condition immediately prior to the Force Majeure Event or to bring the Complex into compliance with the Change in Law and (iii) propose a Restoration Schedule; or

(ii) in the case of a Force Majeure Event covered by Section 17.5(e), (i) describe the Force Majeure Event and the damage to, and/or the effects or impacts on WAPDA or the Fuel Supplier, as the case may be, and (ii) estimate in good faith the time it will take to restore the system of WAPDA or the fuel supplier to service such that the Complex can resume its normal operations.

(iii) in the case of a Force Majeure Event covered by Section 17.5(b), provide a statement and explanation in good faith regarding whether restoration or modification of the Complex or necessary capital additions are technically feasible and financially viable, including the Company's good faith estimate of:

(A) the costs to restore the Complex to its condition immediately prior to the Force Majeure Event or the costs to come into compliance with the Change in Law, as the case may be;

(B) a revised cash flow forecast for the Complex;

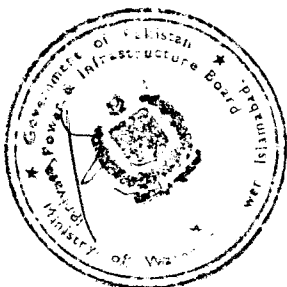
(C) the insurance proceeds, if any, that may be recovered, the date or dates on which such proceeds may be received, and the particular purposes for which such proceeds are required to be applied; and

(iv) in the case of a Force Majeure Event or a Change in Law covered by Section 17.5(b), describe the plan to finance the costs of the Restoration, how such financing will be coordinated with the current loans under the Financing Documents, and any special requirements of the Lenders for the Restoration;

(v) in the case of a Force Majeure Event or a Change in Law covered by Section 17.5(b), the projected modification to the tariff in the Power Purchase Agreement that would be required to pay special compensation under Section 17.7; and

(vi) in the case of a Force Majeure Event covered by Section 17.5(b), 17.5(c), or 17.5(d), provide certificates and reports of the Company's or the GOP's, as the case may be, financial and technical advisers, as appropriate or as reasonably requested by the Party receiving the report, in support of the applicable matters referred to in this Section 17.6(a).

(b) Within fifteen (15) Days of the delivery of a Report to a Party or such further time as the Parties may agree, the Parties shall meet to discuss the Report and any action(s) to be taken. In connection with the review by a Party of a Report prepared by the other Party, the Party responsible for the preparation of the Report shall provide promptly to



Am

the other Party such additional financial and related information pertaining to the Report and the matters described therein as the Party receiving the report may reasonably request.

(c) The following disputes between the GOP and the Company shall be submitted to an expert for resolution within the time periods specified: (i) with respect to disputes regarding any matter set forth in a Report, no later than ten (10) Days after expiration of the period for review and consultation provided by Section 17.6(b); (ii) with respect to disputes pursuant to Section 17.5, within the applicable period provided for in Section 17.5; and (iii) with respect to whether an item of cost incurred by the Company should be recovered as provided in Section 17.7(d), within ten (10) Days following the delivery of a written request to do so by either Party.

(i) The expert shall be an engineer with extensive experience in the construction and operation of electric power plants similar to the Complex. The expert shall be chosen by the Parties or, failing agreement between the Parties, by the World Bank in writing. Unless the Parties otherwise agree, the expert shall not be an officer, employee or agent or former officer, employee or former agent of either Party, nor a national of Pakistan.

(ii) If the Company or the GOP reasonably believes that the cost of a Restoration is likely to exceed two-thirds ($2/3$) of the Threshold Amount, then the Parties shall cooperate in good faith to select an expert each time that a Preliminary Estimate is to be prepared pursuant to Section 17.5 and engage such expert to be available in case a dispute will need to be resolved. The expert shall be provided with a copy of the Preliminary Estimate and any other written materials prepared by either Party and asked to read all materials that are provided. These initial costs to have the expert available and prepared to resolve a dispute quickly shall be shared equally by the Parties.

(iii) Once a dispute is referred to the expert, each Party shall provide all materials in support of its position to the expert and to the other Party within ten (10) Days of the expert's selection and may, within five (5) Days of the date it receives information from the other Party, submit such additional information to the expert in response to the information submitted. Each party shall use its best efforts to provide the expert with any additional information the expert requests. The expert shall be charged with the responsibility to use his best efforts to render his decision regarding any referred matter within thirty (30) Days of the date of the referral. Each Party shall be responsible to pay fifty percent (50%) of the costs of the expert and to pay for its own costs; provided, however, that if the expert determines that the position of a Party had substantially no merit, the expert, as part of his decision, may require one Party to pay for all of the costs of the other Party.

(iv) Notwithstanding any other provision in this Agreement to the contrary regarding the role of experts in resolving disputes, the decision of the expert as to any matter referred under Sections 17.5 and 17.6 shall be final and binding on both Parties and shall not be subject to appeal. The Parties expressly waive, to the fullest extent permitted



7/17

by law, any and all rights that they may now have or may have in the future to contest the decision of the expert before any court or other adjudicatory or administrative body.

17.7 Special Compensation for Force Majeure Events

(a) In the case of a Force Majeure Event that is covered by Section 17.5(c), 17.5(d), or 17.5(e), the GOP shall determine whether to proceed with the Restoration (subject to the obligation to pay special compensation pursuant to Sections 17.7(b) or 17.7(c), as the case may be), or terminate this Agreement. The Company acknowledges that the GOP may delegate the review of a Report to WAPDA, the Fuel Supplier, or any Relevant Authority and agrees to cooperate with WAPDA, the Fuel Supplier, or any such Relevant Authority as if it were the GOP. In the case of a Force Majeure Event covered by Section 17.5(c) or 17.5(d), the determination required to be made by the GOP under this Section 17.7(a) shall be made no later than fifteen (15) Days after the receipt of the Report by the GOP; provided, however, that if any matter is submitted to an expert for resolution pursuant to Section 17.6(c), such determination shall be made by the GOP no later than ten (10) Days after the decision is made by the expert. In the case of a Force Majeure Event covered by Section 17.5(e), the determination required to be made by the GOP under this Section 17.7(a) shall be made no later than ten (10) Days after the earlier to occur of (i) the delivery of the Report by the GOP and (ii) the due date of the Report.

(b) In the case of a Pakistan Political Force Majeure Event covered by Section 17.5(b), the Company shall, unless this Agreement has been terminated by the GOP pursuant to Section 17.7(a) or 17.8(b), be entitled to an increase in the tariff pursuant to Section 13.6 of the Power Purchase Agreement to recover the costs incurred in effecting the Restoration as provided in Section 17.7(d).

(c) In the case of a Change in Law covered by Section 17.5(b), the Company shall, unless this Agreement has been terminated by the GOP pursuant to Sections 17.7(a) or 17.8(b), be entitled to an increase in the tariff pursuant to Section 13.7 of the Power Purchase Agreement to recover the costs incurred in effecting the Restoration as provided in Section 17.7(d).

(d) The costs to be recovered by the Company pursuant to Section 13.6 and Section 13.7 of the Power Purchase Agreement shall be the costs that are actually incurred by the Company to effect the Restoration (including IDC incurred in connection therewith), to the extent those costs exceed any insurance proceeds; provided, however, that each such item of cost shall have been reasonable and necessary for the Company to effect such Restoration. The Company shall deliver a schedule of such costs to the GOP, together with copies of the invoices, for review by the GOP. If the GOP contests any item of cost and the GOP and the Company cannot agree, the issue of whether such item of cost should be recovered under the Power Purchase Agreement shall be referred to an expert pursuant to Section 17.6(c).

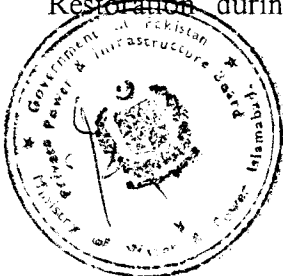


(e) If there is any Dispute as to whether any payment is due and payable to the Company pursuant to this Section 17.7 or any Dispute as to the amount or timing of any such payment, then pending resolution of the Dispute, GOP or WAPDA, as the case may be, shall be obligated to pay to the Company the undisputed amount and pay any disputed amount into an escrow account established for that purpose. Amounts paid by the GOP or WAPDA that are ultimately determined not to be chargeable to GOP or WAPDA, as the case may be shall be re-paid by the Company to GOP or WAPDA with mark-up equal to the Base Rate (as defined in the Power Purchase Agreement) plus two percent (2%) from the date of payment to the date of repayment by the Company.

17.8 Termination as a Result of a Force Majeure Event

(a) If this Agreement is terminated as a result of a Force Majeure Event or Change in Law covered by Section 17.5(c), 17.5(d), or 17.5(e), then the provisions of Section 20.1(e) or 20.1(f) shall be applied to determine whether compensation is to be paid by the GOP to the Company.

(b) If the Company is required to proceed with a Restoration pursuant to Section 17.5(b), 17.5(c), 17.5(d), or 17.5(e) and the Restoration has not been or will not be completed by the end of the Restoration Schedule (as such Restoration Schedule may have been extended due to an intervening Force Majeure Event), or within the Restoration Cost Estimate, then the Company shall develop a revised cost estimate and schedule as soon as possible and deliver such revised cost estimate and schedule along with an explanation of the delay or revised cost or both to the GOP. If the GOP agrees that the delay and revised schedule, or revised cost estimate are reasonable and do not result from negligence, fault or unnecessary delay by the Company, (whether in the preparation of the Restoration Schedule and Restoration Cost Estimate in light of the information reasonably available at the time, and under the circumstances under which the Restoration Cost Estimate and Restoration Schedule were required to be prepared), or in effecting the Restoration, or otherwise, the GOP shall continue making payments of IDC or Capacity Payments, as the case may be. If the GOP does not accept the explanation or the revised schedule or cost estimate, the matter shall be referred to an expert selected pursuant to Section 17.6 for resolution, and the GOP shall continue making the appropriate payments pending resolution of the dispute by the expert. The expert shall make its determination with respect to the revised schedule or revised cost and the Company's liability therefor within thirty (30) Days of such referral. If the expert determines that the delay was not reasonable and that it was due to the Company's negligence, fault, or unnecessary delay, the Restoration Schedule shall not be revised. If the expert concludes that the delay was reasonable under the circumstances and not due to the negligence, fault or unreasonable delay of the Company, the expert shall fix the revised Restoration Schedule and Restoration Cost Estimate. If the revised Restoration Cost Estimate is more than one hundred fifteen percent (115%) of the Restoration Cost Estimate, or the revised Restoration Schedule is more than one hundred fifteen percent (115%) of the Restoration Schedule, the GOP may elect to terminate this Agreement, unless the Company elects to attempt to complete the Restoration during the Extended Period, as described below. Upon such termination, the



[Handwritten signature]

provisions of Section 20.1(e)(vi) will apply. If the revised Restoration Cost Estimate or Restoration Schedule do not exceed the one hundred fifteen percent (115%) threshold or the GOP does not terminate this Agreement, the GOP shall continue to make IDC payments or Capacity Payments, as the case may be, to the Company during such revised schedule period. After the end of the Restoration Schedule, as it may have been revised, the GOP shall have no further obligation to make payments of IDC or Capacity Payments, as the case may be, and any additional costs incurred by the Company to expedite the completion of the Restoration shall not be included in the costs that form the basis of the tariff under Section 13.6 or 13.7 of the Power Purchase Agreement. Notwithstanding the foregoing, if the Restoration has not been completed by the end of the Extended Period (as defined in the next sentence), then, unless the Company has diligently attempted and is diligently attempting to complete the Restoration, the GOP shall be entitled to terminate this Agreement upon thirty (30) Days notice, whereupon Section 20.1(d) or (e)(iv), as the case may be, shall apply. The Extended Period shall commence on the first Day following the end of the Restoration Schedule (as such Restoration Schedule may have been extended due to an intervening Force Majeure Event or revised in accordance with this Section 17.8(b)) and will end on the last Day of a period equal to twenty-five (25) percent of the number of Days in the Restoration Schedule (as it may have been revised); provided, however, that the Extended Period shall be extended for the full period of any intervening Force Majeure Event plus the period of time necessary for the Company to overcome the effects of the intervening Force Majeure Event.



ARTICLE XVIII
TAXATION

18.1 Taxation of the Company

(a) The Company shall not be subject to taxation in Pakistan (or withholding of tax by WAPDA or the GOP) on its income from Capacity Payments and Energy Payments (each as defined in the Power Purchase Agreement) and other payments under Section 17.7 of this Agreement and Schedule 6 of the Power Purchase Agreement, including without limitation, one or more supplemental tariffs under Sections 13.6 and 13.7 of the power purchase Agreement for the term of the Power Purchase Agreement, including any extension thereof; provided, that the Company complies with the conditions specified in Clause (176) of Part-I of the Second Schedule to the Income Tax Ordinance, 1979, as such Clause (176) is in effect on the date of this Agreement.

(b) The Company and its Contractors shall be allowed to import plant and equipment and spare parts prior to the Commercial Operations Date without payment of Customs Duties, sales taxes, Iqra, Flood Relief Surcharges and other surcharges, as well as without payment of Import License fees.

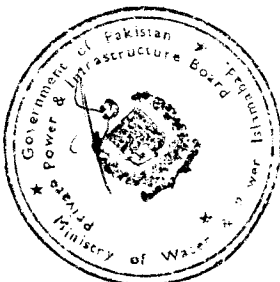
(c) The Company shall be allowed to register anywhere in Pakistan, and may change its registration from time to time, in order to avail itself of favorable stamp duty and/or registration fee rates for registration of the Financing Documents and other documents and instruments executed in connection therewith.

18.2 Taxation of Lenders

During the term of the Power Purchase Agreement and any extension thereof, the non-resident Lenders shall not be subject to taxation or withholding of tax in Pakistan regarding their income from interest, mark-up, fees, or other payments arising from loans extended to the Company for purposes of the design and construction of the Complex and the permanent financing provided to the Company for the Project pursuant to the Financing Documents, subject, however, to fulfillment of all applicable conditions specified in the relevant bilateral tax treaty applicable to each Lender's country in conjunction with the Income Tax Ordinance, 1979, as amended at the time the related Financing Documents become effective.

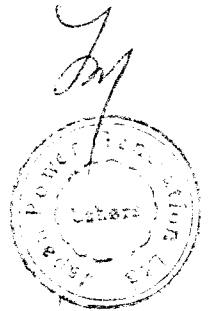
18.3 Foreign Investors

Foreign Investors will be governed by the bilateral tax treaties with their respective countries. If there is no bilateral tax treaty between Pakistan and any Foreign Investor's country of residence, the Foreign Investor will be taxed in accordance with the Laws of Pakistan.



18.4 Confirmation that Certain Taxes Are Not Applicable

The GOP hereby confirms that as of the date of the execution of this Agreement: (i) excise duty is not applicable to sales of electricity or loans from the foreign Lenders; (ii) excise duty on the sale of Fuel is borne by the Fuel Supplier and is included in the Fuel Price as defined in Schedule 6 of the Power Purchase Agreement; (iii) sales tax is not applicable to the sale of electricity to WAPDA; (iv) there are no Octroi charges on the supply of electricity from the Company to WAPDA. To the extent that any such duties, taxes or charges (or any substitute therefor) become applicable and have to be paid by the Company, the full amount of such duties, taxes or charges shall be Pass-Through Items (as defined in the Power Purchase Agreement).



ARTICLE XIX
TERMINATION

19.1 Termination for Default

(a) Termination by the GOP

Each of the following events shall be an event of default by the Company (each a "Company Event of Default"), which, if not cured within the time period permitted (if any) to cure, shall give rise to the right on the part of the GOP to terminate this Agreement pursuant to Section 19.2; provided, however, that no such event shall be an Event of Default by the Company (i) if it results from a breach by the GOP of this Agreement or the Guarantee, (ii) if it results from a breach by WAPDA of the Power Purchase Agreement or (iii) if it results from a breach by the Fuel Supplier of the Fuel Supply Agreement or (iv) if it occurs as a result of or during a Force Majeure Event for the period provided pursuant to Section 17.4:

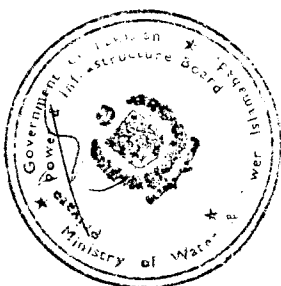
(i) the failure of the Company to achieve Financial Closing within twelve (12) months of the date of execution of the Letter of Support, July 27, 1994, as such 12 month period may be extended pursuant to the terms of Section 6.3(b);

(ii) the failure of the Company (A) to achieve Construction Start and (B) to satisfy all conditions precedent to the initial availability of funds under the Financing Documents, each within ninety (90) Days after Financial Closing;

(iii) the failure of the Company to achieve the Commercial Operations Date within fifteen (15) months after the Required Commercial Operations Date;

(iv) after Construction Start but prior to the achievement of the Commercial Operations Date, the abandonment of the Project by the Company or the failure of the Company to prosecute the Project in a diligent manner for a period of thirty (30) consecutive Days without prior notice to, and the prior written consent of, the GOP; provided, however, that after the commencement of on-site construction of the Complex, the Company shall not be deemed to have abandoned its construction of the Complex (and therefore its prosecution of the Project) so long as it is using its best efforts to regain control of the Complex or reinstate such construction;

(v) after the Commercial Operations Date, the Abandonment by the Company of the operation of the Complex after the Commercial Operations Date for a consecutive period of thirty (30) Days without prior notice to, and the prior written consent of, the GOP; provided, however, that the Company shall not be deemed to have abandoned its operation of the Complex so long as it is using its best efforts to regain control of the Complex or reinstate such operation;



(vi) the incurrence of cumulative operating losses (determined in accordance with generally accepted accounting principles in Pakistan consistently applied without taking into account any depreciation) in an amount greater than or equal to the sum of (i) fifty percent (50%) of the amount of the equity funds committed at Financial Closing and (ii) any equity contributed by the shareholders of the Company in excess of the equity funds committed at Financial Closing;

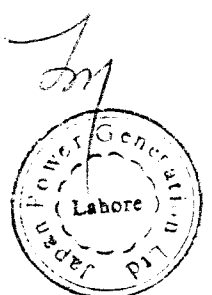
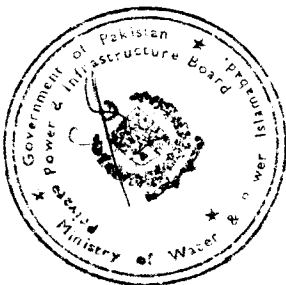
(vii) the assignment or transfer of the Company's rights or obligations in the assets identified in Section 15.2(a) without obtaining the prior written consent of the GOP or the transfer, conveyance, loss, or relinquishment of the Company's right to own and/or operate the Complex or any material part thereof or to occupy the Site to any person without the prior written approval of the GOP;

(viii) except for the purpose of amalgamation or reconstruction (provided that such amalgamation or reconstruction does not affect the ability of the amalgamated or reconstructed entity, as the case may be, to perform its obligations under this Agreement), the occurrence of any of the following events: (i) the passing of a resolution by the shareholders of the Company for the winding up of the Company; (ii) the voluntary filing by the Company of a petition of bankruptcy, moratorium, or other similar relief; (iii) the appointment of a Provisional Liquidator in a proceeding for the winding up of the Company after notice to the Company and due hearing, which appointment has not been set aside or stayed within ninety (90) Days of such appointment; (iv) the making by a court with jurisdiction over the Company of an order winding up the Company that is not stayed or reversed by a court of competent authority within thirty (30) Days;

(ix) any statement, representation, or warranty by the Company in this Agreement proving to have been incorrect, in any material respect, when made or when deemed to have been made and such failure or incorrect statement, representation, or warranty having a material and adverse effect on the Company's ability to perform its obligations under this Agreement;

(x) Lenders holding at least seventy-five percent (75%) by value of outstanding principal under the Financing Documents demand repayment of their loans in full prior to maturity in accordance with the terms of the relevant Financing Documents;

(xi) unless such breach is caused solely by a breach of the Power Purchase Agreement or the Fuel Supply Agreement by WAPDA or the Fuel Supplier, respectively, any material breach by the Company of this Agreement, the Power Purchase Agreement, or the Fuel Supply Agreement that is not remedied within thirty (30) Days after notice from the GOP, WAPDA, or the Fuel Supplier, as the case may be, stating that a material breach of such agreement has occurred that could result in the termination of the agreement, identifying the material breach in question in reasonable detail, and demanding remedy thereof;



(xii) any default by the Company in the making of any payment or payments required to be made by it under the power Purchase Agreement or the Fuel Supply Agreement, as the case may be, on the due date specified in such agreement that continues unpaid for thirty-five (35) Days; or

(xiii) any change in the composition of the Initial Shareholders from the parties from those identified in the application for the Letter of Support or any transfer or sale of Ordinary Share Capital that is not in compliance with the terms of Section 16.3.

(b) Termination by the Company

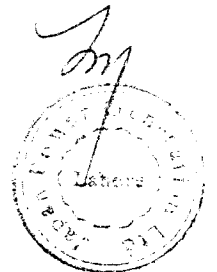
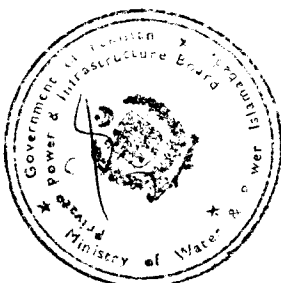
Each of the following events shall be an event of default by the GOP (each a "GOP Event of Default"), which, if not cured within the time period permitted (if any) to cure shall give rise to the right on the part of the Company to terminate this Agreement pursuant to Section 19.2; provided, however, that no such event shall be an Event of Default by the GOP (i) if it results from a breach by the Company of the Power Purchase Agreement, the Fuel Supply Agreement or this Agreement or (ii) if it occurs as a result of a Force Majeure Event during the period provided pursuant to Section 17.4:

(i) The expropriation, compulsory acquisition, or nationalization by the GOP or any Federal Entity (except as provided in Section 20.1 or through the enforcement by NDFC, as administrator of PSEDF, of its security over such assets) of (i) any Ordinary Share Capital, or (ii) any material asset or right of the Company (except as contemplated by the Security Package);

(ii) The failure by the Company to obtain the Consents specified in Schedule 1 as and within the six (6)-month period provided in Section 6.3(b), so long as such failure is not the result of the fault of, or delay by, the Company;

(iii) Any procurement by the GOP or any Federal Entity (except as provided in Section 20.1 or through the enforcement by NDFC, as administrator of PSEDF, of its security over such assets) of (i) any Ordinary Share Capital if the result would be for the GOP and/or any Federal Entity to acquire control of the Company or its management, or (ii) any material asset or right of the Company (except as contemplated by the Security Package);

(iv) The dissolution, pursuant to law, of WAPDA, except for (i) the privatization of WAPDA's thermal power stations or area boards or (ii) an amalgamation, reorganization, reconstruction, or further privatization of WAPDA where the GOP without interruption guarantees the performance of the succeeding entity on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligation of the succeeding entity that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee;



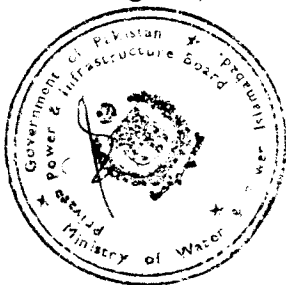
(v) If Fuel Supplier is a Federal Entity: The dissolution, pursuant to law, of the Fuel Supplier, except for an amalgamation, reorganization, reconstruction, or privatization of the Fuel Supplier where the GOP without interruption guarantees the performance of the succeeding entity on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligation of the succeeding entity that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee;

(vi) Any default or defaults by the GOP in the making of any payment or payments required to be made by it under the Guarantee referred to in Article XXII on the due date for payment specified in the Guarantee that continues unpaid for five (5) Business Days;

(vii) Any material breach by the GOP of this Agreement that is not remedied within thirty (30) Days after notice from the Company to the GOP stating that a material breach of the Agreement has occurred that could result in the termination of this Agreement, identifying the material breach in reasonable detail, and demanding remedy thereof;

(viii) Any material breach by WAPDA or the Fuel Supplier of the Power Purchase Agreement or the Fuel Supply Agreement, respectively, including but not limited to the failure by WAPDA to provide the security for payment required by Section 9.4(f)(ii) of the Power Purchase Agreement, that is not remedied within thirty (30) Days after the receipt of a notice from the Company to WAPDA or the Fuel Supplier, as the case may be, in each case with a copy of such notice to the GOP, that states that a material breach of the applicable agreement has occurred that could result in the termination of that agreement, identifies the breach in reasonable detail, and demands remedy thereof;

(ix) Any change in, or any change in the interpretation of, any applicable Laws of Pakistan (including the Constitution of Pakistan and any other Law of Pakistan that gives effect to the injunctions of Islam) (A) making unenforceable, invalid, or void any material undertaking of the GOP, WAPDA, or the Fuel Supplier under this Agreement, the Guarantee, the Power Purchase Agreement, the Fuel Supply Agreement; provided, however, that for so long as the GOP, WAPDA, or the Fuel Supplier, as the case may be, continues to perform each such material undertaking that has been made unenforceable, invalid, or void, and provides adequate assurance to the Lenders that it will continue to perform or will be able to perform its undertakings under the affected agreement for the remaining balance of the term of this Agreement, no GOP Event of Default shall exist hereunder, or (B) making it unlawful for the Company, the Contractors, the Lenders or the Investors to make or receive any payment, to perform any obligation or to enjoy or enforce any material right under this Agreement or any other document in the Security Package, or any such payment, the performance of any such material obligation or the enjoyment or enforcement of any such material right unenforceable, invalid or void as a result of any such change in, or change in the interpretation of, law; or



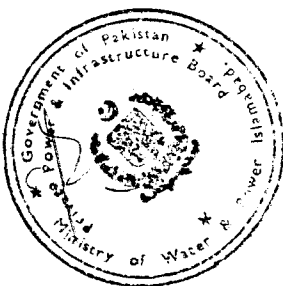
(x) Any change in any of the Laws of Pakistan placing any material restrictions or limitations (beyond those restrictions or limitations that are in existence on the date of the execution of this Agreement) on the ability of the Company to exchange Rupees for Foreign Currency or for the Foreign Investors to repatriate any dividends (or distributions of capital not arising in connection with a breach of this Agreement) from the Company to the Foreign Investors which restrictions or limitations remain in place for more than one hundred and eighty (180) Days without an arrangement being provided to exempt the Company or its Foreign Investors from all such restrictions and limitations.

19.2 Termination Notices

(a) Upon the occurrence of a GOP Event of Default or a Company Event of Default, as the case may be, that is not cured within the applicable period (if any) for cure, the non-defaulting Party may, at its option, initiate termination of this Agreement by delivering a notice (a "Notice of Intent to Terminate") of its intent to terminate this Agreement to the defaulting Party. The Notice of Intent to Terminate shall specify in reasonable detail the Company Event of Default or the GOP Event of Default, as the case may be, giving rise to such notice.

(b) Following the delivery of a Notice of Intent to Terminate, the Parties shall consult for a period of up to forty-five (45) Days in case of a failure by either Party to make payments when due, and up to ninety (90) Days with respect to any other Event of Default (or such longer period as the Parties may mutually agree), as to what steps shall be taken with a view to mitigating the consequences of the relevant Event of Default taking into account all the circumstances. During the period following the delivery of the Notice of Intent to Terminate, the Party in default may continue to undertake efforts to cure the default, and if the default is cured at any time prior to the delivery of a Termination Notice in accordance with Section 19.2(c), then the non-defaulting Party shall have no right to terminate this Agreement in respect of such cured default.

(c) Upon expiration of the consultation period described in Section 19.2(b) and unless the Parties shall have otherwise agreed or unless the Event of Default giving rise to the Notice of Intent to Terminate shall have been remedied, the Party having given the Notice of Intent to Terminate may terminate this Agreement by delivering a Termination Notice to the other Party, whereupon this Agreement shall immediately terminate and Article XX shall apply.

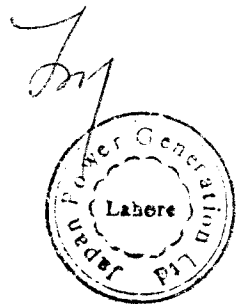
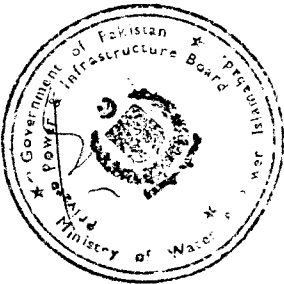


[Handwritten signature]

19.3 Notice to the GOP of WAPDA's or Fuel Supplier's Default

(a) Anything in this Agreement notwithstanding, the Company shall not seek to terminate this Agreement, the Power Purchase Agreement or the Fuel Supply Agreement due to any default by WAPDA or the Fuel Supplier without first giving a copy of any notices required to be given to WAPDA or the Fuel Supplier, as the case may be, under Sections 4.3 and 4.4 of the power Purchase Agreement or Sections 15.1 and 15.2 of the Fuel Supply Agreement, as the case may be, such notices to include a request to the GOP to cure any such default within the same cure period as provided to WAPDA or the Fuel Supplier, as the case may be, under the Power Purchase Agreement or the Fuel Supply Agreement, respectively, and such cure period to commence upon delivery of each such notice to the GOP. Each such notice shall be deemed to have been delivered (a) when presented personally to the GOP, (b) when transmitted by facsimile, or (c) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the GOP, at the address indicated in Article XXIII (or such other address as the GOP may have specified by written notice delivered in accordance herewith).

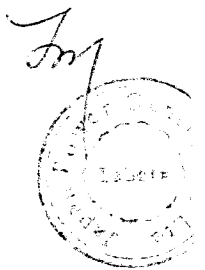
(b) No rescission or termination of this Agreement, the Power Purchase Agreement, or the Fuel Supply Agreement by the Company shall be effective without such notice and expiration of such cure period. The GOP may make, but shall be under no obligation to make, any payment (other than is required by the Guarantee) or to perform any act required of WAPDA under the Power Purchase Agreement or the Fuel Supplier under the Fuel Supply Agreement with the same effect as if the payment or act had been made or performed by WAPDA or the Fuel Supplier, as the case may be. If the GOP fails to cure or is unable or unwilling to cure a default of WAPDA or the Fuel Supplier, as the case may be, within the cure periods provided to WAPDA or the Fuel Supplier, as the case may be, under the Power Purchase Agreement, or the Fuel Supply Agreement, respectively, the Company shall have all of its rights and remedies with respect to such default as set forth in this Agreement, the Power Purchase Agreement, or the Fuel Supply Agreement, as the case may be; provided, however, that if the GOP is diligently attempting to cure any default other than a payment default of WAPDA or the Fuel Supplier, as the case may be, and demonstrable progress toward affecting such cure is being made, the GOP shall be granted an additional period not exceeding ninety (90) Days to affect such cure before the Company may exercise its rights and remedies with respect to such default set forth in this Agreement and the Power Purchase Agreement or the Fuel Supply Agreement, as the case may be.



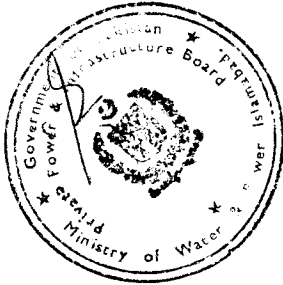
19.4 Notice to the Lenders of the Company's Default

Anything in this Agreement notwithstanding, from and after the occurrence of the Financial Closing, the GOP shall not seek to terminate this Agreement as the result of any default of the Company without first giving a copy of any notices required to be given to the Company under Sections 19.1 and 19.2 to the Lenders, such notice to be coupled with a request to the Lenders to cure any such default within the cure period specified in Section 19.2(b), and such cure period shall commence upon delivery of each such notice to the Lenders. If there is more than one Lender, the Lenders will designate in writing to the GOP an agent (the "Agent") and any notice required hereunder shall be delivered to such Agent, such notice to be effective upon delivery to the Agent as if delivered to each of the Lenders. Each such notice shall be in writing and shall be deemed to have been delivered (a) when presented personally to the Lender or the Agent, (b) when transmitted by facsimile to the number specified in accordance with the procedure set forth below, or (c) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the Lender at the address indicated at Financial Closing (or such other address or to the Agent at such address as the Lenders may have specified by written notice delivered in accordance herewith). Any notice given by facsimile under this Section 19.4 shall be confirmed in writing delivered personally or sent by prepaid post, but failure to so confirm shall not void or invalidate the original notice if it is in fact received by the Lender or the Agent. Notwithstanding the foregoing, if the address of the Lender or Agent is outside Pakistan, any notice delivered to the Lender or Agent pursuant to this Section 19.4 shall be sent by international courier or facsimile, and if sent by facsimile, confirmed by international courier. The address and facsimile number for Lender or Agent shall be provided to the GOP by the Company at Financial Closing and thereafter may be changed by the Lender or the Agent by subsequent delivery of a notice to the GOP at the address or facsimile number for the GOP provided in Section 23.1 (or at such other address or facsimile number subsequently delivered to the Lender or the Agent in accordance with this Section 19.4) and otherwise in accordance with the requirements of Section 23.1.

No rescission or termination of this Agreement by the GOP shall be valid or binding upon the Lenders without such notice, the expiration of such cure period, and the expiration of the Extended Cure Period (as defined below) provided in this Section 19.4. The Lenders may make, but shall be under no obligation to make, any payment or perform any act required to be made or performed by the Company, with the same effect as if made or performed by the Company. If the Lenders fail to cure or are unable or unwilling to cure any Company Event of Default within the cure period under Section 19.2(b) as provided to the Company in this Agreement, the GOP shall have all its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that if the cure by the Lenders of the Company Event of Default requires the Lenders to take control of, and occupy, the Complex, the Lenders, upon the termination of the cure period provided to the Company specified in Section 19.2(b), such cure period commencing on the delivery of such notice to the Lenders shall be offered a further period (the "Evaluation Period"), during which the Lenders shall evaluate such default, the condition of the Complex, and other matters relevant



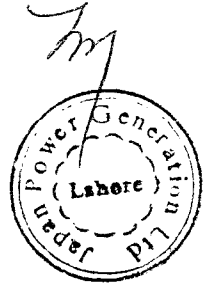
to the actions to be taken by the Lenders concerning such default, and which Evaluation Period shall end on the sooner to occur of (i) the Lenders delivery to the GOP of a notice that the Lenders have elected to pursue their remedies under the Financing Documents and assume the rights and obligations of the Company under the Agreement as provided in Section 15.2(b) (an "Election Notice"), or (ii) thirty (30) Days following the end of the cure period. Upon the delivery of the Election Notice, the Lenders shall be granted an additional period of six (6) months to cure any Event of Default of the Company (the "Cure Period") if required pursuant to Section 15.2(b). If WAPDA has assumed the operation of the Complex and the Complex is being operated by WAPDA to its satisfaction, the GOP shall extend the Cure Period for an additional period of six (6) months to cure any Event of Default of the Company if required pursuant to Section 15.2(b). In the event that the Lenders fail to cure any Company Event of Default required to be cured pursuant to Section 15.2(b) on or before the expiration of the Cure Period, as it may have been extended, the GOP may exercise its rights and remedies with respect to such default set forth in this Agreement, the GOP may immediately terminate this Agreement, and such termination shall be effective on delivery to the Lenders or the Agent of notice of such termination.



19.5 Other Remedies

(a) The exercise of the right of a Party to terminate this Agreement, as provided herein, does not preclude the Party from exercising other remedies that are provided herein or are available at law. Remedies are cumulative, and the exercise of, or failure to exercise, one or more remedy by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies by that Party.

(b) Notwithstanding the foregoing, the Parties agree that GOP may be damaged in amounts that may be difficult or impossible to determine in the event that Financial Closing is not achieved as required by Section 19.1(a)(i). Therefore, the Parties have agreed that the amount of the Performance Guarantee is reasonable and constitutes liquidated damages to GOP for any default by the Company under Section 19.1(a)(i) and it is further understood and agreed that the encashment in full of the Performance Guarantee by the GOP is in lieu of actual damages for such occurrence and the collection of such sums pursuant to such Performance Guarantee and the termination of this Agreement pursuant to Section 19.2 is the sole remedy of GOP for such event.



ARTICLE XX
RIGHTS AND OBLIGATIONS OF PARTIES UPON TERMINATION

20.1 Compensation Upon Termination

(a) Company Event of Default

(i) In the event the GOP terminates this Agreement pursuant to Section 19.1(a)(i) as a result of a Company Event of Default for failure to timely reach Financial Closing, the GOP's compensation shall be the encashment in full of the Performance Guarantee.

(ii) In the event the GOP terminates this Agreement pursuant to Section 19.1(a)(ii) through (xii) as a result of any other Company Event of Default, the GOP or its designee shall have the right, but shall not be required, to acquire all of the Company's rights, title and interests in and to the Complex; provided, that the GOP or its designee, upon such acquisition, pays the Company the compensation amount set forth in Row 1 of the Compensation Table in Schedule 2. If the GOP does not elect to purchase the Complex upon the effective date of the termination, the GOP shall have no further rights or interest in, or obligations to, the Complex.

(b) GOP Event of Default

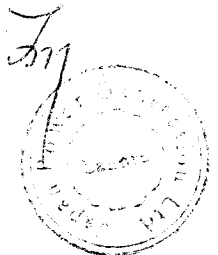
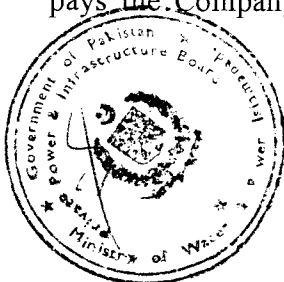
In the event the Company terminates this Agreement pursuant to Section 19.1(b) as a result of a GOP Event of Default, the Company may elect to transfer the Complex to the GOP or its designee and, upon such transfer, the GOP or its designee shall pay the Company the compensation amount set forth in Row 2 of Schedule 2.

(c) Termination Following Change in Law

In the event of a termination of this Agreement following a Change in Law, the GOP shall pay the Company the compensation amount set forth in Row 3 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(d) Termination Following Other Force Majeure Event

If following an Other Force Majeure Event, the GOP terminates this Agreement in accordance with Section 17.8(b), as a result of the Company's failure to timely complete the Restoration as required by Section 17.8(b), the GOP or its designee shall have the right, but shall not be required, to acquire all of the Company's rights, title, and interests in and to the Complex; provided, however, that the GOP or its designee, upon such acquisition, pays the Company the compensation amount set forth in Row 4 of the Compensation Table



in Schedule 2. If the GOP does not elect to purchase the Complex upon the effective date of the termination, GOP shall have no further rights to or interest in the Complex.

(e) Termination Following Pakistan Political Force Majeure Event

(i) If following a Pakistan Political Force Majeure Event, the Parties agree or an expert determines that Restoration is feasible, but the GOP elects to terminate this Agreement, the GOP shall pay the Company the compensation amount set forth in Row 5 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

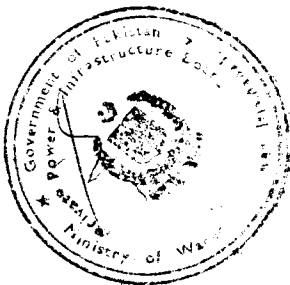
(ii) If following a Pakistan Political Force Majeure Event, the Parties agree or an expert determines that Restoration is not feasible, the GOP shall pay the Company the compensation amount set forth in Row 6 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(iii) If following a Pakistan Political Force Majeure Event, the Parties agree or an expert determines that Restoration is feasible, but the Company is unable to obtain financing for the Restoration, the GOP shall pay the Company the compensation amount set forth in Row 7 of the Compensation Table in Schedule 2. Upon the payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(iv) If following a Pakistan Political Force Majeure Event, the GOP terminates this Agreement in accordance with Section 17.8(b) as a result of a failure to timely complete a Restoration, the GOP shall, so long as the Company has made a demonstrable good faith effort to effect the Restoration, pay the Company the compensation amount set forth in Row 8 of the Compensation Table in Schedule 2. If the Company has not made a demonstrable good faith effort to effect the Restoration, the GOP shall pay the Company the compensation amount set forth in Row 12 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(v) If a Pakistan Political Force Majeure Event has continued uninterrupted for more than one hundred eighty (180) Days (without regard to the effects thereof) and either Party terminates this Agreement in accordance with Section 17.5(h) the GOP shall pay the Company the compensation amount set forth in Row 9 (for a GOP termination) or Row 10 (for a Company termination) of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(vi) If following a revision of the Restoration Cost Estimate or the Restoration Schedule pursuant Section 17.8, the GOP elects to terminate this Agreement, the GOP shall pay the Company the compensation amount set forth in Row 11 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.



Signature

(f) Termination Following Force Majeure Event Under the Power Purchase Agreement or the Fuel Supply Agreement

If following a force majeure event affecting WAPDA or a force majeure event under the Fuel Supply Agreement, either Party, pursuant to Section 17.5(e), elects to terminate this Agreement, the GOP shall pay the Company the compensation amount set forth in Row 13 (for a termination by the GOP) or Row 14 (for a termination by the Company) of the Compensation Table in Schedule 3. Upon payment of such compensation amount, the Company shall transfer the Complex to the GOP.

(g) Termination Following Company's Inability to Obtain Permits

If this Agreement is terminated pursuant to Section 17.5(f) as a result of the Company's inability to obtain a necessary Consent, GOP shall pay the Company the compensation amount set forth in Row 15 of the Compensation Table in Schedule 2. Upon payment of such compensation amount, the Company shall transfer the Complex to GOP.

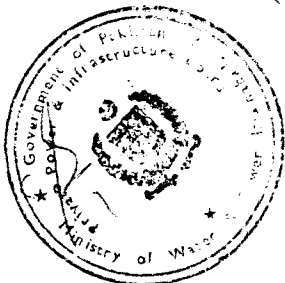
(h) Use of Certain Insurance Proceeds

Whenever this Agreement is terminated pursuant to Article XVII following a Force Majeure Event, and the GOP is obligated to pay compensation to the Company pursuant to Section 20.1 and insurance proceeds are available in connection with the Force Majeure Event, the total amount of the net proceeds made available under the insurance policies to which the Company is entitled with respect to the Complex shall, if not used to effect a Restoration or make repairs to the Complex, be used to pay the following items in the following order of priority:

- (i) to the payment of all indebtedness secured by the Complex;
- (ii) then to the other compensation, if any, payable by the GOP to the Company as set forth in Schedule 2; and
- (iii) then to the Company.

20.2 Reimbursement

(a) In the event of a termination of this Agreement for any reason other than a GOP Event of Default, a Pakistan Political Force Majeure Event, or a Change in Law, prior to the Commercial Operations Date, the Company shall reimburse the GOP for all costs and expenses (including reasonable attorneys' fees and expenses) relating to the Project incurred by the GOP prior to the termination, which amount in any event shall not exceed Two Hundred Thousand Dollars (\$200,000). These expenses shall be subject to third-party audit.



(b) In the event of a termination of the Agreement due to a failure by the Company (or its Contractors) to receive a Consent specified in Schedule 1 within the time required by Section 6.3(b), the GOP shall reimburse the Company for all costs and expenses relating to the Project incurred by the Company from the date of execution of this Agreement through the date of termination, which amount in any event shall not exceed Two Hundred Thousand Dollars (\$200,000).

20.3 Obligations Upon Termination

Upon the expiration or earlier termination of this Agreement, the Parties shall have no further obligations or liabilities hereunder except for obligations or liabilities that arose prior to or arise upon such expiration or termination and obligations or liabilities that expressly survive such expiration or termination pursuant to this Agreement, provided, however, that notwithstanding anything to the contrary in the Agreement, the rights and obligations set out in Article XIV (Foreign Currency Exchange and Transfer of Funds), Article XVIII (Taxation), Article XX (Rights and Obligations of the Parties upon termination) and Article XXI (Resolution of Disputes) shall survive any termination or expiration of this Agreement until all provisions are fulfilled and all funds payable hereunder by GOP are received by the Company or the Lenders upon the sale or other disposal of the assets related to the Project, including without limitation, proceeds from the enforcement by the Lenders of the security created by the Company under or pursuant to the Security Package have been repatriated and, if the Company or the Foreign Investors so desire in the case of Rupee funds, converted by the Company or the Foreign Investors into Foreign Currency by the State Bank of Pakistan in accordance with the terms of this Agreement and repatriated.

20.4 Complex to be Free and Clear

Any transfer of the Complex by the Company to the GOP (or its designee) in accordance with the provisions of this Article XX shall be made free and clear of all Environmental Liabilities and all Liens and encumbrances other than Permitted Liens; provided, that the GOP has paid to the Company all compensation amounts that are payable in accordance with this Article XX.



ARTICLE XXI
RESOLUTION OF DISPUTES

21.1 Governing Law

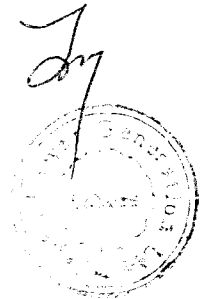
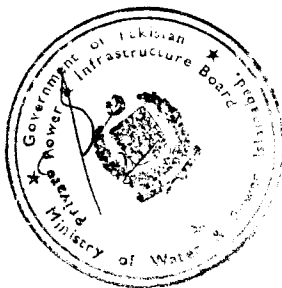
This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed in accordance with the laws of Pakistan.

21.2 Arbitration

(a) Any dispute or difference between the Parties arising out of or in connection with this Agreement (each a "Dispute") shall be settled by arbitration in accordance with the Arbitration Act 1940 and procedure thereunder".

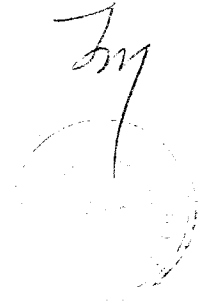
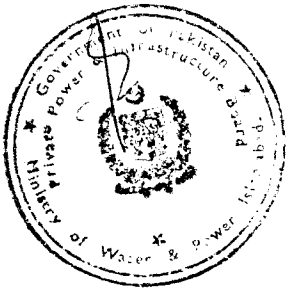
(b) Arbitration conducted pursuant to this Section 21.2 shall, unless otherwise agreed by the Parties, be conducted in Islamabad by a panel of two Arbitrators, one of whom shall be chosen by each of the parties and in the event of dispute between the two Arbitrators, by and umpire, to be chosen by two Arbitrators prior to their entering upon the reference.

(c) Each Party hereby agrees to be bound by any final decision or award of any arbitrator(s) duly appointed under this Agreement.



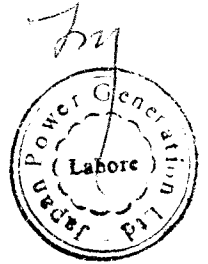
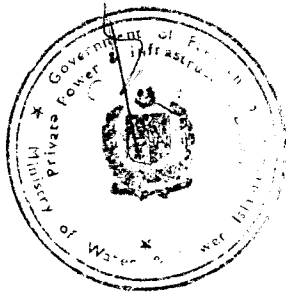
21.3 Commercial Acts

The GOP unconditionally and irrevocably agrees that the execution, delivery, and performance by it of this Agreement and those agreements included in the Security Package to which it is a party constitute private and commercial acts.



ARTICLE XXII
GUARANTEE

The GOP shall, at Financial Closing, execute and deliver to the Company the Guarantee.



ARTICLE XXIII
NOTICES

23.1 Address for Notices

All notices, communications, or other documents (together "Notices") to be given or made by one Party to the other Party pursuant to this Agreement shall be in writing, shall be addressed for the attention of the person indicated below, and shall either be delivered personally or sent by telegram, registered or certified mail, or facsimile. The addresses for service of the Parties and their respective facsimile numbers shall be:

(a) For the GOP:

Attention: PRESIDENT

Address: PRIVATE POWER AND INFRASTRUCTURE
BOARD, 50-NAZIM-UD-DIN ROAD, F 7/4,
ISLAMABAD.

Facsimile: (92-51) 217735

(b) For the Company:

Attention: MR. ZAFAR MAHMOOD
(CHIEF EXECUTIVE)

Address: 26-PESHAWAR BLOCK, FORTRESS STADIUM,
LAHORE CANTT.

Facsimile: (92-42) 6664349

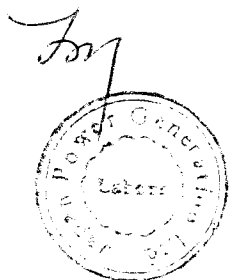
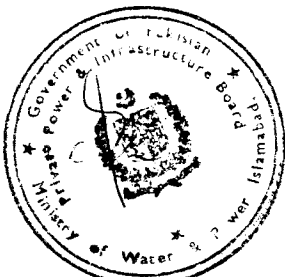
with a copy to Counsel for the Company:

Attention: SYED RASHID RAHIM
ADVOCATE HIGH COURT

Address: 13/A, ABDUL REHMAN ROAD,
LAHORE CANTT.

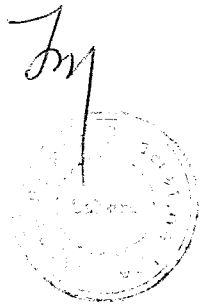
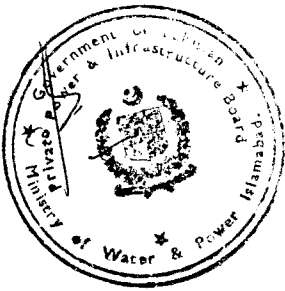
Facsimile: (92-42) 6664349

or such other addresses and facsimile numbers as either Party may have notified to the other Party in accordance with this Section 23.1.



23.2 Delivery

All Notices shall be deemed delivered (a) when presented personally, (b) if received on a business Day for the receiving Party, when transmitted by facsimile to the receiving Party's facsimile number specified above and, if received on a Day that is not business Day for the receiving Party, on the first business Day following the date transmitted by facsimile to the receiving Party's facsimile number specified above, (c) one (1) Day after being delivered to a courier for overnight delivery, addressed to the receiving Party, at the address indicated above (or such other address as such Party may have specified by Notice delivered to the delivering Party at its address or facsimile number specified above) or (d) five (5) Days after being deposited in a regularly maintained receptacle for the postal service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the receiving Party, at the address indicated above (or such other address as the receiving Party may have specified by written Notice delivered to the delivering Party at its address or facsimile number specified above). Any notice given by facsimile shall be confirmed in writing delivered personally or sent by registered or certified mail, but the failure to so confirm shall not void or invalidate the original notice if it is in fact received by the Party to which it is addressed.



ARTICLE XXIV
MISCELLANEOUS PROVISIONS

24.1 Variations in Writing

All additions, amendments and variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of the Parties.

24.2 Entire Agreement

Except for the provision of the Letter of Support related to the rights of the GOP regarding the Performance Guarantee, which shall remain in full force and effect, this Agreement, the Power Purchase Agreement, and the Fuel Supply Agreement, together with their attached schedules, incorporate the entire understanding between the Parties in relation to the Project and, on and after the date of the Financial Closing, shall supersede the Letter of Support, the Feasibility Study, and all previous oral and written representations, agreements or arrangements between the Parties in respect of the Project.

24.3 Waivers

(a) No waiver by either Party of any default by the other in the performance of any of the provisions of this Agreement:

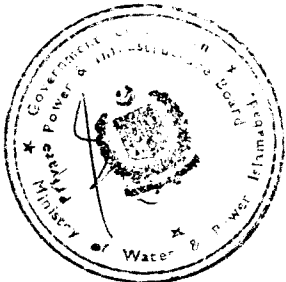
(i) shall operate or be construed as a waiver of any other or further default whether of a like or different character; or

(ii) shall be effective unless in writing duly executed by an authorized representative of the Party.

(b) The failure by either Party to insist on any occasion upon the performance of the terms, conditions, and provisions of this Agreement, or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of the breach, as acceptance of any variation, or as the relinquishment of any such right hereunder, which shall remain in full force and effect.

24.4 Confidentiality

(a) Each of the Parties shall, and shall ensure that their Contractors, subcontractors, consultants, and agents, and each of their respective permitted successors and assigns, hold in confidence all documents and other information whether technical or commercial, which is of a confidential nature supplied to it by or on behalf of the other Party relating to the Project and shall not (save as required by law or appropriate regulatory authorities or prospective lenders to, or investors in, the Company or the respective professional advisers of the Parties or of such lenders or investors as aforesaid) publish or otherwise



disclose or use the same for its own purposes, otherwise than as may be required to perform its obligations under this Agreement. The provisions of this Section 24.4 shall survive the termination of this Agreement, but shall expire and be of no further effect upon the fifth (5th) anniversary of the date of termination of this Agreement.

(b) The provisions of Section 24.4(a) above shall not apply to:

(i) information in the public domain otherwise than by breach of this Agreement;

(ii) information in the possession of the receiving Party thereof before divulgence that was not obtained under any obligation of confidentiality; and

(iii) information obtained from a third party who the receiving Party believes, after reasonable inquiry, is free to divulge the same so long as the information was not obtained by the receiving Party under any obligation of confidentiality to the third party.

(c) Nothing herein shall preclude the use of provisions similar to those contained in this Agreement and the other agreements referred to herein in any agreements prepared and issued in connection with other projects.

24.5 Accounts and Reports

(a) Appointment of Auditors

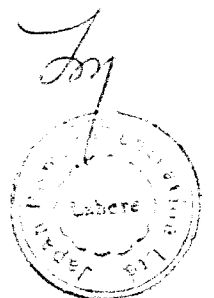
The Company shall make arrangements reasonably satisfactory to the GOP with respect to the installation and operation of an accounting and cost control system and for the appointment as auditors of a firm of independent chartered accountants reasonably acceptable to the GOP.

(b) Right of Inspection

The Company shall permit representatives of the GOP, on reasonable notice, to enter upon and inspect the Complex and the design, construction, operation, and maintenance thereof. The Company shall maintain complete and accurate records accounting for all transactions relating to any Restoration the Complex, which records shall be subject to inspection and audit by the GOP.

(c) Periodic Reports.

(i) The Company shall, as soon as available but in any event within sixty (60) Days of filing, furnish to the GOP two (2) copies of all documents filed in compliance with the requirements of the Companies Ordinance, 1984, as amended or as may be superseded from time to time.



(ii) The Company shall, as soon as available, furnish to the GOP: (A) a report on any factors materially and adversely affecting or that might materially and adversely affect the Project or the Company's business and operations or its financial condition; and (B) copies of the monthly progress reports and any other construction-related reports given to WAPDA.

(d) Reporting of Changes

The Company shall, at least fourteen (14) Days prior to its becoming effective, report any contemplated (i) material change in its Memorandum and Articles of Association; (ii) change in its fiscal year; (iii) change in the constitution of its Board of Directors; (iv) change in its Chief Executive Officer, and (v) without prejudice to Section 16.3, registration of a transfer of Ordinary Share Capital to any person who thereby becomes a registered holder of greater than five (5) percent of the issued Ordinary Share Capital or of a transfer of Ordinary Share Capital to or from a person who, immediately prior to such transfer, held greater than five (5) percent of the issued Ordinary Share Capital.

(e) Providing of Lists of Lenders and Creditors

Together with the periodic report required by Section 24.5(c)(i), the Company shall provide to the GOP a list of each of its Lenders and creditors to which the Company owes a sum equivalent to at least \$500,000, including the amount due to each of them. The list shall also indicate any changes, as compared to the list submitted the previous year, that might have occurred.

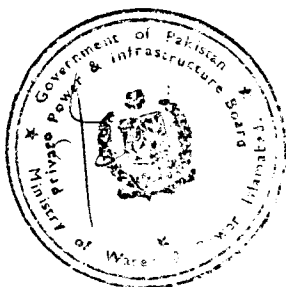
(f) Information Regarding Statutory Notice/Winding Up Proceedings

(i) The Company shall, within seven (7) Days of receipt thereof, provide a copy of any notice that the Company may be served under Sections 305 and 306 (as such Sections may be amended, modified or relocated) of the Companies Ordinance, 1984 by any of the Lenders or its creditors.

(ii) The Company shall provide to the GOP all information in respect of any further actions taken by the Lenders or its creditors following any notice under Sections 305 and 306 (as such Sections may be amended, modified or relocated) of the Companies Ordinance, 1984.

24.6 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the permitted successors and permitted assigns of the Parties.



24.7 No Liability for Review

No review, non-objection, or approval by the GOP of any agreement, document, instrument, drawing, specifications or design proposed by the Company 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 failure to comply with applicable Laws of Pakistan or to satisfy the Company's obligations under this Agreement, the Power Purchase Agreement, and the other documents comprising the Security Package with respect thereto, nor shall the GOP be liable to the Company or any other person by reason of its review, non-objection, or approval of an agreement, document, instrument, drawing, specification, or design.

24.8 No Third Party Beneficiaries

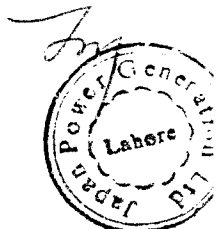
This Agreement shall not confer any right of suit or action whatsoever on any third party, except for the specific rights granted to the Lenders pursuant to Sections 14.4, 15.2, 18.2, 18.4 and 19.4.

24.9 Affirmation

The Company declares and affirms that the Company and its shareholders, directors, officers, employees, and agents have not paid or received, nor undertaken to pay or receive, any bribe, pay-off, kick-back, or unlawful commission and that the Company and its shareholders, directors, officers, employees, and agents have not in any other way or manner paid any sums, whether in Pakistani currency or foreign currency and whether in Pakistan or abroad, given or offered to give any gifts and presents in Pakistan or abroad, to any person or company to procure this Agreement. The Company undertakes not to engage in any of these or similar acts during the term of this Agreement.

24.10 Sovereign Immunity

The GOP hereby irrevocably and unconditionally agrees that: (i) should any proceedings be brought against the GOP or its assets, other than its aircraft, naval vessels and other defense related assets or assets protected by the diplomatic and consular privileges under the 1978 Immunity Act of the United Kingdom or the Foreign Sovereign Immunities Act of 1976 of the United States or any analogous legislation (the "Protected Assets") in any jurisdiction in connection with this Agreement or any of the transactions contemplated by this Agreement, no claim of immunity from such proceedings will be claimed by or on behalf of the GOP on behalf of itself or any of its assets (other than the Protected Assets); (ii) it waives any right of immunity which it or any of its assets (other than the Protected Assets) now has or may in the future have in any jurisdiction in connection with any such proceedings; and (iii) consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including without limitation, the making, enforcement or



execution against or in respect of any of its assets whatsoever (other than the Protected Assets) regardless of its use or intended use.

24.11 Consent to Jurisdiction

Each Party hereby consents to the jurisdiction of the courts of London, England for any action filed by the other Party to enforce a judgment entered by a Pakistan court of competent jurisdiction recognizing any award or decision of any arbitrator(s) or experts who were duly appointed under this Agreement to resolve any Dispute between the Parties. With respect to any such proceedings for the enforcement of any such award against the assets of a Party (other than the Protected Assets in the case of enforcement proceedings against the GOP):

(a) The GOP appoints the Commercial Counsellor of The Islamic Republic of Pakistan in London (or, in his absence, a responsible officer in the High Commission) whose address is presently 35/36 Lowndes Square, London SW1 9JN, England to receive for and on its behalf service of process in such jurisdiction in any such enforcement proceeding;

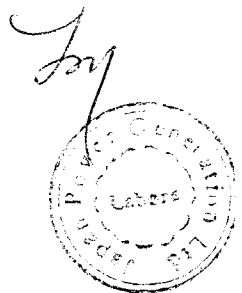
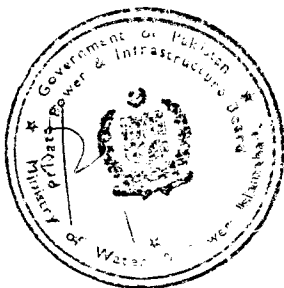
(b) The Company shall within ninety (90) Days of the execution of this Agreement the individual appoints to receive for and on its behalf service of process in such jurisdiction in any such enforcement proceeding and shall give written notice of the name and address of such individual to the GOP in accordance with the provision of Section 23.1 within five (5) Business Days thereof.

(c) Each Party shall maintain in London, England a duly appointed agent for the receipt of service of process and shall notify the other Party of the name and address of such agent and any change in such agent and/or the address of such agent; and

(d) Each party agrees that the failure by any such agent for the receipt of service of process to give it notice of any process that has been served on such agent shall not impair the validity of such service or of any judgment based thereon.

24.12 Language of Agreement

The language for the purpose of administering and interpreting this Agreement, including any arbitration hereunder, shall be English.



IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first above written.

THE ISLAMIC REPUBLIC OF PAKISTAN



[SEAL]

By: (SYED HASSAN NAWAB)
Title: EXECUTIVE DIRECTOR.

M/S. JAPAN POWER GENERATION LIMITED.



[SEAL]

By: MR. ZAFAR MAHMOOD
Title: Chief Executive

SCHEDULE 1

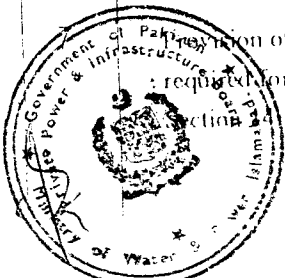
CONSENTS

(TO BE GRANTED SUBJECT TO THE TERMS OF THIS AGREEMENT AND TO THE EXTENT PERMITTED BY THE LAWS OF PAKISTAN)

PART I

(CONSENTS NECESSARY FOR FINANCIAL CLOSING)

	PARTICULARS OF CONSENTS	RELEVANT AUTHORITY
1	Consent(s) to issue shares/securities convertible into shares including issuance at a discount or premium on the nominal value and for consideration other than cash and/or in cash, as required to achieve Financial Closing by the Company in relation to the Project without any condition requiring depreciation to be charged according to the Income Tax Ordinance, 1979.	CCI/CLA
2	Permission for issue in accordance with the CCI consent order (s) under paragraph 1 above of shares/securities convertible into shares (and export of certificates in respect thereof) to Foreign Investors, on a repatriable basis and to issue of shares to Foreign Investors without requiring the conversion of foreign exchange remittances to the Company or such foreign exchange remittance to be deposited into foreign currency accounts of the Company in Pakistan	SBP
3	Subject to Section 16.3 of the Agreement, permission to Foreign Investors to transfer their shares/securities convertible into shares issued by the Company to residents for consideration paid in Rupees or to non-residents for consideration paid in foreign exchange.	SBP
4	Approval prior to the Financial Closing, of the Term Sheets for the Company's foreign currency loans.	PPIB
5	Registration of foreign currency loan agreements in accordance with the Term Sheets approved by PPIB pursuant to Clause 4 of this Part I.	SBP
6	Approval of the foreign loans made pursuant to the Financing Documents, and for any foreign loans obtained by the Company prior to Financial Closing for the purposes of under Clauses 75,76,77 or 77A (as applicable) read with Section 14(1) of Income Tax Ordinance, 1979.	CBR/SBP
	Declaration of commitment to make available such Dollars as may be required for making all payments referred to in, and consistent with, Section 4 (b) of the Agreement.	MOF/SBP

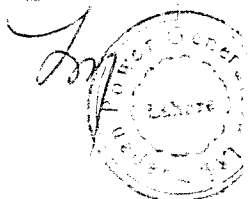
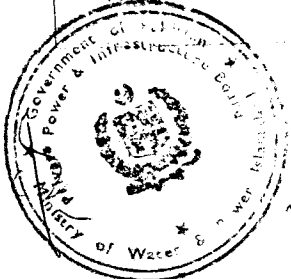


2

- | | | |
|----|---|-----|
| 8 | Approval for remitting and retaining the Company's revenue in foreign currency, where expressly agreed, in Escrow Account(s) with Banks outside Pakistan and to utilize the amounts thereof for meeting its foreign currency obligations to lenders and investors and to its Contractors in respect of the construction and operation of the Complex, in accordance with the Implementation Agreement. | SBP |
| 9 | Approval for the Contractors to open and maintain foreign currency bank accounts with banks inside Pakistan to give effect to the provisions of Section 14.3 of the Agreement. | SBP |
| 10 | Approval for the Company to open and maintain foreign currency bank accounts with banks inside or outside Pakistan to give effect to the provisions of Section 14.3 of the Agreement. | SBP |
| 11 | Exemption from the requirements of Section 3D (2) of the Insurance Act, 1938. | MOC |
| 12 | Certificate from the Controller under section 3D (1) of the Insurance Act, 1938 to enable reinsurance outside Pakistan. | MOC |
| 13 | Exemption pursuant to section 26(4) of the Pakistan Insurance Corporation Act, 1952 for all insurers (other than National Insurance Corporation) providing insurance for the Project from the obligation to reinsurance any part of any class or subclass of business with the Pakistan Insurance Corporation. | MOC |
| 14 | <p>Permission to insurers to effect facultative reinsurance in respect of all the insurance pertaining to the Project with reinsurers abroad on terms complying with the Power Purchase Agreement and incorporating therein provisions whereby ;</p> <ul style="list-style-type: none"> (i) payment of premia in foreign currency directly to such reinsurers by the Company is permitted ; (ii) the proceeds of any claims under such reinsurances may be paid directly by the reinsurers pursuant to the loss payable(s) endorsed upon such any such reinsurances ; (iii) the conduct and settlement of claims shall be undertaken by and at the sole discretion of the reinsurers ; and (iv) disputes between the insured and the insurers will be resolved by the reinsurers according to such law as the relevant insurers and reinsurers may agree. | MOC |
| 15 | Permission to remit/deposit premia and to deposit/retain abroad the proceeds of any claims in respect of insurance and reinsurance pertaining to the project effected with insurers/reinsurers abroad. | SBP |

3

16	Registration of the Company and the O&M Contractor as industrial consumers under the relevant law pertaining to the registration of importers and exporters for the purposes of the project and for a period of at least the term of this Agreement.	MOC/EPB
17	Statutory Notifications giving effect to the provisions of Sections 13.1 and 13.2 for a period of at least the term of the Agreement.	CBR
18	Binding confirmation that the Company satisfies the conditions prescribed under Clause (176) of part I of the Second Schedule to the Income Tax Ordinance, 1979 (or any analogous conditions) in order to qualify for the exemption from taxation from income related to the Project received from WAPDA or the GOP for the term of the Power Purchase Agreement as contemplated in Section 18.1 of the Agreement.	MOF/CBR
19	Irrevocable sanction of the Government of Punjab for a period of at least the term of this Agreement for purposes of Section 28 of the Electricity Act, 1910 permitting the Company to engage in the business of supplying electricity under the Power Purchase Agreement without being licensed under that Act.	Govt. of Punjab
20	Special Order of the Government of Punjab for a period of at least the term of this Agreement exempting the Company from the application of Section 30 of the Electricity Act, 1910 so as to permit the Company to use electricity within the Complex.	Govt. of Punjab
21	Special Sanction of Government of Punjab for a period of at least the term of this Agreement under Section 34 of the Electricity Act, 1910 permitting the Company to connect the Complex to earth.	Govt. of Punjab
22	Approval of the O&M Agreement, including approval for the establishment and operation of the O&M Contractor in Pakistan.	PPIB
23	Approval of the environmental impact assessment study for the project subject to its compliance with the Laws of Pakistan, and to the extent not inconsistent therewith the Standards.	Govt. of Punjab/GOP
24	Exemption from the payment of all stamp duties and registration charges in respect of all deeds, documents and instruments pertaining to the Lenders' Security.	C.Com-

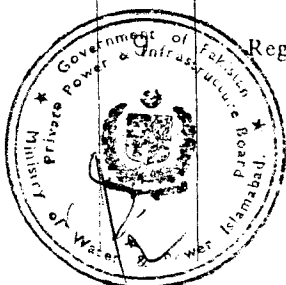


4

PART II

(CONSENTS NOT REQUIRED FOR FINANCIAL CLOSING)

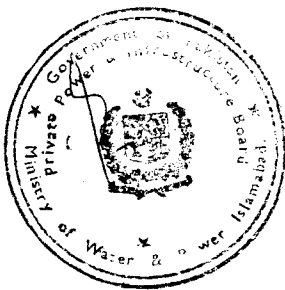
1	Statutory Notification of exemption from minimum tax on turnover from the Project activities and binding confirmation that the maximum income tax liabilities of non-resident Contractors in respect of the construction, erection, testing and commissioning of the Complex is four percent (4%) of the relevant payments made by (i) the Company to non-resident Contractors, and (ii) the Contractors to their non-residents direct sub-contractors.	CBR
2	Import permits, licenses and other required Consents allowing the Company and the Contractors to import into Pakistan for a period of at least the term of this Agreement all plant, machinery, equipment, spare parts, materials and supplies required for the Project and the construction, completion, operation and maintenance of the Complex.	MOC
3	Import permits, licenses and other required Consents for import of personal and household effects for the personal use of expatriate employees of the Company and its Contractors in accordance with applicable rules prevailing from time to time at the time of the relevant application.	CBR/MOC/ Relevant Authority
4	Approval under Sections 77 and 78 of the Punjab Local Government Ordinance, 1979 regarding erection of the Complex.	Local Council Raiwind Govt. of Punjab
5	Permission to obtain arms licenses and arms for the purposes of the project and the Complex	Govt. of Punjab
6	License under Section 3 of the Petroleum Act, 1934 and the Rules thereunder for storage of petroleum products at or proximate to the Site for the purposes of the Project and during a period of at least the term of this Agreement.	MOP
7	Certificate of stability for the Complex under the Factories Act, 1934.	Govt. of Punjab Relevant Authority
8	Certificate of Registration under the Factories Act, 1934 and the Factories (Punjab Amendment) Act, 1940.	Govt. of Punjab Relevant Authority
	Registration of the Project's steam boilers under the Boiler Act, 1923.	Relevant Authority



5

Key

Central Board of Revenue	CBR
Controller of Capital Issues	CCI
Chief Commissioner, Islamabad	C.Com
Corporate Law Authority	CLA
Government of Balochistan	GOB
Investment Promotion Bureau	IPB
Ministry of Commerce	MOC
Ministry of Finance	MOF
Ministry of Petroleum & Natural Resources	MOP
National Bank of Pakistan	NBP
Oil and Gas Development Corporation	OGDC
Private Power & Infrastructure Board	PPIB
State Bank of Pakistan	SBP



SCHEDULE 2

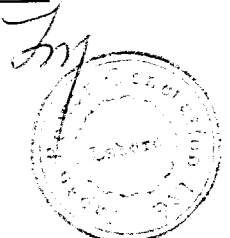
COMPENSATION AMOUNTS

This Schedule 2 consists of two parts. Part 1 is a Compensation Table showing in a matrix format the amounts payable in accordance with Section 20.1. The table refers to various compensation elements, labeled as a, b, c, d and e, which are set forth in Part 2.

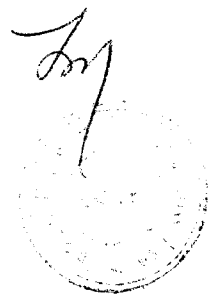
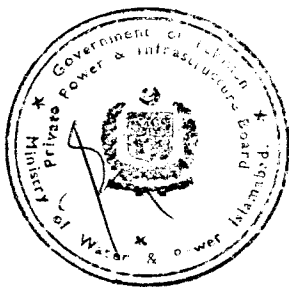
The calculation of each compensation element payable under Article 19 and this Schedule 2 shall be subject to verification by an international accounting firm acceptable to the Parties.

PART 1 OF SCHEDULE 2 - COMPENSATION TABLE

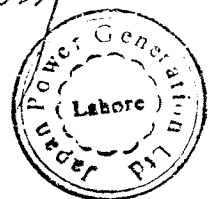
	TERMINATION EVENT	COMPENSATION PAYABLE BY GOP
1.	Termination for a Company Event of Default (other than a Restoration Schedule Default) where the GOP elects to purchase the Complex - Section 20.1(a)(ii).	a
2.	Termination for a GOP Event of Default - Clause 20.1(b).	a + b + c + d
3.	Termination following a Change in Law - Section 20.1(c).	a + b + c + d
4.	Termination for a Restoration Schedule Default following an Other Force Majeure Event - Section 20.1(d)(ii).	a + e
5.	Termination following a Pakistan Political Force Majeure Event where the Report concludes that Restoration is feasible but the GOP elects to terminate - Section 20.1(e)(i).	a + b + c + d



6.	Termination following a Pakistan Political Force Majeure Event where the Report concludes that Restoration is not feasible - Section 20.1(e)(ii).	$a + b + c + d$
7.	Termination following a Pakistan Political Force Majeure Event where the Report concludes that Restoration is feasible but financing is not available - Section 20.1(e)(iii).	$a + b + (c/2) + d$
8.	Termination by the GOP following a Pakistan Political Force Majeure Event for a Restoration Schedule Default despite diligence by the Company - Section 20.1(e)(iv).	$a + e$
9.	Termination by the GOP after 180 Days of a Pakistan Political Force Majeure Event - Section 20.1(e)(v).	$a + b + c + d$ (except that if the Pakistan Political Force Majeure Event occurs prior to the Commercial Operations Date, "c" shall be multiplied by a ratio the numerator of which is the equity invested by the Company at the time of termination and the denominator of which is the planned equity investment by the Commercial Operations Date.)



10.	Termination by the Company after 180 Days of a Pakistan Political Force Majeure Event - Section 20.1(e)(v)	$a + b + (c/2) + d$ (except that if the Pakistan Political Force Majeure Event occurs prior to the Commercial Operations Date, "c" shall be multiplied by a ratio, not to exceed one-half, the numerator of which is the equity invested by the Company at the time of termination and the denominator of which is the planned equity investment by the Commercial Operations Date).
11.	Termination by GOP following a revision of the Restoration Schedule by the expert - Section 20.1(e)(vi).	$a + b + d$
12.	Termination for a Restoration Schedule Default without diligence following a Pakistan Political Force Majeure Event - Section 20.1(e)(iv).	$a + (e/1.25)$
13.	Termination by the GOP following a force majeure event affecting WAPDA or the Fuel Supplier - Section 20.1(f).	$a + b + c + d$
14.	Termination by the Company following a force majeure event affecting WAPDA or the Fuel Supplier - Section 20.1(f).	$a + b + (c/2) + d$
15.	Termination following failure of the Company to obtain a Consent -Section 20.1(g).	$a + b + c + d$



PART 2 OF SCHEDULE 2 - COMPENSATION ELEMENTS

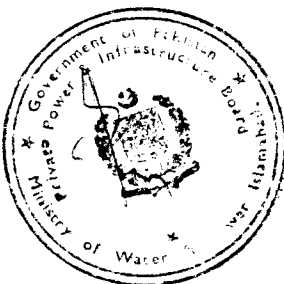
In this Schedule 2, the letters a, b, c, d, and e are used to signify different elements of compensation to be paid upon the occurrence of the events described in Article 20 and this Schedule 3. The letters shall represent the following amounts:

a = Sum of (i) the total amount outstanding to the Lenders under the Financing Documents (including interest during the original construction period through the earlier of the date of termination of this Agreement or the Required Commercial Operations Date) plus (ii) the total amount outstanding under any loan agreements for capital improvements to the Complex that are required under this Agreement, as approved by the GOP, taking into account all Supplemental Tariff Payments made through such dates plus (iii) the total amount of any other outstanding debt incurred by the Company that was approved by the GOP, less any insurance proceeds available to the Company following a Force Majeure Event and not spent for Restoration plus (iv) any winding-up costs, prepayment charges or similar charges payable to the Lenders in accordance with the financing Documents, which in the case of items (i) and (iv) of this element "a" shall be determined by reference to the schedule or proposed term sheet (including the principal repayment schedule) delivered to the GOP in accordance with Section 15.3 (as such principal repayment schedule may be amended from time to time with the approval of the GOP for purposes of this Schedule 2) as of the most current date on which WAPDA paid Monthly Capacity Payments (or the GOP made payments in lieu thereof under the Implementation Agreement) and no payment default existed under the Power Purchase Agreement.

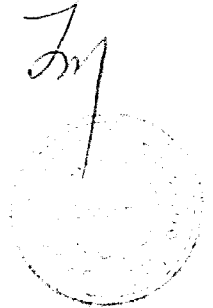
b = The initial equity investment by the shareholders of the Company plus any retained earnings of the Investors of the Company as of the date of transfer of the Complex to the GOP.

c = For a period equal to the lesser of (i) five (5) years and (ii) the remainder of the initial term of the Power Purchase Agreement (as such initial term may have been extended as a result of a Force Majeure Event (other than a Pakistan Political Force Majeure Event or a Change in Law) declared by the Company), an amount equal to the "Net Cash Flow" for such period, discounted to its present value by applying a discount rate equal to ten percent (10%) to the base case pro forma that is agreed to by the Lenders at Financial Closing. The term "Net Cash Flow" shall mean the net cash profits of the Company with respect to the Complex less all principal repayment amounts, all as projected in such base case pro forma.

d = The summation of (i) any additional equity amounts that are contributed by the shareholders of the Company for any of the events that are described under Section 17.5 plus any such other equity contributions approved by the GOP.



e = The summation of the products of (i) any additional equity amounts that are contributed by the shareholders of the Company for any of the events that are described under Section 17.5 prior to the Pakistan Political Force Majeure Event giving rise to the Restoration which led to the Restoration Schedule Default plus (ii) other equity contributions approved by the GOP, including the original equity contributions.



SCHEDULE 3

FORM OF GUARANTEE

THIS GUARANTEE is made at [specify location] the ___ of _____ 199__

B E T W E E N:

(1) THE PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN for and on behalf of THE ISLAMIC REPUBLIC OF PAKISTAN (the "Guarantor"); and

(2) M/S. JAPAN POWER GENERATION LIMITED, a public limited company incorporated under the laws of Pakistan, whose registered office is located at 26-PESHAWAR BLOCK, FORTRESS STADIUM, LAHORE CANTT., Pakistan (the "Company").

W H E R E A S:

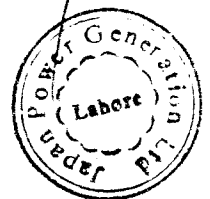
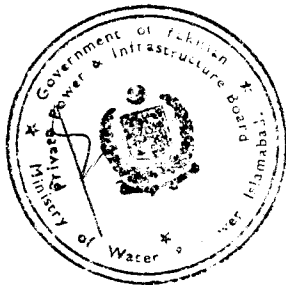
(A) The Guarantor and the Company have entered into an Implementation Agreement (the "Implementation Agreement") dated _____ 199__.

(B) The Pakistan Water and Power Development Authority ("WAPDA") has entered into a Power Purchase Agreement with the Company (the "Power Purchase Agreement") dated _____ 199__.

(C) PAKISTAN STATE OIL, the ("Fuel Supplier") has entered into a Fuel Supply Agreement with the Company (the "Fuel Supply Agreement") dated _____ 199__.

(D) The National Bank of Pakistan ("NBP") has issued an exchange risk insurance policy (the "Exchange Risk Insurance") for foreign loans to be obtained by the Company.

(E) In accordance with Article XXII of the Implementation Agreement, the Guarantor has agreed to enter into this Guarantee of the payment obligations of WAPDA under the Power Purchase Agreement and the payment obligations of the Fuel Supplier under the Fuel Supply Agreement and the obligations of NBP under the Exchange Risk Insurance.



NOW IT IS HEREBY AGREED as follows:

1 GUARANTEE

1.1 Guarantee

In consideration of the Company entering into the Power Purchase Agreement with WAPDA the Fuel Supply Agreement with the Fuel Supplier and the availment to the Company of Exchange Risk Insurance by NBP, the Guarantor hereby irrevocably and unconditionally guarantees and promises (a) to pay the Company any and every sum of money WAPDA and the Fuel Supplier are obligated to pay to the Company under or pursuant to the Power Purchase Agreement and the Fuel Supply Agreement that WAPDA or the Fuel Supplier has failed to pay when due in accordance with the terms of those agreements and (b) to perform the obligations of NBP under or pursuant to the Exchange Risk Insurance.

1.2 Waiver of Defenses

The obligations of the Guarantor under this Guarantee shall be absolute and unconditional and shall remain in full force and effect until all the covenants, terms, and agreements set forth in the Power Purchase Agreement, the Exchange Risk Insurance and the Fuel Supply Agreement shall have been completely discharged and performed, unless waived by the Company in writing. The obligations of the Guarantor shall not be modified or impaired upon (and the Guarantor waives any defense to the performance of such obligations based upon) the happening from time to time of any event, including the following:

1.2.1 The extension of time for payment of any amounts due or of time for performance of any of the covenants, terms, or agreements of WAPDA, NBP or the Fuel Supplier set forth in the Power Purchase Agreement, the Exchange Risk Insurance or the Fuel Supply Agreement, respectively.

1.2.2 Amendments to the Power Purchase Agreement or the Fuel Supply Agreement, or the Exchange Risk Insurance, as the case may be, that do not effect in any material way the rights or obligations of WAPDA, the Fuel Supplier or the Company under those agreements.

1.2.3 The failure, omission, or delay by the Company to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the Power Purchase Agreement, the Fuel Supply Agreement, the Exchange Risk Insurance, or this Guarantee;

1.2.4 The bankruptcy, insolvency, or other failure or financial disability of WAPDA, the Fuel Supplier, NBP or the Company;

1.2.5 The addition, or partial or entire release of any guarantor, maker, or other Party (including WAPDA, the Fuel Supplier or NBP) primarily or secondarily responsible for the performance of any of the covenants, terms, or agreements set forth in the Power Purchase



Agreement the Fuel Supply Agreement or the Exchange Risk Insurance or by any extension, waiver, amendment, or thing or circumstance whatsoever in law or equity that may release or create a defense for a guarantor (other than performance in accordance with the terms of the Power Purchase Agreement the Fuel Supply Agreement or the Exchange Risk Insurance);

1.2.6 Any assignment pursuant to section 15.2(a) of the Implementation Agreement by the Company of the Implementation Agreement, the Power Purchase Agreement, the Fuel Supply Agreement; or

1.2.7 The dissolution, privatization, reorganization or any other legal alteration of the legal structure of WAPDA or the Fuel Supplier.

1.3 Continuing Guarantee

1.3.1 This Guarantee shall be a continuing security and, accordingly, shall extend to cover the balance due to the Company at any time from WAPDA, the Fuel Supplier or NBP, as the case may be, under each of the respective agreements. No demand made by the Company hereunder shall prejudice or restrict the right of the Company to make further or other demands.

1.4 Additional Security

1.4.1 This Guarantee shall be in addition to, and not in substitution for or derogation of, any other security that the Company may at any time hold in respect of the obligations of WAPDA under the Power Purchase Agreement or the Fuel Supplier under the Fuel Supply Agreement or NBP under the Exchange Risk Insurance.

1.4.2 The Company may enforce this Guarantee notwithstanding that it may hold any other guaranty, lien, or security of or for the obligations of WAPDA under the Power Purchase Agreement, the Fuel Supplier under the Fuel Supply Agreement or NBP under the Exchange Risk Insurance or have available to it any other remedy at law or equity.

1.5 Preliminary Recourse

1.5.1 Before taking steps to enforce this Guarantee and demanding payment from the GOP, the Company shall be obliged only to make demand in writing for payment from WAPDA or the Fuel Supplier, as the case may be. After 30 Days (during which time the Company shall make further requests for payment, with a copy to the GOP of each request, from WAPDA or the Fuel Supplier, as the case may be) from the date payment was due, the Company may notify the GOP in writing that payment from WAPDA, the Fuel Supplier or NBP, as the case may be, is past due and make a demand for payment from the GOP under this Guarantee, and the GOP shall make payment within five (5) Days of the date of such demand. Late payments hereunder shall accrue an additional amount which shall be payable hereunder at an annual rate equal to the rate established for late payment in the Power Purchase



[Handwritten signature]

Agreement or the Fuel Supply Agreement, as the case may be. Amounts in dispute under the Power Purchase Agreement or the Fuel Supply Agreement shall be deemed not to be due and owing for purposes of this Guarantee until expiration of any dispute resolution procedures provided in each of the respective Agreements.

1.5.2 Except as provided in Section 1.5.1, the Company shall not be obliged before taking steps to enforce this Guarantee to exercise any other remedies that may be available to it under or in respect of the Power Purchase Agreement the Fuel Supply Agreement, or the Exchange Risk Insurance as the case may be, or to initiate any proceedings or obtain judgment against WAPDA, the Fuel Supplier or NBP thereon.

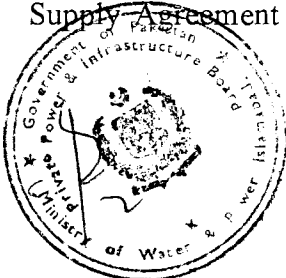
1.6 Certification

Any demand for payment made pursuant to this Guarantee shall be made in person by a duly authorized officer of the Company at the Guarantor's offices at [] and shall be accompanied by a certificate signed by a duly authorized officer of the Company stating that:

"We hereby certify that (1) M/s. JAPAN POWER GENERATION LIMITED, (the "Company") is making this demand on the Government of the Islamic Republic of Pakistan (the "Guarantor") in the amount of Rupees [insert amount] in accordance with Section 1 of the Guarantee dated _____ 199_, between the Guarantor and the Company; (2) the amount specified above is due and payable by Pakistan Water and Power Development Authority ("WAPDA") Pakistan State Oil, (the "Fuel Supplier") or the National Bank of Pakistan ("NBP"), as the case may be under the Power Purchase Agreement between the Company and WAPDA the Fuel Supply Agreement between the Company and the Fuel Supplier, or the Exchange Risk Insurance as the case may be and no part of the amount specified above is the subject of a dispute between the Parties; (3) demand in writing for payment from WAPDA, the Fuel Supplier or NBP, as the case may be has been made; (4) for a period of not less than 30 Days from the date payment was due, further requests for payment have been made of WAPDA, the Fuel Supplier or NBP, the case may be to obtain the payment of such amount; and (5) such amount, on the date hereof, remains unpaid by WAPDA the Fuel Supplier, or NBP, as the case may be".

1.7 Subordination

Any right that the Guarantor may at any time have to be indemnified by WAPDA the Fuel Supplier or NBP, as the case may be, in respect of sums paid out by the Guarantor in performance of this Guarantee shall be subordinated to the rights of the Company to recover from WAPDA the Fuel Supplier or NBP in full all sums that may at any time become due from WAPDA, the Fuel Supplier or NBP under the Power Purchase Agreement, the Fuel Supply Agreement and the Exchange Risk Insurance, respectively.



1.8 No Set-off

No set-off, counterclaim, reduction, or diminution of any obligation that the Guarantor has or may have against the Company shall be available to the Guarantor against the Company in connection with any obligation of the Guarantor to the Company under this Guarantee; provided, however, that notwithstanding the foregoing the Guarantor shall have the benefit of all rights of set-off, counterclaim, reduction, or diminution of any obligations that are available to WAPDA, the Fuel Supplier or NBP pursuant to the Power Purchase Agreement, the Fuel Supply Agreement or the Exchange Risk Insurance or that are otherwise directly related to the Project.

1.9 Consent to Jurisdiction

Each Party hereby consents to the jurisdiction of the courts of London, England for any action filed by the other Party to enforce any award or decision of any arbitrator(s) or expert(s) who were duly appointed under this Agreement to resolve any Dispute between the Parties. With respect to any such proceedings for the enforcement of any such award against the assets of a Party (other than the Protected Assets in the case of enforcement proceedings against the GOP):

(a) The GOP appoints the Commercial Counsellor of The Islamic Republic of Pakistan in London (or, in his absence, a responsible officer in the High Commission) whose address is presently 35/36 Lowndes Square, London SW1 9JN, England to receive for and on its behalf service of process in such jurisdiction in any such enforcement proceeding;

(b) The Company appoints _____ whose address is presently _____, London, England to receive for and on its behalf service of process in such jurisdiction in any such enforcement proceeding;

(c) Each Party shall maintain in London, England a duly appointed agent for the receipt of service of process and shall notify the other Party of the name and address of such agent and any change in such agent and/or the address of such agent;

(d) Each Party agrees that the failure by any such agent for the receipt of service of process to give it notice of any process that has been served on such agent shall not impair the validity of such service or of any judgment based thereon; and

(e) Each Party waives any objection that it may now or hereafter have to any action or proceeding brought against it in accordance with this Section 1.9, and specifically waives any objection that any such action or proceeding was brought in an inconvenient forum.



2 REPRESENTATIONS AND WARRANTIES

The Guarantor represents and warrants that, as of the date hereof:

2.1 Power and Authority

The Guarantor has full power, authority, and legal right to incur the obligation, to execute and deliver, and to perform and observe the terms and provisions of this Guarantee.

2.2 Legal Validity

This Guarantee constitutes legal, valid, binding, and enforceable obligations of the Guarantor in accordance with its terms.

2.3 Approvals

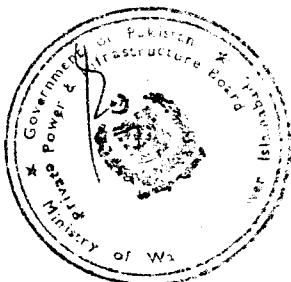
All necessary action has been taken, and all approvals required have been obtained, under the Laws of Pakistan to authorize the execution, delivery, and performance of this Guarantee.

2.4 Tax

In addition to any amount then due and payable to the Company by WAPDA, the Fuel Supplier or NBP, as the case may be, under the Power Purchase Agreement, the Fuel Supply Agreement or the Exchange Risk Insurance, respectively, and payable by the Guarantor under the terms of this Guarantee, the Guarantor shall be liable for any duty, impost, levy, charge, fee, or tax of whatsoever nature ("Tax") levied or imposed by a Federal Entity or any political subdivision or authority thereof on or with regard to any payment hereunder unless the payment, if made by WAPDA, the Fuel Supplier or NBP, as the case may be, would itself have been subject to the Tax. If under applicable law the Guarantor is unable to pay the Tax and the Company is required to pay the Tax, the amount to be paid to the Company hereunder shall be increased by an amount sufficient so that such payment, net of the Tax, would equal the payment the Company would have received from WAPDA, the Fuel Supplier or NBP, net of any Taxes applicable to payment from WAPDA, the Fuel Supplier or NBP to the Company.

2.5 Full Faith and Credit

The obligations and covenants of the Guarantor in this Guarantee constitute unconditional obligations of the Guarantor, for the performance of which the full faith and credit of the Guarantor is pledged.



2.6 Sovereign Immunity

The Guarantor hereby irrevocably and unconditionally agrees that it is subject to suit in Pakistan with respect to its obligations hereunder, and that the execution, delivery, and performance of this Guarantee constitute private and commercial acts of the Guarantor. The GOP hereby irrevocably and unconditionally agrees that: (i) should any proceedings be brought against the GOP or its assets, other than its aircraft, naval vessels and other defense related assets or assets protected by the diplomatic and consular privileges under the 1978 Immunity Act of the United Kingdom or the Foreign Sovereign Immunities Act of 1976 of the United States or any analogous legislation (the "Protected Assets"), in any jurisdiction in connection with this Guaranty or any of the transactions contemplated by this Guarantee, no claim of immunity from such proceedings will be claimed by or on behalf of the GOP on behalf of itself or any of its assets (other than the Protected Assets); (ii) it waives any right of immunity which it or any of its assets (other than the Protected Assets) now has or may in the future have in any jurisdiction in connection with any such proceedings; and (iii) it consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including without limitation, the making, enforcement, or execution against or in respect of any of its assets whatsoever (other than the Protected Assets) regardless of the use or intended use of the asset.

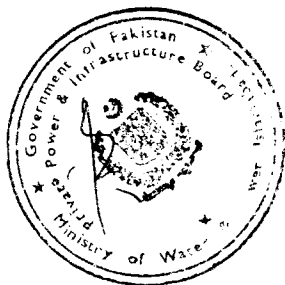
3 UNDERTAKING

3.1 Duration

This Guarantee shall remain in full force and effect from and after the date hereof until the termination of the initial term of the Power Purchase Agreement, the Fuel Supply Agreement and the Exchange Risk Insurance and for so long thereafter as any amount owed the Company by the Guarantor, WAPDA, the Fuel Supplier or NBP in connection with such initial term is or may be outstanding.

3.2 Performance of Agreements

The Guarantor shall not take any action that would prevent or interfere with the performance by WAPDA of any of its obligations under the Power Purchase Agreement, by the Fuel Supplier of any of its obligations under the Fuel Supply Agreement or the NBP of any of its obligations under the Exchange Risk Insurance (except, in the case of any unintentional action, where the Guarantor promptly remedies such action).



Signature

4 NO WAIVER; REMEDIES CUMULATIVE

4.1 No Waiver

No failure or delay by the Company to exercise any right or remedy under this Guarantee shall constitute a waiver of that right or remedy. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by the Company shall be effective unless it is in writing.

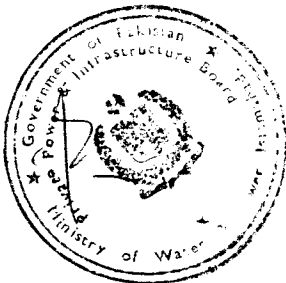
4.2 Remedies Cumulative

The rights and remedies of the Company provided by this Guarantee are cumulative and not exclusive of any rights or remedies provided by law.

5 NOTICES

5.1 Address for Notices

All notices or other communications (together "Notices") to be given or made hereunder shall be in writing, shall be addressed for the attention of the person indicated below and shall be delivered personally or sent by registered or certified mail or facsimile. All Notices shall be deemed delivered (a) when presented personally, (b) if received on a business Day of the receiving Party, when transmitted by facsimile to the receiving Party's facsimile number specified above and, if received on a Day that is not a business Day of the receiving Party, on the first business Day of the receiving Party following the date transmitted by facsimile to the receiving Party's facsimile number specified above, (c) one (1) Day after being delivered to a courier for overnight delivery, addressed to the receiving Party, at the address indicated above (or such other address as such Party may have specified by notice delivered to the delivering Party at its address or facsimile number specified above) or (d) five (5) Days after being deposited in a regularly maintained receptacle for the postal service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the receiving Party, at the address indicated above (or such other address as the receiving Party may have specified by written Notice delivered to the delivering Party at its address or facsimile number specified above). Any notice given by facsimile shall be confirmed in writing delivered personally or sent by registered or certified mail, but the failure to so confirm shall not void or invalidate the original notice if it is in fact received by the Party to which it is addressed. The address for service of each Party and its respective facsimile number shall be:



Signature

5.1.1 For the Guarantor:

Attention:

Address:

Facsimile:

5.1.2 For the Company:

Attention: MR. ZAFAR MAHMOOD
(CHIEF EXECUTIVE)

Address: 26-PESHAWAR BLOCK, FORTRESS STADIUM,
LAHORE CANTT.

Facsimile: (92-42) 6664349

with a copy to the Company's counsel:

Attention: SYED RASHID RAHIM
ADVOCATE HIGH COURT

Address: 13/A, ABDUL REHMAN ROAD,
LAHORE CANTT.

Facsimile: (92-42) 6664349

or such other addresses or facsimile numbers as either Party may have notified to the other Party in accordance with this Section 5.1.

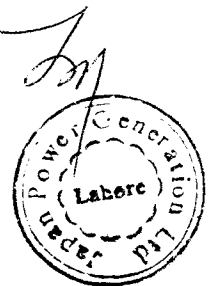
5.2 Effectiveness of Service

Each Notice under this Guarantee shall be effective only upon actual receipt thereof.

6 ASSIGNMENT

6.1 Assignment by the Guarantor

The Guarantor may not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of the Company.



6.2 Assignment by the Company

The Company may not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of the Guarantor. Notwithstanding the provision of the immediately preceding sentence, for the purpose of construction or permanent financing of the Complex, the Company may assign, or grant a security interest in, this Guarantee or over its rights and interests in and to this Guarantee to the Lenders.

6.3 Successors

This Guarantee shall be binding upon and inure to the benefit of the Guarantor and the Company and the respective successors and permitted assigns of each.

7 GOVERNING LAW AND ARBITRATION

7.1 Governing Law

The rights and obligations of the Parties under or pursuant to this Guarantee shall be governed by and construed according to the laws of Pakistan.

7.2 Arbitration

Any dispute or difference between the Parties arising out of or in connection with this Agreement shall be arbitrated in accordance with Section 21.2 of the Implementation Agreement.

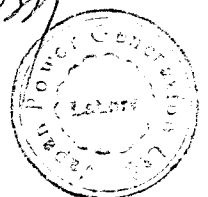
8 MISCELLANEOUS

8.1 Severability

If one or more provisions contained in this Guarantee is held or found to be invalid, illegal, or unenforceable in any respect, the provision(s) shall be given effect to the extent permitted by law and the invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Guarantee.

8.2 Definitions

The capitalized terms used but not defined in this Guarantee shall have the meanings given to them in the Implementation Agreement.



IN WITNESS WHEREOF, this Guarantee has been executed the day first above written.

THE ISLAMIC REPUBLIC OF PAKISTAN

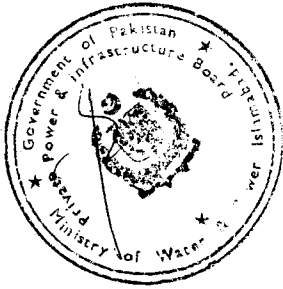
By: _____
Title: _____

[SEAL]

M/S. JAPAN POWER GENERATION LIMITED.

By: MR. ZAFAR MAHMOOD
Title: Chief Executive

[SEAL]



Zafar