

BEFORE
THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
ISLAMABAD PAKISTAN

PETITION FOR TARIFF DETERMINATION

ON BEHALF OF JAPAN POWER GENERATION LIMITED

Vol. 2 of 3

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DATED: MARCH 02, 2015

Annex-A

THE PAKISTAN WATER AND POWER DEVELOPMENT
AUTHORITY

- and -

JAPAN POWER GENERATION LIMITED

POWER PURCHASE AGREEMENT

- RELATING TO -

A POWER GENERATION COMPLEX AT

RAIWIND ROAD, NEAR LAHORE.
PROVINCE OF PUNJAB, PAKISTAN

MADE AT LAHORE
ISLAMIC REPUBLIC OF PAKISTAN

DATED MARCH 21, 1995

COUNSEL FOR THE COMPANY:
SYED RASHID RAHIM
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THIS POWER PURCHASE AGREEMENT is made at Lahore, dated March 21, 1995 between THE PAKISTAN WATER AND POWER DEVELOPMENT AUTHORITY, a statutory corporation established pursuant to the Pakistan Water and Power Development Authority Act of 1958, with its principal office located in Lahore, Pakistan ("WAPDA"), and JAPAN POWER GENERATION LIMITED, a public limited company incorporated under the laws of Pakistan, with its principal office located at 26-Peshawar Block, Fortress Stadium, Lahore Cantt. (the "Company"). Both the Company and WAPDA are herein referred to individually as a "Party" and collectively as the "Parties."

WHEREAS:

- (1) The Company plans to build, own and operate a power generation facility capacity of approximately 120 MW gross ISO (the "Complex") in Punjab Province, Pakistan, using residual fuel oil purchased from the Pakistan State Oil Company Limited (the "Fuel Supplier"), pursuant to the terms and provisions of the Fuel Supply Agreement;
- (2) The Company wishes to sell to WAPDA, and WAPDA wishes to purchase from the Company, the Dependable Capacity (as hereinafter defined) of the Complex and all of the Net Electrical Output (as hereinafter defined) pursuant to the terms and conditions set forth herein; and
- (3) Simultaneously herewith, the Company is entering into an Implementation Agreement with the Government of Pakistan and the Fuel Supply Agreement with the Fuel Supplier;

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations and warranties, conditions and promises herein contained, and intending to be legally bound hereby, the Company and WAPDA hereby agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions.

Whenever the following terms appear in this Agreement or the schedules hereto, whether in the singular or in the plural, present, future or past tense, they shall have the meanings stated below unless the context otherwise requires:

1.1 "Abandonment" - Voluntary cessation of operation of the Complex, and the withdrawal of all, or substantially all, personnel by Company from the Site for reasons other than WAPDA's acts or omissions or a Force Majeure Event; provided, however, that the Company shall not be deemed to have Abandoned the Complex so long as it is using all reasonable efforts to regain control of the Complex or reinstate such operation;

1.2 "Actual Initial Dependable Capacity" or "AIDC" - The Dependable Capacity of the Complex as at Commercial Operations Date, as determined by testing in accordance with Article X and established by the Company; provided, however, that such Dependable Capacity shall not exceed one hundred five percent (105%) of the Estimated Dependable Capacity.

1.3 "AGC" - Automatic generation control equipment.

1.4 "Agent" - The meaning ascribed thereto in Section 4.5.

1.5 "Agreement" - This Power Purchase Agreement, together with all schedules attached hereto, dated as of the date first entered above between WAPDA and the Company, as may be amended from time to time.

1.6 "Agreement Year" shall mean a period of twelve consecutive months commencing on each consecutive anniversary of the Commercial Operations Date and ending as of the end of the Day preceding the next anniversary of the Commercial Operations Date, except for the first Agreement Year which shall start on the Commercial Operations Date; provided, however, that each Agreement Year shall automatically be extended by the occurrence of a Force Majeure Event declared by the Company (other than a Pakistan Political Force Majeure Event or a Change in Law) within such Agreement Year for a period equal to the sum of the Days the Company was unable to perform fully due to the Force Majeure Event, each such Day multiplied by one (1) minus the FM Ratio in effect on that Day; provided, further, that in the event of such extension, the immediately succeeding Agreement Year shall commence on the Day following the last Day of such extension and end after a period of twelve (12) consecutive months, and each Agreement Year thereafter shall have a period of twelve (12) consecutive months, in each case subject to any extension for Force Majeure Event(s) declared by the Company (other than a Pakistan Political Force Majeure Event or a Change in Law) as provided above.

1.7 "Annual Capacity Test" - The test to be conducted each Agreement Year during the Demonstration Period in accordance with Section 10.4 to determine the Dependable Capacity of the Complex.

1.8 "Average Dependable Capacity" - An amount equal to (a) the sum of (i) each Dependable Capacity, determined by an Annual Capacity Test conducted pursuant to Article X, in effect during an Agreement Year multiplied by (ii) the number of hours that each such Dependable Capacity was in effect during such Agreement Year, divided by (b) the number of hours in the Agreement Year; provided, that periods of Force Majeure shall be excluded from each determination of the number of hours in the preceding formula.

1.9 "Back-Up Metering System" - Any meters and metering devices installed, owned and maintained by the Company for backup purposes.

1.10 "Base Rate" - The repurchase rate for six-month Pakistan Treasury notes (SBP REPO rate), as announced by the State Bank of Pakistan from time to time.

1.11 "Bonus Months" - The Months of January through June or any other six (6) Months designated in a notice from WAPDA to the Company delivered not less than sixty (60) Days prior to the beginning of the applicable Agreement Year as the Bonus Months to which the provisions of Section 9.6 shall be applicable, which Months shall only be changed in response to a change in the peak load Months of WAPDA and shall not include any Maintenance Months.

1.12 "Bonus Threshold" - For each of the Months of January through June (or such other Bonus Months as may be designated by WAPDA), the product of (a) the Actual Initial Dependable Capacity of the Complex and (b) the number of hours in such Month, multiplied by (c) .87, .85, .81, .81, .81, and .7, respectively; provided, however, that the factors in clause (c) may be changed in connection with a redesignation of Bonus Months by WAPDA so long as the average of such factors is not increased.

1.13 "Business Day" - Any Day that banks in Lahore, Pakistan are legally permitted to be open for business.

1.14 "Capacity Damages Amount" - The amount expressed in Rupees per MWh equal to the product of (a) the average Capacity Purchase Price prevailing during the relevant Agreement Year and (b) 1.61.

1.15 "Capacity Payment" - The meaning ascribed thereto in Section 9.1.

1.16 "Capacity Purchase Price" - For each Agreement Year, the amount expressed in Rs. per kW per Month and shown in Table I to Schedule 6, as such amount is adjusted from time to time in accordance with Schedule 6.

1.17 "Certification Date" - The meaning ascribed thereto in Section 3.6.

1.18 "Change in Law" - (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.

1.19 "Commercial Operations Date" - The Day following the date on which the Complex is Commissioned in accordance with Article X.

1.20 "Commercial Operations Tests" - The tests to be performed to establish the Commercial Operations Date in accordance with Article X.

1.21 "Commissioned" - The performance by the Complex during Commissioning at or above the criteria for attaining commercial operations specified in Schedule 4 hereto, as certified in writing to the Company and WAPDA by the Engineer.

1.22 "Commissioning" - For the Complex, engaging in testing the Complex in accordance with Section 10.3.

1.23 "Company" - JAPAN POWER GENERATION LTD. Limited, a public limited company incorporated under the laws of Pakistan, with its principal office located at 26-Peshawar Block, Fortress Stadium, Lahore Cantt., Pakistan and its permitted successors and assigns.

1.24 "Company Event of Default" - An event described in Section 4.2 for which WAPDA may, subject to Section 4.4, issue a Termination Notice.

1.25 "Company Letters of Credit" - Unconditional and irrevocable direct-pay letters of credit issued by a bank or banks reasonably acceptable to WAPDA, in the form of Schedule 9 hereto, provided by the Company to WAPDA pursuant to Sections 9.4(f)(i)(A) and (B), which shall provide for draws by WAPDA in immediately available funds on a Monthly basis and must permit presentation at a bank located in Lahore, Pakistan.

1.26 "Complex" - The approximately 120 MW gross ISO, power station utilizing residual fuel oil to be owned and constructed by the Company at Raiwind Road, Near Lahore, Province of Punjab, whether completed or at any stage in its 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 Metering System, the Interconnection Facilities and the Transmission Facilities) necessary for delivery of electricity to WAPDA at the Interconnection Point, together with a colony to house certain employees of the Company, the Contractors or any subcontractors.

1.27 "Consents" - All such approvals, consents, authorizations, notifications, concessions, acknowledgements, agreements, 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 of the Implementation Agreement; 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 the Implementation Agreement.

1.28 "Construction Contract" - 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.

1.29 "Construction Contractor" - M/s. Toyota Tsusho Corporation, Japan and any successor or successors thereto appointed by the Company and not objected to by the GOP pursuant to Section 8.2(b) of the Implementation Agreement.

1.30 "Construction Start" - The issuance of the "notice to proceed" by the Company to the Construction Contractor and the unconditional release by the Company to the Construction Contractor of funds equaling seven percent (7%) or more of the total capital cost of the Project.

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

1.32 "Control Centre" - WAPDA's National Control Centre located in Islamabad, or such other control centre designated by WAPDA from time to time (but not more than one at any time) from which WAPDA shall Dispatch the Complex.

1.33 "Day" - The 24-hour period beginning and ending at 12:00 midnight Pakistan time.

1.34 "Declared Available Capacity" - The estimated net capacity of the Complex announced daily by the Company pursuant to Section 6.1 which, in the event of a Scheduled Outage, Forced Outage, Partial Forced Outage, or Maintenance Outage, shall equal the Dependable Capacity less the reduction due to such Scheduled Outage, Forced Outage, Partial Forced Outage or a Maintenance Outage.

1.35 "Demonstration Period" - A period of ninety (90) consecutive days designated in accordance with Sections 6.2(a) and 6.3 during which the Annual Capacity Test shall be conducted by the Company.

1.36 "Dependable Capacity" - The amount of capacity (adjusted to reference conditions), expressed in kW's, at the outgoing busbars of the 132 kV substation of the Complex as determined by testing from time to time in accordance with Article X.

1.37 "Despatch" - The right of WAPDA to issue instructions or its issuance of instructions from the Control Centre in accordance with Prudent Utility Practices and this Agreement, including, without limitation, the Technical Limits, to schedule and control (or, in the case of AGC, to control) the generation of the Complex in order to commence, increase, decrease or cease the Net Electrical Output delivered to the Grid System.

1.38 "Dispute" - Any dispute or disagreement of any kind whatsoever between WAPDA and the Company in connection with or arising out of this Agreement.

1.39 "Dollars" or "\$" - The lawful currency of the United States of America.

1.40 "Economic Despatch" - The distribution of the total WAPDA energy needs among available sources for optimum system economy, security and reliability with due consideration of incremental generating costs, incremental power purchase costs, incremental transmission losses, load flow considerations and other operational considerations as reasonably determined solely by WAPDA; provided, however, that Economic Despatch shall not require the Company to operate the Complex in any manner that is contrary to the Technical Limits or Prudent Utility Practices, nor require WAPDA to alter its then-current mode of operation and maintenance of the Grid System because of the Complex.

1.41 "Emergency" - A condition or situation that, in the sole but reasonable opinion of WAPDA, does materially and adversely, or is likely materially and adversely to (i) affect the ability of WAPDA to maintain safe, adequate and continuous electrical service to its customers, having regard to the then-current standard of electrical service provided to its customers, or (ii) present a physical threat to persons or property or the security, integrity or reliability of the Grid System.

1.42 "Energy Payment" - The meaning ascribed thereto in Section 9.2.

1.43 "Energy Purchase Price" - The lesser of (a) the amount, expressed in Rs. per kWh, identified as the Energy Purchase Price in Schedule 6, as such amount is adjusted from time to time in accordance with the provisions of Schedule 6 or (b) the amount nominated by the Company pursuant to Section 9.2(c).

1.44 "Engineer" - The independent consulting engineer, or engineering company, of international repute acceptable to WAPDA, the Company and the Lenders for the purposes of monitoring the construction and certifying the results of Commissioning.

1.45 "Equivalent Weighted Forced Outage Energy" - The meaning ascribed thereto in Section 9.4(b)(ii).

1.46 "Escrow Account" - The account that may be established by WAPDA pursuant to Section 9.4(f)(ii)(B) for the payment of amounts owed to the Company under this Agreement.

1.47 "Escrow Agreement" - The agreement between WAPDA, the Company and the Escrow Bank in Pakistan controlling the disposition of funds deposited in the Escrow Account by WAPDA.

1.48 "Escrow Bank" - A scheduled Pakistani bank in Pakistan with which WAPDA establishes the Escrow Account.

1.49 "Estimated Dependable Capacity" - The Dependable Capacity to which the Company commits pursuant to Section 10.8 hereof.

1.50 "Feasibility Report" - Any report prepared by or on behalf of the Company evaluating the technical feasibility of the Project, including an environmental impact study for the Complex.

1.51 "Federal Entity" - Any Public Sector Entity subject to the overall control or direction as to matters of policy, of the GOP or which is otherwise under or controlled by the GOP which includes, without limitation, but only for so long as such entities are under the control of the GOP, WAPDA, the Pakistan State Oil Company Limited, the National Bank of Pakistan and the State Bank of Pakistan.

1.52 "Financial Closing" - (a) The execution and delivery of all loan agreements evidencing financing for the completion of the Complex and all other parts of the Financing Documents executed at the time of execution of the loan agreements, and (b) the receipt of commitments for such equity as is required by the Company to satisfy the requirements of the Lenders and the Letter of Support.

1.53 "Financing Documents" - 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.

1.54 "FM Ratio" - As provided in Section 13.5.

1.55 "Forced Outage" - A total interruption of the Complex's generating capability (excluding periods, if any, that the Complex is being operated by WAPDA pursuant to Section 6.11) that is not the result of (i) a request by WAPDA in accordance with this Agreement; (ii) a Scheduled Outage or a Maintenance Outage; (iii) a Force Majeure Event; or (iv) a condition caused solely by WAPDA or by the Grid System.

1.56 "Force Majeure Event" - The meaning ascribed thereto in Section 13.1.

1.57 "Fuel Supplier" - Pakistan State Oil Company Limited, its successors and permitted assigns.

1.58 "Fuel Supply Agreement" - The agreement dated February 01, 1995 on or after the date hereof, between the Fuel Supplier and the Company for the supply of residual fuel oil to be used by the Complex to generate electricity, as amended from time to time.

1.59 "GOP" - The Government of the Islamic Republic of Pakistan, and its successors.

1.60 "Grid System" - The transmission or distribution facilities owned by WAPDA, other than the Interconnection Facilities and the Transmission Facilities, through which the Net Electrical Output of the Complex will be received and distributed by WAPDA to users of electricity and electrical energy delivered by WAPDA to the Complex, as required.

1.61 "Guarantee" - The guaranty by the GOP of (i) the payment obligations of WAPDA under this Agreement (ii) the payment obligations of the Fuel Supplier under the Fuel Supply Agreement, and (iii) the performance obligations, if any, of the National Bank of Pakistan under the Exchange Risk Insurance, substantially in the form set out in Schedule 3 to the Implementation Agreement, as may be amended from time to time by agreement of the parties thereto.

1.62 "Implementation Agreement" - The Implementation Agreement dated October 10, 1994, between GOP and the Company, as may be amended from time to time.

1.63 "Initial Shareholders" - The meaning ascribed thereto in the Implementation Agreement.

1.64 "Interconnection Facilities" - All facilities and equipment described in Schedule 3, including any telemetering equipment; transmission lines and associated equipment; transformers and associated equipment; relay and switching equipment; and protective devices and safety equipment (but not including the Metering System or the Back-up Metering System) - which must be constructed or installed by or for WAPDA on the Site on WAPDA's side of the Interconnection Point to enable WAPDA to receive Net Electrical Output and Dependable Capacity and to deliver electrical energy, as required, in accordance with this Agreement.

1.65 "Interconnection Point" - The physical points where the Complex and the Grid System are connected at the Site as specified in Schedule 3 at which the transfer of Net Electrical Output occurs between the Company and WAPDA.

1.66 "Invoice for Liquidated Damages" - A written invoice for liquidated damages provided to the Company by WAPDA pursuant to Section 9.5.

1.67 "Invoice Dispute Notice" - The meaning ascribed thereto in Section 9.8.

1.68 "kW" - Kilowatt.

1.69 "kWh" - Kilowatt-hour.

1.70 "Lapse of Consent" - 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, in each case, materially and adversely affects the Company's ability to perform its obligations under any document included within the Security Package, in each of the above instances despite the Company's compliance in all respects with the procedural and substantive requirements as applied in a "non-discriminatory" manner, as defined in Section 16.4 of the Implementation Agreement.

1.71 "Laws of Pakistan" - The Federal, Provincial and local laws of Pakistan, and all orders, rules, regulations, statutory revisionary orders, executive orders, decrees, Policies, judicial decisions, notifications, or other similar directives issued by any executive, legislative, judicial, or administrative entity pursuant thereto, as any of them may be amended from time to time.

1.72 "Lenders" - The lenders party to the Financing Documents together with their respective successors and assigns.

1.73 "Letter of Support" - 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 hereof.

1.74 "Loss" - 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).

1.75 "Maintenance Months" - The Months of August, September, October and November or any four Months in a Year, at least three of them consecutive Months, designated by WAPDA in accordance with Section 6.3.

1.76 "Maintenance Outage" - An interruption or reduction of the Complex's generating capability that: (i) is not a Scheduled Outage; (ii) has been scheduled and allowed by WAPDA in accordance with Section 6.3(e); and (iii) is for the purpose of performing work on specific components, which should not, in the reasonable opinion of the Company, be postponed until the next Scheduled Outage.

1.77 "Metering System" - All meters and metering devices (including remote terminal units) specified or provided by WAPDA in a timely manner and owned by WAPDA and used to measure Dependable Capacity and, for payment purposes, the delivery and receipt of Net Electrical Output.

1.78 "Minimum Functional Specifications" - The minimum functional specifications for the construction of the Complex as set forth in Schedule 1.

1.79 "Minimum Indemnification Amount" - The amount, equal to one hundred thousand

Dollars (\$100,000) that a Party's claims for indemnification pursuant to Article XII must exceed in the aggregate before that Party will be entitled to indemnification.

1.80 "Month" - A calendar month according to the Gregorian calendar beginning at 12:00 midnight on the last Day of the preceding month and ending at 12:00 midnight on the last day of that month.

1.81 "MVAR" - Megavar.

1.82 "MW" - Megawatt.

1.83 "MWh" - Megawatt-hour.

1.84 "Net Electrical Output" - Net electrical energy expressed in kWh delivered to the Interconnection Point by the Company for sale to WAPDA during testing and Commissioning of the Complex and, following the Commercial Operations Date, when Despached by WAPDA.

1.85 "Notice of Intent to Terminate" - A notice delivered by the Company or WAPDA, as the case may be, of its intent to terminate this Agreement pursuant to Section 4.4.

1.86 "O&M Agreement" - The agreement to be entered into between the Company and the O&M Contractor for the operation and maintenance of the Complex, as may be amended from time to time.

1.87 "O&M Contractor" - M/s. Toyota Tsusho Corporation, Japan and any successor thereto appointed by Company and not objected to by the GOP in accordance with the Implementation Agreement.

1.88 "Operating Committee" - The committee established pursuant to Section 6.9 for the purposes described therein.

1.89 "Operating Day" - Each period of twenty-four consecutive hours commencing on the Commercial Operations Date beginning at 12:00 midnight; provided, that such periods during Scheduled Outages shall not be Operating Days.

1.90 "Other Force Majeure Events" - The meaning ascribed thereto in Section 13.1(c).

1.91 "Pakistan Political Force Majeure Events" - The meaning ascribed thereto in Section 13.1(a).

1.92 "Partial Derating" - In the event of a Partial Forced Outage, the Dependable Capacity of the Complex, expressed in MW, minus the Declared Available Capacity of the Complex, expressed in MW.

1.93 "Partial Forced Outage" - A decrease, but not total interruption, in the Complex's

generating capacity, including a shortfall as provided in Section 9.4(e)(i), that is not the result of (i) a request by WAPDA in accordance with this Agreement; (ii) a Scheduled Outage or a Maintenance Outage; (iii) a Force Majeure Event; or (iv) a condition caused solely by WAPDA or the Grid System.

1.94 "Parties" - Both WAPDA and the Company.

1.95 "Party" - Either WAPDA or the Company.

1.96 "Pass-Through Items" - Certain costs or charges identified as Pass-Through Items in Schedule 6.

1.97 "Policies" - 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.

1.98 "Premium Date" - The meaning ascribed thereto in Section 9.3.

1.99 "Prescribed Fee" - With respect to any Consent, the charge or fee, if any, prescribed by the Laws of Pakistan.

1.100 "Prescribed Form" - With respect to any 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.

1.101 "Project" - The development, design, engineering, manufacture, procurement, financing, construction, permitting, completion, testing, Commissioning, insurance, ownership, operation and maintenance of the Complex and all activities incidental thereto.

1.102 "Provincial Government" - The government of the Province of Punjab.

1.103 "Prudent Electrical Practices" - The use of equipment, practices or methods, as required to comply with applicable industry codes, standards, and regulations in Pakistan (i) to protect WAPDA's system, employees, agents, and customers from malfunctions occurring at the Complex and (ii) to protect the Complex and the Company's employees and agents at the Complex, from malfunctions occurring on the Grid System.

1.104 "Prudent Utility Practices" - The prudent utility practices followed from time to time by the electric utility industry in Pakistan, having regard to engineering and operational considerations, including manufacturers' recommendations. Prudent Utility Practices are not limited to optimum practices, methods or acts to the exclusion of all others, but rather are a spectrum of possible practices, methods and acts which could have been expected to accomplish the desired result at reasonable cost consistent with reliability and safety.

1.105 "Public Sector Entity" - The GOP and the Provincial Government, any subdivision

of either, 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, and including, without limitation, so long as they are Federal Entities, Pakistan Insurance Corporation, National Insurance Corporation, WAPDA, Pakistan State Oil Company Limited, the National Bank of Pakistan and the State Bank of Pakistan, but not including Private Sector Energy Development Fund and National Development Finance Corporation.

1.106 "Reactive Power" - The wattless component of the product of voltage and current, which the Complex shall provide to or absorb from the Grid System within the Technical Limits and which is measured in MVAR.

1.107 "Required Commercial Operations Date" - The date Twenty Four (24) months after the date on which Financial Closing occurs, which date may be extended in accordance with the terms of this Agreement as a result of Force Majeure Events and delays in testing pursuant to Section 10.1(b) or in the completion of the Interconnection Facilities and/or the Transmission Facilities pursuant to Section 3.6.

1.108 "Rupee" or "Rs." - The lawful currency of Pakistan.

1.109 "Scheduled Commercial Operations Date" - The date advised to WAPDA by the Company, as may be revised from time to time based on the scheduled construction programme, for the completion of Commissioning of the Complex.

1.110 "Scheduled Outage" - A planned interruption of the Complex's generating capability that (i) has been scheduled and allowed by WAPDA in accordance with Section 6.3, and (ii) is for inspection, testing, preventive maintenance, corrective maintenance, repairs, replacement or improvement of the Complex.

1.111 "Security Package" - The meaning ascribed thereto in Article I of the Implementation Agreement.

1.112 "Site" - The land, water-ways, roads, 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 all or on any part of the Complex 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 all rights of way and access from public highways and, where applicable, railway and seaward access).

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

1.114 "Start-Up" - After the Commercial Operations Date, any start up of the Complex requested by WAPDA that results in synchronization with the Grid System.

1.115 "Supplemental Charges" - Certain costs or charges identified as Supplemental

Charges in Section 10 of Schedule 6, including the Pass-Through Items.

1.116 "Supplemental Tariff" - Additional compensation payable by WAPDA to the Company pursuant to Section 13.6 or Section 13.7 and approved in accordance with Section 17.7(d) of the Implementation Agreement.

1.117 "Supplemental Tariff Payments" - Payments for the Supplemental Tariff in accordance with the payment schedule agreed to by the Company and WAPDA, which shall be designed to permit the Company to recover the Supplemental Tariff as provided in Schedule 6.

1.118 "Technical Limits" - The limits and constraints described in Schedule 2 relating to the operation, maintenance and Despatch of the Complex.

1.119 "Term" - The term of this Agreement as specified in Section 4.1.

1.120 "Termination Notice" - A written notice of termination of this Agreement issued by WAPDA or the Company, as the case may be, pursuant to Section 4.4.

1.121 "Transmission Facilities" - All facilities and equipment described in Schedule 3, including telemetering equipment; transmission lines and associated equipment; transformers and associated equipment; relay and switching equipment; and protective devices and safety equipment which are necessary to be constructed or installed by or for WAPDA between the dead-end tower(s) referenced in Schedule 3 and the Grid System to enable WAPDA to receive Net Electrical Output and Dependable Capacity and to deliver electrical energy, as required, in accordance with this Agreement.

1.122 "WAPDA" - The Pakistan Water and Power Development Authority, a statutory corporation established pursuant to the Pakistan Water and Power Development Authority Act of 1958, with its principal office located at Lahore, Pakistan and its successors and permitted assigns.

1.123 "WAPDA Event of Default" - An event described in Section 4.3 for which the Company may, subject to Section 4.4, issue a Termination Notice.

1.124 "WAPDA Letter of Credit" - The unconditional and irrevocable direct-pay letter of credit issued by a scheduled Pakistani bank in Pakistan reasonably acceptable in form to the Company, which shall provide for draws by the Company for the purposes of Section 9.7 in immediately available funds and which shall be in an amount equal to an aggregate of two (2) Months of Capacity Payments plus Energy Payments (each as adjusted in accordance with Schedule 6) computed on the basis of the AIDC and assuming that the Complex will be Despatched at sixty percent (60%) of AIDC or, with respect to any replacement letter of credit, computed on the basis of the then-prevailing Dependable Capacity and assuming that the Complex will be Despatched at sixty percent (60%) of the then-prevailing Dependable Capacity, to be provided by WAPDA to the Company pursuant to Section 9.4(f)(ii)(A).

1.125 "Week" - Each period of seven (7) consecutive Days beginning at 12:00 midnight

Pakistan time falling between a Friday and a Saturday.

1.126 "Weighted Complex Partial Derating" - The meaning ascribed thereto in Section 9.4(b)(iii).

1.127 "Weighting Factor" - The meaning ascribed thereto in Section 9.4(b)(v).

1.128 "World Bank" - The International Bank for Reconstruction and Development.

1.129 "Year" - Each twelve (12) Month period commencing on 12:00 midnight on December 31 and ending on 12:00 midnight the following December 31 during the Term.

1.2 Rules of Interpretation.

In this Agreement:

(a) The headings are for convenience only and shall be ignored in construing this Agreement;

(b) The singular includes the plural and vice versa;

(c) References to Sections, Recitals and Schedules are, unless the context otherwise requires, references to Sections of, and Schedules and Recitals to, this Agreement;

(d) 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; and

(e) In carrying out its obligations and duties under this Agreement, each Party shall have an implied obligation of good faith.

ARTICLE II
SALE AND PURCHASE OF ENERGY AND CAPACITY

2.1 Energy and Capacity.

(a) Subject to and in accordance with the terms of this Agreement, from and after the Commercial Operations Date and until the expiration of this Agreement, the Company shall make available to WAPDA, and WAPDA shall purchase from the Company for the consideration described in Article IX:

(i) the Dependable Capacity up to one hundred five percent (105%) of the Estimated Dependable Capacity; and

(ii) the Net Electrical Output of the Complex to the extent that it is Despatched.

(b) Subject to and in accordance with the terms of this Agreement, prior to the Commercial Operations Date, WAPDA shall accept and purchase for the consideration provided in Section 9.2(b) all Net Electrical Output produced by testing performed pursuant to the Construction Contract and Commissioning; provided, however, that in no event shall the provisions of Sections 6.2 through 6.6 apply prior to the Commercial Operations Date.

(c) The Parties agree that, during the Term and any extension thereof, the Company shall not, without the prior written consent of WAPDA, sell or deliver electric energy produced by the Complex to any entity other than WAPDA.

2.2 Provisions for Despatch.

WAPDA shall have the right to Despatch the Complex, provided that (i) Despatch of the Complex must at all times be consistent with the Technical Limits and the operating procedures developed pursuant to Section 3.4; (ii) Despatch shall not exceed at any time the then-prevailing Declared Available Capacity and (iii) prior to the Commercial Operations Date, such right shall only be during an Emergency, subject to the provisions of Section 6.7. Except as provided in Sections 2.3 and 6.7, WAPDA shall Despatch the Complex in accordance with Economic Despatch; provided, however, the despatch by WAPDA of WAPDA-owned hydel generation shall be in WAPDA's sole discretion and the despatch of such generating units on a basis other than Economic Despatch shall not be a breach of this Agreement by WAPDA.

2.3 Emergency Despatch of the Complex.

(a) Notwithstanding the provisions of Sections 2.1 or 2.2, WAPDA shall not be obligated to purchase or receive energy from the Complex, and may require the Company to disconnect or reduce energy deliveries:

(i) if in WAPDA's sole opinion, an Emergency exists; or

(ii) for so long as a disconnection or a reduction in energy deliveries is necessary to enable WAPDA to construct, install, maintain, repair, replace, remove, investigate, inspect or test any part of the Interconnection Facilities, the Transmission Facilities or any affected part of the Grid System.

(b) WAPDA will use all reasonable efforts to notify the Company of reductions in the Complex's Net Electrical Output due to reasons specified in (i) above. With respect to (ii) above, to the extent that such reductions can be rescheduled or delayed in a manner that does not affect the reliability or integrity of the Grid System, WAPDA shall use reasonable efforts to coordinate such reductions in Net Electrical Output with the Company's Scheduled Outages, and the Company shall use reasonable efforts to reschedule its Scheduled Outages with such reduction in Net Electrical Output, so that long outages can be scheduled to coincide with Scheduled Outages. WAPDA shall provide the Company with at least forty-eight (48) hours prior notice of such reductions in Net Electrical Output when practicable. Any reduction required of the Company in accordance with (i) or (ii) above shall be implemented and completed as soon as possible consistent with Prudent Utility Practices and the Technical Limits.

2.4 Observance of Technical Limits.

Nothing contained in this Agreement shall be construed to require the Company to operate the Complex, at any time, including during an Emergency, in any manner inconsistent with the Technical Limits or the Laws of Pakistan.

ARTICLE III
AGREEMENTS OF THE PARTIES

3.1 Permits, Licenses and Approvals.

(a) Prior to the Commercial Operations Date, pursuant to Section 6.2 of the Implementation Agreement, the Company shall, at its own expense, (i) make or cause to be made all applications (whether initial applications or renewal applications) for the Consents in the Prescribed Form and with the Prescribed Fee to the appropriate Public Sector Entities, shall diligently pursue all such applications and shall use all reasonable efforts to maintain in effect Consents once obtained; (ii) give all required notices and allow all required inspections under all Consents obtained by it in connection with the Complex; and (iii) pay all Prescribed Fees in connection with such Consents. 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 applied in a "non-discriminatory" manner, as defined in Section 16.4 of the Implementation Agreement.

(b) After the Commercial Operations Date, the Company, at its own expense, shall (i) use all reasonable efforts to obtain and maintain in effect all Consents required in order to enable it to perform its obligations under this Agreement; (ii) give all required notices and allow all required inspections under all Consents obtained by it in connection with the Complex; and (iii) pay all Prescribed Fees in connection with such Consents.

(c) WAPDA shall, at its own expense, (i) use all reasonable efforts to obtain and maintain in effect all permits, licenses and approvals required by all Public Sector Entities with jurisdiction over WAPDA, the Grid System, the Interconnection Facilities, the Transmission Facilities and the Metering System in order to enable it to perform its obligations under this Agreement; (ii) give all required notices and allow all required inspections under all consents, permits, licenses and approvals obtained by it in connection with the Complex; and (iii) pay all prescribed fees in connection with such consents, permits, licenses and approvals.

3.2 Feasibility Report

Within five (5) Days of receipt or completion of any Feasibility Report prepared by or on behalf of the Company or the Lenders, the Company will deliver a copy of each such Feasibility Report to WAPDA.

3.3 Submittal of Data.

(a) The Company shall submit to WAPDA the following documents on or before the specified dates:

(i) As soon as available, but no later than Financial Closing, a copy of the Implementation Agreement as executed, with any amendments thereto;

(ii) Beginning within ninety (90) Days after Financial Closing and ending on the Commercial Operations Date, (A) monthly construction progress reports substantially in the form set forth in Schedule 7 (or such other form as may be agreed to by the Parties), (B) such other reports as are submitted to the Company by the Engineer and (C) reports, when and as the Company becomes aware, of any new condition or event which will have a material and adverse effect on the timely completion of the Complex.

(iii) At least ten (10) Days prior to Construction Start, evidence demonstrating that the Company and the Contractors have obtained all material Consents as of the Construction Start.

(iv) At least sixty (60) Days prior to the scheduled commencement of testing and Commissioning of the Complex, a preliminary start-up and test schedule for the Complex;

(v) Not later than thirty (30) Days following the Commercial Operations Date, for the major items of plant incorporated into the Complex, copies, as received by the Company under the Construction Contract, of all manufacturers' specifications, manufacturers' operation manuals, and a certificate of the designated site engineer attesting to the fact that all equipment is new and unused;

(vi) As soon as available, signed and sealed copies of such as-built drawings for the Complex, including the civil and architectural works, as and when provided to the Company under the Construction Contract;

(vii) On or before the Commercial Operations Date, a certificate from the Engineer to the effect that the Complex has been constructed in all material respects in compliance with the terms of this Agreement and the Construction Contract such that the Company will be able to operate the Complex or cause it to be operated, in accordance with Prudent Utility Practices and the terms of this Agreement;

(viii) On or before the Construction Start, a copy of the Construction Contractor's All Risk Insurance Policy and as soon as available, but in any event on or before the Commercial Operations Date, and as and when updated, copies of all initial insurance policies and certificates of insurance or other evidence of insurance for policies detailed in Schedule 8;

(ix) Not later than thirty (30) Days prior to the Commercial Operations Date, (i) evidence demonstrating the Company has obtained from the Public Sector Entities having jurisdiction over the Company or the Project all of the Consents then required to be obtained for the ownership, operation and maintenance of, and the supply of power from, the Complex, together with (ii) a list identifying Consents not yet required to be obtained for the operation and maintenance of, and the supply of power from, the Complex, together with a plan reasonably acceptable to WAPDA for obtaining such Consents and an estimate of the time within which such Consents will be obtained;

(x) As soon as available, but not later than the Commercial Operations Date, copies of all preliminary results of tests performed on the Complex, including tests of major equipment included in the Complex, in accordance with the Construction Contract, and as soon as available but not later than thirty (30) Days after the Commercial Operations Date, copies of all final results of such tests;

(xi) As available, draft copies of the Fuel Supply Agreement, and no later than 30 days prior to Financial Closing, a copy of the Fuel Supply Agreement as will be executed on or before Financial Closing, together with such other information as appropriate demonstrating that the Company has contracted for a reliable supply of fuel necessary to generate Net Electrical Output at the Dependable Capacity level for the Term (and a full requirements contract with the Fuel Supplier for a term not less than the Term shall constitute such evidence);

(xii) As soon as available, but no later than the Financial Closing, the Company shall provide WAPDA with any environmental assessment or study relating to the Complex that has been provided to the Company or to its Lenders;

(xiii) As of the date of Financial Closing, a certificate, dated as of such date, signed by the Chairman of the Board, President or a Vice-President and by a principal financial or accounting officer of the Company that (1) all representations and warranties of the Company in and under this Agreement are true, with the same effect as though such representations and warranties had been made on and as of the date of Financial Closing and (2) no Company Event of Default shall have occurred and be continuing;

(xiv) As of the Commercial Operations Date, a certificate, dated as of such date, signed by the Chairman of the Board, President or a Vice-President and by a principal financial or accounting officer of the Company that (1) all representations and warranties of the Company in and under this Agreement are true, with the same effect as though such representations and warranties had been made on and as of the Commercial Operations Date and (2) no Event of Default as to the Company shall have occurred and be continuing; and

(xv) As soon as available, but no later than the Financial Closing, necessary technical documents and data required by Schedule 3, sufficient for WAPDA to design, construct and install the Interconnection Facilities and the Transmission Facilities.

(b) WAPDA shall provide to the Company (a) within thirty (30) Days after receipt of a written request from the Company, information on the Grid System reasonably necessary for the Company to design, operate and maintain the Complex, (b) not later than sixty (60) Days prior to the Scheduled Commercial Operations Date, Despatch and communications procedures currently in use by WAPDA and (c) at least thirty (30) Days prior to their implementation, any planned changes to the Despatch and communication procedures then in effect.

(c) The Company shall notify WAPDA of any changes to the schedule described in subsection (iv) of Section 3.3(a) in a timely manner. The receipt of the above schedules, data, certificates and reports by WAPDA shall not be construed as an endorsement by WAPDA of the design thereof, does not constitute a warranty by WAPDA of the safety, durability or reliability of the Complex, nor otherwise relieve the Company of its obligations or potential liability under this Agreement, the Implementation Agreement, and the other documents comprising the Security Package or, except with respect to the obligations of WAPDA to maintain the confidentiality of documents and information received by it, create any obligation or liability on the part of WAPDA under any document contained in the Security Package.

(d) Within ten (10) Days after Financial Closing, the Company shall deliver to WAPDA copies of each of the documents referenced in Section 3.3(a) as executed which execution copies were not previously submitted to WAPDA.

3.4 Operating Procedures.

(a) The Company shall develop, with the input and comments of WAPDA, written operating procedures for the Complex that are acceptable to the Parties no later than one hundred twenty (120) Days prior to the then-existing Scheduled Commercial Operations Date. The operating procedures shall be based on the designs of the Complex, the Metering System, the Interconnection Facilities, the Transmission Facilities and the Grid System and shall be consistent with the Technical Limits. The operating procedures shall deal with all operational interfaces between WAPDA and the Company, including, but not limited to, the method of Day-to-Day communication, identification and contact of key personnel, clearances and switching practices, outage scheduling, capacity and energy reporting, operations logs and Reactive Power support. The operating procedures are to be developed in accordance with the following process:

(i) WAPDA shall advise the Company of all matters and information WAPDA believes are to be included in the operating procedures at least ten (10) months prior to the then existing Scheduled Commercial Operations Date and within fourteen (14) Days of a request from the Company, shall make its representatives available to review such matters and information with the Company procedures;

(ii) the Company shall provide WAPDA with draft written operating procedures not later than eight (8) months prior to the Scheduled Commercial Operations Date;

(iii) WAPDA shall provide definitive comments on the draft operating procedures to the Company within thirty (30) days of their receipt by WAPDA and, within seven (7) days of a request from the Company, shall make its representatives available in Lahore to review its comments with the Company; and

(iv) the Company shall revise the draft operating procedures to incorporate the comments of WAPDA and provide them to WAPDA not later than six (6) months before the Scheduled Commercial Operations Date. Any remaining disagreements concerning the operating procedures shall be referred to the Operating Committee for resolution and, if not resolved by the Operating Committee within thirty (30) Days of such referral, to the expert for final resolution. The expert shall be directed to render his decision at least one hundred twenty (120) days prior to the then-prevalent Scheduled Operations Date. If the expert has not rendered his decision by the date ninety (90) Days prior to the then-prevailing Scheduled Commercial Operations Date, the operating procedures as modified by WAPDA's comments shall be used for operating the Complex pending the decision by the expert and such delay by the expert shall not postpone the Commercial Operations Date pursuant to Section 3.11. Upon the rendering of the decision by the expert, the Operating procedures for the Complex shall be modified accordingly.

(b) The Company and WAPDA shall mutually develop an inter-tripping schedule no later than sixty (60) Days prior to the required implementation of such schedule.

Such inter-tripping schedule shall be based on a proposed schedule submitted to the Company by WAPDA at least one hundred and twenty (120) Days prior to the date implementation of such schedule is required.

3.5 Delivery of Energy from WAPDA to the Complex.

Upon the Company's request, WAPDA shall use its reasonable efforts to provide, subject to availability and WAPDA's ability to deliver to the Complex, at the sole cost and expense of the Company, energy for testing, Commissioning, and emergencies and for Start-Ups at the relevant tariff then charged by WAPDA for the provision of such class of energy service.

3.6 Completion of Interconnection and Transmission Facilities.

(a) In the event that for any reason other than the reasons specified in Section 7.4, WAPDA has not completed the Interconnection Facilities and the Transmission Facilities by the completion date specified in Section 7.4, or such later date as may be determined by the Parties in accordance with this Agreement, and such delay causes any programme of tests referred to in Article X to be delayed for more than ten (10) days beyond the date (the "Certification Date") as of which the Interconnection Committee (as defined in Section 9.3) certifies that the Complex is ready for the commencement of Commissioning tests but such testing cannot commence due to the unavailability of the Interconnection Facilities or the Transmission Facilities and that the delay in the programme of tests would not have occurred but for WAPDA's failure to timely complete the Interconnection Facilities and the Transmission Facilities, then, from and after the Certification Date, WAPDA shall pay to the Company Monthly, in arrears, (and pro rated for any portion of a Month) an amount equal to the carrying cost on the debt related to the Complex incurred under the Financing Documents plus fifty percent (50%) of the escalable component of the Capacity Purchase Price. Such payments shall continue until the completion of the Interconnection Facilities and the Transmission Facilities. In addition, the Required

Commercial Operations Date and the Premium Date shall be extended on a Day-for-Day basis by the number of Days in the period commencing on the Certification Date and ending on the date WAPDA completes the Interconnection Facilities and the Transmission Facilities in accordance with Section 7.4. Except as provided in Section 4.3(e), the Company shall be entitled to no other penalty or claim for damages as a result of delay by WAPDA in completing the Interconnection Facilities and the Transmission Facilities. WAPDA shall have no obligation to make the payments provided in this Section 3.6 if and to the extent that the delay in the programme of tests would have nevertheless occurred regardless of WAPDA's failure to timely complete the Interconnection Facilities and the Transmission Facilities. If payments by WAPDA under this Section 3.6 shall have commenced or the obligation for such payments shall have accrued, the Complex shall be tested at the first available opportunity thereafter.

3.7 Appointment of Construction Contractor.

WAPDA acknowledges the Company's appointment of M/s. Toyota Tsusho Corporation, Japan as Construction Contractor; provided, however, that such acknowledgement shall not relieve the Company of any of its obligations or potential liability regarding the design, financing, insuring, acquisition, construction or completion of the Complex or any liability whatsoever resulting from a breach of any term or condition of this Agreement.

3.8 Operations and Maintenance of Complex.

The Company shall operate and maintain the Complex; provided, however, that the Company may contract with the O&M Contractor to operate and maintain the Complex; provided, further, that the appointment of the O&M Contractor by the Company shall not relieve the Company of any of its obligations or potential liability regarding the insuring, operation or maintenance of the Complex or any liability whatsoever resulting from a breach of any term or condition of this Agreement.

3.9 WAPDA Observation Visits.

WAPDA shall have the right, on a recurring basis and upon reasonable prior notice to the Company (except that no notice shall be required during an Emergency), to observe the progress of the construction of the Complex, the testing and Commissioning of the Complex in accordance with Article X, and the operation of the Complex. The Company shall comply with all reasonable requests of WAPDA for, and assist in arranging, any such observation visits to the Complex. All persons visiting the Complex on behalf of WAPDA shall comply with the reasonable instructions and directions of the Company or its Contractors. Such visits to the Complex shall not be construed as an endorsement by WAPDA of the design, construction or operation of the Complex nor as a warranty by WAPDA of the safety, durability or reliability of the Complex.

3.10 WAPDA Consent.

For the purposes of Section 28 of the Electricity Act, 1910, WAPDA hereby irrevocably consents to the generation of electricity by the Company at the Complex during the Term.

3.11 Failure to Submit Reports.

Any failure of either Party to timely submit any reports, information or certifications required by this Agreement, including, without limitation, the items required by Section 3.3, shall, in addition to any rights and remedies available to the receiving Party under law, give the receiving Party the right to delay reciprocal action for which such information is provided, or the date or event in connection with which the information is provided, for a period equal to any such delay by the delivering Party.

ARTICLE IV TERM AND TERMINATION

4.1 Term of Agreement.

(a) This Agreement shall commence and be effective on the date hereof, and shall, unless extended or terminated earlier in accordance with the terms of this Agreement, continue in full force and effect for twenty two (22) Agreement Years (the "Term").

(b) The Term shall automatically be extended by the aggregate of Days all Pakistan Political Force Majeure Events or Changes in Law declared by the Company were in existence. During each Month of such extension, the Company shall be paid the non-escalable portion of the Capacity Payment as in existence during such Pakistan Political Force Majeure Event, plus the escalable component of the Capacity Purchase Price applicable to the twenty second (22nd) Agreement Year (as shall be further escalated pursuant to the provisions of Schedule 6) multiplied by the then-prevailing Dependable Capacity. The Term shall automatically be extended by the aggregate of all Days Force Majeure Events declared by WAPDA were in existence. During each Month of such extension, the Company shall be paid the escalable component of the Capacity Purchase Price applicable to the twenty second (22nd) Agreement Year (as shall be further escalated pursuant to the provisions of Schedule 6) multiplied by the then-prevailing Dependable Capacity. During any such extensions, the Company shall also receive the Energy Purchase Price for each kWh of Net Electrical Output.

(c) Following the end of the twentieth (20th) Agreement Year, at the request of either Party, the Company and WAPDA agree to enter into good faith negotiations for a renewal of this Agreement for an additional term of five (5) Agreement Years on terms and conditions mutually agreed to by the Parties. If the Parties cannot agree to terms and conditions for the renewal of this Agreement, the Company will be permitted to contract with any other party for the sale of dependable capacity and electrical energy from the Complex and WAPDA shall deliver to the Company any necessary consents for such sale, including, without limitation, any consent required by Section 28 of the Electricity Act, 1910; provided, however, that WAPDA shall have no obligation to assist in such sale (including the transmission of electrical energy) unless otherwise required by law.

4.2 Company Events of Default - Termination by WAPDA

Each of the following events shall be events of default by the Company (each a "Company Event of Default"), which, if not cured within the time permitted (if any), shall give rise to the right on the part of WAPDA to terminate this Agreement pursuant to Section 4.4: provided, that WAPDA has received the prior written consent of the GOP, a copy of which consent shall be provided to the Company with any notice provided under Section 4.4, and provided further that no such event shall be an Event of Default by the Company (i) if it results solely from a breach by WAPDA of this Agreement or by the GOP of the Implementation Agreement or the Guarantee; or (ii) if it occurs solely as a result of or during an Event of Force Majeure for the period provided pursuant to section 13.4:

(a) the failure of the Company to achieve Financial Closing by the date twelve (12) months following the date of the Letter of Support, as such date may be extended pursuant to the terms of Section 6.3(b) of the Implementation Agreement;

(b) 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;

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

(d) after the 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 the prior written notice to, and prior written consent of, WAPDA; 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 all reasonable efforts to regain control of the Complex or reinstate such construction;

(e) after the Commercial Operations Date, the Abandonment by the Company of the operation of the Complex for a consecutive period of thirty (30) Days without prior written notice to, and the prior written consent of WAPDA;

(f) 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 additional equity contributed by the shareholders of the Company after Financial Closing;

(g) the Company's failure to operate, maintain, modify or repair the Complex in accordance with Prudent Utility Practices, such that safety of persons and property, the Complex or WAPDA's service to its customers is adversely affected;

(h) except for the transfer of the Complex to the GOP pursuant to the terms of the Implementation Agreement and the assignments to and by the Lenders contemplated under Section 15.2 of the Implementation Agreement, (i) the assignment or transfer of the Company's rights or obligations in the assets identified in clauses (a) through (f) of Section 17.10 without the prior consent of WAPDA; or (ii) the transfer, conveyance, loss or relinquishment to any person or entity 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 WAPDA;

(i) 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; or (iv) the making by a court with jurisdiction over the Company of an order winding up the Company which is not stayed or reversed by a court of competent authority within thirty (30) Days;

(j) 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;

(k) the exercise by Lenders of their remedies under the Financing Documents with respect to either the Complex assets or the pledged Ordinary Share Capital (as defined in the Implementation Agreement) such that either the Company or its management are removed by the Lenders from control of the Complex or the Company and the failure by the Lenders to deliver an Election Notice (as defined in Section 4.5) or to transfer the Complex and the rights and obligations of the Company under the Implementation Agreement and this Agreement to a Transferee within two hundred and forty (240) Days thereafter;

(l) any material breach by the Company of this Agreement or the Implementation Agreement that is not remedied within thirty (30) Days after notice from the GOP or WAPDA stating that a material breach of such agreement has occurred and is continuing that could result in the termination of such agreement, identifying the material breach in question in reasonable detail, and demanding remedy thereof, or a termination of the Implementation Agreement resulting from a default of the Company thereunder;

(m) tampering by the Company, its employees, Contractors or subcontractors of any tier with the Interconnection Facilities or the Metering System;

(n) failure to post security as required by Sections 9.4(f)(i)(A) or (B). The Company agrees that in no event shall the Company be entitled to any extension for the posting of security pursuant to Sections 9.4(f)(i)(A) or (B), including by reason of a Force Majeure Event pursuant to Article XIII; or

(o) any default or defaults by the Company in the making of any payment or payments required to be made by it hereunder within thirty-five (35) days of the due date therefor.

4.3 WAPDA Events of Default - Termination by the Company.

Each of the following events shall be events of default by WAPDA (each a "WAPDA 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 4.4, provided, however, that no such event shall be an Event of Default by WAPDA (i) if it results from a breach by the Company of this Agreement or the Implementation Agreement or (ii) if it occurs as a result of or during a Force Majeure Event during the period provided pursuant to Section 13.4:

(a) the dissolution, pursuant to law, of WAPDA, except for (i) the privatization of WAPDA's thermal power stations or area electricity boards (provided, however, that in the case of the area electricity boards, all of WAPDA's obligations under this Agreement must be assigned pursuant to law to or contractually assumed, through a novation, by one or more entities, each of which has the legal capacity and appropriate commercial function to perform such obligations) or (ii) an amalgamation, reorganization, reconstruction, or further privatization of WAPDA, in each case where the GOP without interruption guarantees the performance of the succeeding entity or entities on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligation of the succeeding entity or entities that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee and all of WAPDA's obligations under this Agreement are assigned pursuant to law to or contractually assumed, through a novation, by one or more entities, each of which has the legal capacity and appropriate commercial function to perform such obligations;

(b) any default or defaults by WAPDA in the making of any payment or payments required to be made by it within thirty (30) Days of the due date therefor and then, upon notice to the GOP, any default or defaults by the GOP in the making of any payment in accordance with the terms of the Guarantee which continues unpaid for five (5) Business Days;

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

(d) any material breach by WAPDA of this Agreement, which is not remedied within thirty (30) Days after notice from the Company to WAPDA, which notice states that a material breach of such agreement has occurred that could result in the termination of such agreement, identifies the breach in question and demands remedy thereof; or

(e) failure of WAPDA to complete construction of the Interconnection Facilities and the Transmission Facilities by fifteen (15) Months after the Scheduled Commercial Operations Date;

(f) failure of WAPDA to post security as required by Section 9.4(f)(ii). WAPDA agrees that in no event shall WAPDA be entitled to any extension for the posting of security pursuant to Section 9.4(f)(ii), including by reason of a Force Majeure Event pursuant to Article XIII;

(g) failure of the Company to obtain and have in full force and effect the Consents specified in Schedule 1 of the Implementation Agreement as and within the six (6) Months period provided in Section 6.3(b) of the Implementation Agreement, so long as such failure is not a result of delay by the Company or the failure by the Company or its contractors to have been and to be in compliance with the substantive and procedural requirements applied in a "non-discriminatory" manner as described in Section 16.4 of the Implementation Agreement.

(h) any change in any applicable Laws of Pakistan (including the Constitution of Pakistan and any other Law of Pakistan that gives effect to the injunctions of Islam) making (A) unenforceable, invalid, or void any material undertaking of WAPDA under this Agreement or (B) it unlawful for the Company, its 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 (C) 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 law.

4.4 Termination Notices; Termination.

(a) Upon occurrence of a WAPDA 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 written notice ("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 WAPDA Event of Default, as the case may be, giving rise to the Notice of Intent to Terminate.

(b) Following the giving 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 or provide security when due, and up to ninety (90) Days with respect to any other Event of Default (or such longer period as the Parties mutually may agree), as to what steps shall be taken with a view to mitigating the consequences of the relevant event taking into account all prevailing circumstances. During the period following 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 4.4(c), then the non-defaulting Party shall have no right to terminate this Agreement in respect of such cured default.

(c) Subject to the provisions of Section 4.5 or 4.9, as the case may be, upon expiration of the consultation period described in Section 4.4(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.

(d) In the event that the Complex is transferred to the GOP under the terms of the Implementation Agreement, this Agreement shall immediately terminate and the Company shall have no further obligations to WAPDA hereunder except those obligations which arose prior to or upon the termination of this Agreement.

4.5 Notice to Lender of Company's Default.

Anything in this Agreement notwithstanding, from and after the occurrence of the Financial Closing, WAPDA shall not seek to terminate this Agreement as the result of any default of the Company without first giving a copy of any notice required to be given to the Company under Sections 4.2 and 4.4 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 4.4(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 WAPDA 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 4.5 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 4.5 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 WAPDA by the Company at Financial Closing and thereafter may be changed by the Lender or the Agent by subsequent delivery of a notice to WAPDA at the address or facsimile number for WAPDA provided in Section 16.1 (or at such other address or facsimile number subsequently delivered to the Lender or the Agent in accordance with this Section 4.5) and otherwise in accordance with the requirements of Section 16.1.

No rescission or termination of this Agreement by WAPDA 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 4.5. 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 4.4(b) as provided to the Company in this Agreement, WAPDA 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 4.4(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 WAPDA 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 this Agreement (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 17.10(c). If WAPDA has assumed the operation of the Complex and the Complex is being operated by WAPDA to its satisfaction, WAPDA 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 17.10(c). In the event that the Lenders fail to cure any Company Event of Default required to be cured pursuant to Section 17.10(c) on or before the expiration of the Cure Period, as it may have been extended, WAPDA may exercise its rights and remedies with respect to such default set forth in this Agreement, WAPDA may immediately terminate this Agreement, and such termination shall be effective on delivery to the Lenders or the Agent of notice of such termination.

4.6 Obligations Upon Termination.

Upon expiration or termination of this Agreement, the Parties shall have no further obligations hereunder except for obligations that arose prior to such expiration or termination and obligations that expressly survive such expiration or termination pursuant to this Agreement, including without limitation, the obligation to pay expenses under Section 4.7 and liquidated damages under Section 9.4.

4.7 Reimbursement.

In the event of a termination of this Agreement prior to the Commercial Operations Date for any reason other than (i) a WAPDA Event of Default; (ii) a GOP Event of Default under the Implementation Agreement; (iii) a Pakistan Political Force Majeure Event or (iv) a Change in Law, the Company shall reimburse WAPDA for all costs and expenses (including reasonable attorneys' fees) relating to the Project incurred by the WAPDA prior to such termination, which amount in any event shall not exceed One Hundred Thousand Dollars (\$100,000) plus all costs incurred by WAPDA on construction of the Transmission Facilities and the Interconnection Facilities. The amount of such construction costs shall be subject to independent audit, at the request and sole expense of the Company.

4.8 Other Remedies.

The exercise of the right of a Party to terminate this Agreement, as provided herein, does not preclude such 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 of them by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies by such Party; provided, however, that the remedies provided in Section 3.6 and Section 4.3 are the exclusive remedies available to the Company with respect to any claim by the Company against WAPDA for WAPDA's failure to construct the Interconnection Facilities or the Transmission Facilities in accordance with Section 7.4 and Schedule 3.

4.9 Notice to the GOP of WAPDA's Default.

Anything in this Agreement notwithstanding, the Company shall not seek to terminate this Agreement as a result of any default of WAPDA without first giving a copy of any notices required to be given to WAPDA under Sections 4.3 and 4.4 to the GOP, such notices to be coupled with a request to the GOP to cure any such default within the same cure period as provided to WAPDA hereunder 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 Section 23.1 of the Implementation Agreement (or such other address as the GOP may have specified by written notice delivered in accordance therewith). No rescission or termination of this Agreement by the Company shall be of any effect without such notice and expiration of such cure period. The GOP may make or perform, but shall be under no obligation to make any payment (other than is required under the Guarantee) or to perform any act required of WAPDA hereunder with the same effect as if the payment or act had been made or performed by WAPDA. If the GOP fails to cure or is unable or unwilling to cure a default of WAPDA within the cure periods provided to WAPDA under this Agreement, the Company shall have all of its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that if the GOP is diligently attempting to cure such default, other than a payment default of WAPDA, 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.

4.10 Termination of Implementation Agreement

In the event that the Implementation Agreement is terminated under the provisions of Article XVII thereof and the Complex is transferred to GOP following a Pakistan Political Force Majeure Event or Change in Law or a GOP Event of Default thereunder, this Agreement shall be assigned to the GOP upon transfer of the Complex or, at the option of the GOP, terminate immediately.

ARTICLE V
REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1 Representations, Warranties and Covenants of the Company.

(a) Corporate Representations and Warranties. The Company represents and warrants to WAPDA that (i) the Company is duly incorporated, existing and in good standing under the Laws of Pakistan, and has, so far as is material to WAPDA, complied fully with all requirements of the Companies Ordinance of 1984 and all other applicable Laws of Pakistan and has all requisite power and authority to conduct its business, to own its properties and to execute, to deliver and to perform its obligations under this Agreement; (ii) there are no proceedings pending, or to the best of its knowledge, threatened for the liquidation of the Company or that could materially adversely affect the performance by the Company of its obligations under this Agreement, the Implementation Agreement and any other documents comprising the Security Package; (iii) this Agreement has been duly authorized, executed and delivered by it and constitutes the legal, valid and binding obligation of it; and (iv) to the best of its knowledge, the execution and delivery of, and performance of its obligations under this Agreement by the Company, subject to the granting and maintenance of the requisite Consents, does not and, subject to the granting and maintenance of the relevant additional Consents in the future, will not constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction applicable or relating to it, its assets or its businesses.

(b) Company Covenants. The Company hereby covenants, as follows:

(i) Design and Construction of the Complex. The Company shall design, engineer, finance, construct, complete and own the Complex in all material respects in accordance with (A) the Minimum Functional Specifications set forth in Schedule 1, (B) the plans and specifications and accompanying data submitted to WAPDA pursuant to this Agreement, (C) the Standards, (D) so far as it is material to WAPDA's rights and obligations hereunder, all applicable Laws of Pakistan and the Consents and (E) sound engineering and construction practices and Prudent Utility Practices and (F) such requirements as WAPDA may reasonably deem necessary in order for the Interconnection and Transmission Facilities to be designed and constructed in accordance with sound engineering practices, Prudent Electrical Practices and Prudent Utility Practices, and shall use all reasonable efforts to ensure that the Complex is Commissioned on or before the Required Commercial Operations Date. The Company covenants that the Complex will be designed, constructed and completed in a good and workmanlike manner, only with materials and equipment that are brand new and unused, utility grade and suitable for their intended use, and in such a manner as to provide that the useful life of the Complex, with proper operation and maintenance, will be at least equal to twenty two (22) years and in accordance in all material respects with sound engineering practices and Prudent Utility Practices.

(ii) Operation and Maintenance of the Complex. The Company will operate and maintain the Complex in all material respects in accordance with (A) the operating procedures developed pursuant to Section 3.4, (B) the Technical Limits set forth in Schedule 2, (C) if not inconsistent with the Laws of Pakistan, the Standards, (D), so far as it is material to WAPDA hereunder, all applicable Laws of Pakistan and the Consents, and (E) sound engineering practices and Prudent Utility Practices, including without limitation, synchronizing, voltage and reactive power control and (F) Prudent Electrical Practices.

(iii) Company's Reliable Fuel Supply. Beginning with the Commercial Operations Date and at all times thereafter until the termination of this Agreement, the Company will (i) have a reliable supply of fuel of quality and in quantity sufficient to meet the Net Electrical Output and Dependable Capacity delivery requirements hereunder and (ii) maintain at least a thirty (30) Day (at full load) supply of oil stored within one (1) mile of the Site. From time to time, as WAPDA may reasonably request, the Company shall provide WAPDA evidence of its compliance with this obligation. The Fuel Supply Agreement, the Company's inventory of fuel and availability of alternate supplies of fuel will be considered in determining whether the Company has a reliable supply of fuel;

(iv) WAPDA Voltage Level or Waveforms. Subject to the Technical Limits, the Company shall operate and maintain the Complex in such a manner so as not to have an adverse effect on WAPDA's voltage level or voltage waveform;

(v) Complex Voltage Levels. The Complex will be operated at the voltage levels determined pursuant to Schedule 2;

(vi) Maintenance of Insurance. The Company shall obtain and maintain the insurance coverage required by Article XI of this Agreement, in accordance with the provisions of Article XI;

(vii) Applicable Laws. The Company shall, (a) at all times, maintain its corporate existence in compliance with the Laws of Pakistan, (b) at all times, so far as it is material to WAPDA hereunder, comply with all Laws of Pakistan applicable to the Company and the Standards, (c) use all reasonable efforts to procure and maintain all Consents necessary for its performance under this Agreement, give all required notices and allow all required inspections under all Consents obtained or applied for by it in connection with the Complex, and (d) pay all Prescribed Fees in connection with such Consents.

(viii) Opinion of Counsel. Upon request of WAPDA and at no cost to WAPDA, the Company shall cause its counsel to issue an opinion to WAPDA affirming the representations and covenants in Sections 5.1(a) and 5.1(b)(vii) and setting forth such further matters as WAPDA may reasonably request;

(ix) Certificates of Officers, Accountants, Engineers or Agents. The Company will, upon request of WAPDA, deliver or cause to be delivered from time to time to WAPDA certifications of its officers, accountants, engineers, or agents as to the performance of its obligations under this Agreement, including a certificate by the Engineer regarding compliance of the Complex with the Standards, and as to such other matters as WAPDA may reasonably request; provided, however, that each certificate from such accountants, engineers or agents shall be requested not more than twice in any 12-month period;

(x) Maintenance of Books of Record and Account. The Company will keep proper books of record and account, in sufficient detail to permit WAPDA to calculate and verify Pass-Through Items and Supplemental Tariff Charges recovered by the Company pursuant to Article IX and Schedule 6, in which all correct entries will be made of all dealings or transactions of or in relation to its business and affairs, in accordance with generally accepted accounting principles in Pakistan, consistently applied. The Company will furnish the following to WAPDA so long as this Agreement is in effect:

(A) Periodic Reports. As soon as available but in any event within sixty (60) Days of filing, furnish to WAPDA 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; and

(B) Other Reports. As soon as available a report on any factors materially and adversely affecting or that might materially and adversely affect the Project and its business and operations;

(C) Examination. Without limiting the foregoing, the Company will permit WAPDA or its accountants to examine all relevant books, records, reports and other papers of the Company for the purpose of verifying (i) the determination of Supplemental Tariff Payments; (ii) the amount or calculation of the Capacity Purchase Price or the Energy Purchase Price (including indexed and Pass-Through Items) in accordance with Schedule 6; and (iii) upon the occurrence of a Company Event of Default, compliance with the Company's financial obligations under the Financing Documents. The Company shall keep such books, records, reports and other papers in sufficient detail to permit WAPDA to calculate and evaluate such matters. Any such examination by WAPDA shall be made during regular business hours and upon reasonable advance notice to the Company. In connection with such examination, the Company will permit WAPDA and WAPDA's accountants to make copies and extracts of such books, records reports and other papers and to discuss such matters with the Company's officers and employees. If after discussion of such matters with the

Company's officers and employees. WAPDA wishes to review such matters with the Company's accountants, the Company shall direct its accountants (whose fees and expenses shall be for the account of the Company) to communicate directly with WAPDA concerning such matters. The Company shall not be required to pay or reimburse WAPDA for expenses which WAPDA or WAPDA's accountants may incur in connection with any such examination;

(xi) Maintenance Evaluations or Reports. The Company shall provide WAPDA with copies of any maintenance evaluations or reports it performs for or obtains from any third party including those with a financial security interest in or lien on the Complex. The Company shall use all reasonable efforts to obtain for WAPDA copies of any evaluations or reports generated at the request of such third parties or performed by an engineer employed by such third party; and

(xii) Protective Relays. The Company shall, in accordance with the Minimum Functional Specifications, install protective relays in the Complex having ratings and characteristics approved by WAPDA, and, subject to the Technical Limits, shall maintain the settings of all such relays at the levels agreed by the Company and WAPDA and the Company shall not change such settings without the prior written consent of WAPDA.

5.2 Representations, Warranties and Covenants of WAPDA.

(a) WAPDA Representations and Warranties. WAPDA hereby represents and warrants that:

(i) Existence, Etc. It is duly created pursuant to statute, and has, so far as it is material to the Company, complied fully with all applicable Laws of Pakistan, and that there are no proceedings pending, or to the best of its knowledge, threatened, for the dissolution of WAPDA or that would adversely affect the performance by WAPDA of its obligations under this Agreement; this Agreement has been duly authorized, executed and delivered by it and constitutes the legal, valid and binding obligation of it; and to the best of its knowledge, the execution and delivery of, and performance of its obligations under, this Agreement by WAPDA does not and, under the existing Laws of Pakistan, will not constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction applicable or relating to it, its assets or its businesses; and

(ii) WAPDA Approvals. It has, as of the date hereof, such permits, licenses, and approvals required by all Public Sector Entities with jurisdiction over WAPDA as are reasonably adequate to enable WAPDA to operate its business as presently operated, to own and operate the Grid System and to construct, own and operate the Interconnection Facilities and the Transmission Facilities.

(b) WAPDA Covenants. WAPDA hereby covenants as follows:

(i) Interconnection and Transmission Facilities. WAPDA shall design, construct, own, operate, and maintain the Interconnection Facilities and the Transmission Facilities substantially in accordance with Schedule 3 and the operating procedures developed pursuant to Section 3.4 and, so far as it is material to the Company's rights and obligations hereunder, all applicable Laws of Pakistan.

(ii) No Adverse Effect on Complex. WAPDA shall operate and maintain the Interconnection Facilities and the Transmission Facilities in such a manner so as not to have a material adverse effect on, and within the Technical Limits of, the Complex, and in accordance with Prudent Utility Practices, but WAPDA shall not be liable for any adverse effect on the Complex resulting from its normal operation and maintenance of the remainder of the Grid System; and

(iii) Opinion of Counsel. At the Financial Closing, WAPDA shall deliver a certificate, executed by a duly authorized officer of WAPDA, affirming the representation in Section 5.2(a) and shall cause its counsel to issue an opinion affirming, to the best of its knowledge, the validity of the representations of WAPDA made in Section 5.2(a) and setting forth such further matters as the Lenders may reasonably request.

ARTICLE VI
CONTROL AND OPERATION OF THE COMPLEX, DESPATCH

6.1 Declared Available Capacity Declaration.

Prior to the beginning of each Operating Day, at the time and in the manner established in the operating procedures developed pursuant to Section 3.4, the Company shall inform the WAPDA Control Centre of the Declared Available Capacity for the coming Operating Day of the Complex.

6.2 Scheduling and Despatch.

(a) In order to assist with scheduling of the Complex to meet the requirements of WAPDA, the Parties agree that, from and after ninety (90) Days prior to the Scheduled Commercial Operations Date, the following procedures will be adhered to:

(i) Year Ahead Notification. Not less than ninety (90) Days before the Scheduled Commercial Operations Date, and thereafter not less than ninety (90) Days before the beginning of each Year, WAPDA shall provide to the Company estimated requirements on a Monthly basis for Net Electrical Output for the remainder of the Year in which the Commercial Operations Date is scheduled to occur, and thereafter for each subsequent Year, but WAPDA shall not be bound by these figures. When providing such year ahead notification, WAPDA shall have the right to revise what Months shall be deemed Maintenance Months; provided, however, that such revision by WAPDA shall only be made in connection with long range planning of load requirements; provided, further, that any such revision shall also include a revision to the Weighting Factors such that the Weighting Factors associated with the Maintenance Months before and after such revisions shall be unchanged. The year ahead notification for the first full Year following the Commercial Operations Date and each subsequent Year shall also include a designation of a Demonstration Period of not more than ninety (90) consecutive days for the Year to which such notification applies.

(ii) Quarter Ahead Notification. Not less than sixty (60) Days before the beginning of each calendar quarter WAPDA shall provide to the Company estimated requirements on a Week-by-Week basis for Net Electrical Output during that quarter. WAPDA shall also provide to the Company revised estimates for the remaining quarters for the current year. WAPDA shall not be bound by these figures.

(iii) Month Ahead Notification. Not less than fourteen (14) Days before the beginning of each Month, WAPDA shall provide to the Company estimated requirements on a Day-by-Day basis for Net Electrical Output during the Month and also, provisionally, for the following two (2) Months, but WAPDA shall not be bound by these figures.

(iv) Week Ahead Notification. Not less than forty eight (48) hours before the beginning of each Week WAPDA shall provide to the Company estimated requirements, on an hour by hour basis, for Net Electrical Output during that Week and also, provisionally, during the following Week, but WAPDA shall not be bound by these figures.

(v) Plant Availability Notification. To enable WAPDA to give final schedules of requirements as in (vi) below the Company shall, by 1200 hours each Day, inform WAPDA of the estimated Declared Available Capacity of the Complex available during each hour of the Day commencing thirty-six (36) hours ahead and, provisionally, for the Day immediately thereafter. Such estimates shall not be binding upon the Company and the Company shall advise WAPDA as soon as possible of any changes in its Declared Available Capacity for such Days.

(vi) Day Ahead Notification. Not less than seven (7) hours before the start of each Day, WAPDA shall provide to the Company firm requirements, on an hour by hour basis, for Net Electrical Output, Start-Ups, and Reactive Power during that Day and also, provisionally, during the following Day. The firm requirements shall be not be binding upon WAPDA and WAPDA may subsequently alter its requirements.

Actual operation level requested by WAPDA will be determined by the requirements for operation in accordance with Economic Despatch and/or AGC and may be substantially different from the information provided in accordance with this Section; provided, however, that actual operation levels requested by WAPDA shall at all times be subject to compliance with the Technical Limits.

(b) Notice of Change of Operating Levels. In connection with its rights to Despatch the Complex in accordance with this Agreement, WAPDA will provide the Company with at least five (5) minutes advance notice of changes in operating levels to be achieved by the Complex (or such greater period as may be required by the Technical Limits) except that when the Complex is operated with AGC, WAPDA shall not be required to provide such notice but WAPDA shall observe the Technical Limits in effecting the changes in operating levels.

(c) Compliance. The Company agrees to comply with the instructions it receives from WAPDA pursuant to subsections (a) and (b) of this Section 6.2. In the event that the Company is unable to comply with any such instructions, WAPDA's sole remedy shall be the collection of damages, if any, payable in accordance with Article IX.

(d) Adjustment to Fuel Requirements Arising From Despatch. If as a result of a change or changes in WAPDA's Despatch levels from those identified in the quarter ahead notification delivered by WAPDA to the Company pursuant to Section 6.2(a)(ii) as modified through the notice given forty-five (45) Days before the scheduled delivery date of fuel at Site, the Company has to change any scheduled fuel deliveries from the Fuel Supplier, and

(i) If the cumulative effect on the Company of such change or changes in Despatch by WAPDA is a reduction of more than thirty-five percent (35%) in the actual Monthly fuel deliveries from the Monthly scheduled fuel deliveries calculated according to the quarter ahead notification of the estimated requirements for Net Electrical Output delivered by WAPDA pursuant to Section 6.2(a)(ii), as may be modified through the notice given forty-five (45) Days before the scheduled delivery date of fuel at Site, damages charged to the Company under the Fuel Supply Agreement as a result of such cumulative effect of such change or changes, which shall be based on the actual costs incurred by the Fuel Supplier as a result of such cumulative effect of such change or changes, shall be a Pass-Through Item under Section 14 of Schedule 6 of this Agreement as follows:

(A) In case WAPDA's Despatch level of the Complex is changed such that Company has to amend the quarterly order with a cumulative effect between thirty-five percent (35%) and forty-five percent (45%) lower than such Monthly figure with less than forty-five (45) Days' notice prior to scheduled delivery date of fuel at Site, the Company shall be obliged to take any consignment of fuel whether by pipeline, rail or road already in transit for the Complex, failing which the Company shall pay to the Fuel Supplier any freight charges for the consignment of Fuel to the Complex or the terminal, railway demurrage charges, road halting charges and diversion charges therefrom to the decantation point at the facility of the alternative buyer to the extent incurred by the Fuel Supplier; and

(B) In case WAPDA's Despatch level of the Complex is changed such that the Company has to amend the order and the cumulative effect of such an amendment falls by more than forty-five percent (45%) below the Monthly figure as modified through the notice given forty-five (45) Days before the scheduled delivery date of fuel at Site, the Company shall pay as damages, in US Dollars to the Fuel Supplier, the tanker demurrage charges to the extent incurred by the Fuel Supplier as a result of such effect of such amendment; provided, that the above charges shall be subject to third party audit at WAPDA's option.

The Company, through management of its fuel inventory, shall use all reasonable efforts to avoid any changes in its scheduled fuel deliveries resulting from reductions in WAPDA's Despatch requests. The Company shall notify WAPDA of any cancellation or rescheduling of fuel deliveries at the time of such cancellation or rescheduling.

(ii) If the cumulative change in Despatch levels over the Despatch levels in the quarter ahead Notification, as modified through the notice given forty-five (45) Days before the scheduled delivery date of the fuel at Site, is more than 10% higher than the scheduled level for despatch for such month, the Company shall use its best efforts to meet such amended Despatch request; provided, however, that failure by the Company to meet fully Despatch requests in the first two (2) weeks of the following Month resulting solely from such amended Despatch requests shall be a Force Majeure Event or Events under Section 13.1.

6.3 Scheduled Outage Periods

(a) Within forty-five (45) Days following receipt by the Company of the Year ahead notification to be provided by WAPDA pursuant to Section 6.2(a)(i), the Company shall submit to WAPDA its proposed schedule of Scheduled Outage periods for the Year to which such notification applies. Such Scheduled Outage periods shall not exceed thirty (30) Days spread over each Agreement Year (computed by multiplying the Dependable Capacity by thirty (30) days and by twenty four (24) hours, and expressed in MWh) except that every fifth (5th) Agreement Year additional thirty (30) Scheduled Outage Days (computed by multiplying the Dependable Capacity by thirty (30) days and by twenty (24) hours and expressed in MWh) may be scheduled for major maintenance. The Company shall only propose Scheduled Outage periods of the Complex during the Maintenance Months, subject, however, to the requirements of the Technical Limits relating to equipment maintenance; provided, however, that in no event shall any Scheduled Outage be scheduled during the Months of January, February, May and June except for the purpose of conducting inspection, testing and preventive maintenance, not exceeding seven (7) days in the aggregate during the months of January through June (computed by multiplying the Dependable Capacity by seven (7) days and twenty four (24) hours and expressed in MWh), provided, further, that not more than one generating unit at a time shall be subject to inspection, testing and preventive maintenance during such period; provided, further, that WAPDA may, at the time of its Year ahead notification to the Company, designate any other three consecutive Months and upto four (4) Months total for the Year to which such notification applies as Months during which no such Scheduled Outage shall be allowed. The Company shall take into consideration the Demonstration Period designated by WAPDA in the Year ahead notification when establishing the proposed schedule of Scheduled Outage periods; provided, however, that if the requirements of the Technical Limits or the scheduling of Scheduled Outages during Maintenance Months would result in a Scheduled Outage during the designated Demonstration Period, then the Company shall propose an alternative Demonstration Period at the time of the submission by the Company of its proposed Scheduled Outage periods.

(b) Within thirty (30) Days after receipt by WAPDA from the Company of the Company's submittal of requested Scheduled Outage periods, WAPDA shall notify the Company in writing whether the requested Scheduled Outage periods are acceptable. If WAPDA cannot accept any of the requested Scheduled Outage periods, WAPDA shall advise the Company of a period during the Maintenance Months when WAPDA determines such unacceptable Scheduled Outage period can be rescheduled. Such rescheduled period shall be as close as reasonably practicable to the requested period, shall comply with the Technical Limits, and shall be of equal duration as the requested period. Based upon the foregoing, WAPDA shall include in its notice to the Company pursuant to this Section 6.3(b) a final designation for the Demonstration Period for the Year to which the schedule for Scheduled Outages applies; provided, however, that the designated Demonstration Period shall not contain any Scheduled Outage.

(c) The Company shall undertake Scheduled Outages only as agreed to in writing by WAPDA as aforesaid.

(d) WAPDA may, upon sixty (60) Days prior written notice, request the Company to reschedule a Scheduled Outage, provided, however, that WAPDA shall not request that such Scheduled Outage be rescheduled in a manner or time inconsistent with the Technical Limits or Prudent Utility Practices. The Company shall use reasonable efforts to comply with such request and shall notify WAPDA within fifteen (15) Days of receipt of WAPDA's request whether the Company is able to comply with such request and, if it is unable to comply, giving the reasons therefor and the periods in which the Scheduled Outage may be rescheduled. In such event, the Parties shall discuss in good faith an alternate period in which the Scheduled Outage may be conducted, but if they are unable to reach agreement within 15 days, the Scheduled Outage shall be rescheduled by WAPDA during an alternate period provided by the Company in its reply to WAPDA's request for an alternate period.

(e) As the need arises for a Maintenance Outage, the Company shall advise WAPDA of such need and of the commencement and estimated duration of the works to be carried out and WAPDA shall allow the Company to schedule such Maintenance Outage at a time and within a period of time reasonable in light of its need for energy from the Complex and the necessity of the Maintenance Outage.

(f) For each Day that the Company reduces the aggregate Scheduled Outage periods below thirty (30) Days in each Agreement Year, the 500 hours provided in Section 9.4(b) shall, for purposes of computing liquidated damages payable by the Company, be increased by 12 hours.

6.4 Operation in Accordance with Despatch.

From and after the Commercial Operations Date, the Company shall operate the Complex consistent with WAPDA's Despatch of the Complex. The Company shall comply with all Despatch instructions received from WAPDA in accordance with Section 6.6. In the event that WAPDA from time to time elects to place the Complex under the control of AGC, WAPDA shall advise the Company of the periodic estimated requirements from the Complex and the Company shall schedule the operation of the Complex to meet the said estimated requirements.

6.5 Recording of Telephoned Communications.

Each Party hereby authorizes the other Party to tape record all telephoned voice communications relating to Declared Available Capacity control and Despatch of the Complex received from the other Party pursuant to this Agreement and shall supply, at the request of the other Party, a copy or transcript of any such recording.

6.6 Emergency Set-Up and Curtailment Plans.

The Company shall cooperate with WAPDA in developing emergency procedures for the Complex, including, without limitation, recovery from a local or widespread electrical blackout and voltage reduction in order to effect load curtailment, and shall, within the Technical Limits, comply with such emergency procedures. The Company shall make technical references available to WAPDA concerning Start-Up times, black-start capabilities, and minimum load-carrying ability.

6.7 Supply of Power in Emergency.

The Company shall, during an Emergency and upon request by WAPDA, supply such power as the Complex is able to generate within the Technical Limits and WAPDA is able to receive; provided, however, that prior to the Commercial Operations Date the Company shall not be obligated to supply such power if doing so would materially delay the completion of construction, testing or Commissioning for the Complex, provided, that the Company shall use all reasonable efforts to comply with any such request by WAPDA prior to the Commercial Operations Date without materially delaying construction or the testing of the Complex or meeting the Premium Date. If the Complex has a Scheduled Outage or a Maintenance Outage, and such Scheduled Outage or Maintenance Outage occurs or would occur coincident with an Emergency, the Company shall make all reasonable efforts to reschedule the Scheduled Outage or Maintenance Outage or, if the Scheduled Outage or Maintenance Outage has begun, expedite the completion of the work to restore power supply as soon as possible. Nothing contained in this Agreement or the Schedules hereto shall be construed to require the Company to operate the Complex at any time, including during an Emergency, in any manner inconsistent with the Technical Limits.

6.8 Employment of Qualified Personnel.

The Company shall only employ personnel (management, supervisory and otherwise), directly or indirectly through its O&M Contractor, who are adequately qualified and trained, and who have experience as necessary and appropriate for operating, maintaining, and monitoring the Complex and for coordinating operations of the Complex with the Grid System. The Company and WAPDA shall ensure that their personnel are on duty at the Complex and the Control Centre, respectively, at all times, twenty-four (24) hours a Day and seven (7) Days a Week commencing with the first date on which electrical energy is generated.

6.9 Operating Committee Membership and Duties.

(a) On or before twelve (12) Months prior to the Scheduled Commercial Operations Date, the Parties shall establish an Operating Committee comprising six (6) members. Each Party shall designate three (3) members to represent it on the Operating Committee, and either Party may remove or replace any of its Operating Committee members at any time upon notice to the other Party. The Operating Committee shall develop procedures for the holding of meetings, the keeping of minutes of meetings and the appointment and operation of sub-committees. The chairmanship of the Operating Committee shall rotate each six (6) months between the Parties and the Parties agree that the first chairman shall be nominated by WAPDA. Decisions of the Operating Committee shall require the approval of a majority of members of the Operating Committee.

(b) The Operating Committee shall be responsible for finalizing the operating procedures to be developed by the Company pursuant to Section 3.4; for approving procedures for the Commissioning of the Complex pursuant to Article X for establishing other procedures relating to the interaction of the Complex, the Metering System, the Interconnection Facilities, the Transmission Facilities and the Grid System; and, where appropriate, for proposing solutions to other issues and attempting to resolve Disputes arising under this Agreement. These matters shall include:

(i) the coordination of the respective programmes and procedures of the Parties for the construction, commissioning and operation of the Transmission Facilities and Interconnection Facilities, and the Metering System and the Complex, and agreement where necessary upon the respective commissioning procedures;

(ii) the discussion of the steps to be taken on the occurrence of any Force Majeure Event or the shutdown or reduction in capacity for any other reason of the Interconnection Facilities, the Transmission Facilities or the Complex;

(iii) the coordination of Scheduled Outages;

(iv) safety matters affecting the Complex, the Parties or their Contractors;

(v) clarification of emergency plans developed by WAPDA for recovery from a local or widespread electrical blackout;

(vi) review and revision, subject to WAPDA approval, of protection schemes; and

(vii) any other matter mutually agreed to by the Parties.

(c) The Parties shall instruct their representatives on the Operating Committee to act in good faith in dealing with matters considered by the Operating Committee. The Parties shall consider and use reasonable efforts to incorporate decisions of the Operating Committee. Actions taken in conformance with the decisions of the Operating Committee shall be presumed to be in compliance with the terms of this Agreement.

(d) The Operating Committee shall use reasonable efforts to resolve Disputes, where appropriate, in accordance with the procedures established in Section 15.2

6.10 Maintenance of Operating Records.

(a) Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement. Among other records and data required hereby or elsewhere in this Agreement, the Company shall maintain an accurate and up-to-date operating log, in a format reasonably acceptable to WAPDA, at the Complex with records of:

(i) real and Reactive Power production for each clock hour, and 132 kV bus voltage at all times;

(ii) changes in operating status, Scheduled Outages, Maintenance Outages, Forced Outages and Partial Forced Outages;

(iii) any unusual conditions found during inspections; and

(iv) other matters agreed to by the Operating Committee.

All such records and data shall be maintained for a minimum of sixty (60) Months after the creation of such record or data and for any additional length of time required by Public Sector Entities with jurisdiction over either Party; provided, however, that each Party shall not dispose of or destroy any such records after such sixty (60) Month period unless the Party desiring to dispose of or destroy any such records gives thirty (30) Days prior written notice to the other Party, generally describing the records to be destroyed or disposed of, and the Party receiving such notice does not object thereto in writing within ten (10) Days.

(b) Either Party shall have the right, upon ten (10) Days prior written notice to the other Party, to examine the records and data of the other Party relating to this Agreement or the operation and Despatch of the Complex within the Grid System at any time during normal office hours during the period such records and data are required hereunder to be maintained.

6.11 Cessation of Operation of the Complex.

If, after the Commercial Operations Date, without the prior written consent of WAPDA, the Company shall have ceased to operate the Complex for a period of forty-eight (48) consecutive hours other than because of a Force Majeure Event, a Forced Outage, a Maintenance Outage, a Scheduled Outage or as a result of Despatch instructions from WAPDA, then WAPDA shall be (i) entitled to enter the Complex and operate it until the Company demonstrates to the reasonable satisfaction of WAPDA that it can and will resume normal operation of the Complex, and (ii) as soon as is practicable, send written notice of such entry to the Agent (as defined in Section 4.5) in accordance with the procedure set forth in Section 4.5. During any period that WAPDA shall operate the Complex pursuant to this Section, WAPDA shall bear all costs of such operation (including fuel costs), and shall continue to pay to the Company the non-escalable portion of the Capacity Payments as the Company would otherwise be entitled to during such period. Notwithstanding any other provision in this Agreement to the contrary, WAPDA shall indemnify and hold the Company harmless from any loss or damage to the Complex incurred, suffered or sustained by the Company by reason of WAPDA's negligence or willful misconduct in the operation of the Complex during such period, but only to the extent that such loss or damage is not covered by insurance.

ARTICLE VII INTERCONNECTION

7.1 Interconnection and Transmission Facilities.

WAPDA shall be responsible for the design, construction, installation (excluding the Metering System, as provided in Section 8.2), commissioning, operation and maintenance of the Interconnection Facilities and the Transmission Facilities in accordance with the terms of this Agreement, and WAPDA shall own all of such Interconnection Facilities and Transmission Facilities.

7.2 Data Necessary for Construction of Interconnection and Transmission Facilities.

Not less than one hundred and twenty (120) Days prior to Financial Closing, the Company shall provide WAPDA with the information required in Item 2 of Schedule 3. Based upon this information, WAPDA shall determine the time required to design and construct the Interconnection Facilities and the Transmission Facilities. Not later than ninety (90) Days following the delivery of the information required by Item 2 of Schedule 3, WAPDA shall inform the Company of the time required to complete the Interconnection Facilities and the Transmission Facilities and the date by which such facilities shall be completed. Within thirty (30) Days thereafter, the Company and WAPDA shall meet and discuss any changes to the information provided by the Company that are necessary for WAPDA to complete the Interconnection Facilities and the Transmission Facilities within the time required by Section 7.4. Such changes shall be incorporated into the information provided by the Company. Within ten (10) Days of a request by WAPDA, the Company shall provide all additional information reasonably requested by WAPDA in connection with its completion of the Interconnection Facilities and Transmission Facilities. WAPDA shall utilize such supplemented information in its final design of the Interconnection Facilities and Transmission Facilities. The timely provision by the Company of such supplemental or additional information shall not modify the obligation of WAPDA to construct the Interconnection Facilities and the Transmission Facilities as required herein.

7.3 Granting of Easements and Rights of Way.

(a) The Company shall grant to WAPDA permanent easements and rights-of-way across the Site necessary to install, operate, maintain, replace and/or remove the Interconnection Facilities and the Transmission Facilities. The easements shall grant to WAPDA adequate and continuing rights for the purposes set forth in Section 7.1 to enter the Site subject only to WAPDA's giving prior notice to the Company. Upon request by WAPDA, the Company shall execute such easements, rights-of-way, licenses and other documents, each in recordable form, as WAPDA may reasonably require to record any and all of the above rights. Consideration for such rights shall be the execution of this Agreement and no other consideration shall be required. Insofar as it shall be consistent with the Laws of Pakistan, all easements, rights-of-way, licenses and other rights hereunder shall survive termination or expiration of this Agreement. Revocable licenses, if any, granted to WAPDA pursuant to this Section 7.3 shall include such reasonable further term, not to exceed ninety (90) Days beyond the Term, to allow

WAPDA to remove the Interconnection Facilities and the Transmission Facilities. When on the Site, WAPDA shall comply with all reasonable instructions of the Company and its Contractors relating to the carrying out of any work on the Site and, notwithstanding any other provision in this Agreement to the contrary, shall indemnify and hold the Company and the Contractors harmless from any loss or damage sustained by virtue of WAPDA's negligence or willful misconduct in the exercise of rights pursuant to this Section 7.3, but only to the extent that such loss or damage is not covered by insurance.

(b) Except as provided in Section 7.3(a), WAPDA, at its expense, shall be responsible for obtaining all rights-of-way, easements and other real or personal property interests necessary to construct, operate and maintain the Transmission Facilities and the Interconnection Facilities during the term of this Agreement.

7.4 Construction of Interconnection and Transmission Facilities

The Company shall give WAPDA twenty two (22) months prior written notice of the Scheduled Commercial Operations Date then anticipated by the Company. When the requirements of Section 7.2 have been satisfied and following the receipt of such notice, WAPDA shall commence the final design of the Interconnection Facilities and Transmission Facilities. Thereafter, WAPDA shall give the Company reports on the progress of the design and construction of the Interconnection Facilities and the Transmission Facilities as appropriate until the same are completed. WAPDA shall, at its sole expense except as provided in Section 7.3(a), construct and test the Interconnection Facilities and Transmission Facilities no later than sixty (60) Days prior to the Scheduled Commercial Operations Date provided to WAPDA pursuant to the first sentence of this paragraph; provided, however, that such completion date shall be extended on a Day-for-Day basis for any changes in the Scheduled Commercial Operations Date and to the extent necessary because of the occurrence of any of the following:

(a) the failure by the Company to execute, in sufficient time for WAPDA to complete the Interconnection Facilities and the Transmission Facilities, such easements, rights-of-way, licenses and other documents, each in recordable form, as WAPDA may reasonably require to record the deeds, easements, rights-of-way and licenses granted pursuant to Section 7.3;

(b) the failure by the Company to provide WAPDA, on a timely basis, with the information requested in Section 7.2, any technical data not included in Schedule 3 available to the Company and requested by WAPDA relating to the Complex reasonably necessary for WAPDA to undertake the design, construction, installation, commissioning, maintenance and operation of the Interconnection Facilities or the Transmission Facilities;

(c) an Emergency;

(d) a Force Majeure Event under Section 13.1(c)(i)(E); or

(e) any other failure by the Company to perform in accordance with this Agreement that materially affects WAPDA's ability to perform its obligations in accordance with this Article VII:

provided, however, that no extension shall be granted to WAPDA to the extent that such failure or delay would have nevertheless been experienced by WAPDA.

7.5 Interconnection Equipment on Company's Side of Interconnection Point

Subject to Sections 7.6 and 8.2, the Company shall be responsible, at Company's expense, for designing, constructing, installing and maintaining all auxiliary and interconnecting equipment on the Company's side of the Interconnection Point, and, except for the Metering System, the Company shall own all such auxiliary and interconnection equipment.

7.6 Protective Devices

(a) Subject to giving the Company reasonable notice, WAPDA may require the Company to modify or expand the requirements for protective devices. Following approval by WAPDA of the costs of such modification or expansion, the Company shall perform such modification or expansion and, for costs incurred for modifications or expansions requested after the Commercial Operations Date, WAPDA shall reimburse the Company for the reasonable costs of such modification or expansion.

(b) Together with an invoice for reimbursement, the Company shall provide reasonable documentation of the expenses incurred in modifying or expanding the protective devices. Payments shall be due thirty (30) Days after delivery of the invoice by the Company. In case of any Dispute, the provisions of Section 9.8 shall apply. Such work shall be completed within a reasonable time under the circumstances. WAPDA shall be notified in advance of, and shall have the right to observe, all work on the protective devices.

(c) Each Party shall notify the other Party in advance of any changes to either the Complex or the Grid System that may affect the proper coordination of protective devices between the two systems. Such changes shall not be made without WAPDA's approval.

7.7 Testing

The Parties shall cooperate in testing the Interconnection Facilities and the Transmission Facilities in accordance with the schedule developed by the Operating Committee (but in no event later than the time provided in Section 7.4) and at such other times thereafter as either Party may reasonably require.

ARTICLE VIII
METERING & TELECOMMUNICATIONS

8.1 Metering System.

(a) WAPDA shall, at its expense, procure, own and maintain the Metering System. The Company, at its expense, shall procure, install, own and maintain the Back-Up Metering System.

(b) WAPDA shall provide and install a strip chart recorder and shall make a continuous recording of the Net Electrical Output of the Complex. Such Net Electrical Output shall be recorded on appropriate magnetic media or equivalent, which recording shall be used to compute penalties under Section 9.4(c).

8.2 Installation of Metering Systems.

(a) Subject to Section 8.2(b), the Company, at its expense, shall install the Metering System on the Site at a location to be agreed upon by the Parties, and upon completion, convey the Metering System to WAPDA. Prior to the installation by the Company or the Contractor of the Metering System equipment, the Company will deliver to WAPDA the protection scheme and the metering plan for the Complex for WAPDA's approval. WAPDA will provide written comments to the protection scheme and the metering plan within thirty (30) Days of their receipt. The Company will incorporate WAPDA's comments received during such thirty (30) Day period into the protection scheme and the metering plan and deliver final copies to WAPDA. WAPDA will approve the final scheme and plan within fifteen (15) Days or notify the Company that it does not approve the scheme and plan, giving its reasons therefor. If WAPDA does not give reasons for not approving the scheme and plan within such fifteen (15) Day period, WAPDA shall be deemed to have approved such scheme and plan. Upon approval by WAPDA, the Company will complete the design and commence construction of the Metering System. Such installation shall be completed not later than fifteen (15) Days prior to the scheduled date to begin initial testing of the Complex. The Company shall provide WAPDA with sixty (60) Days advance notice of, and WAPDA shall have the right to observe and inspect, the installation of the Metering System. WAPDA shall be notified not less than fifteen (15) Days prior to, and shall have the right to observe, the installation of the Back-up Metering System by the Company.

(b) If the Metering System is not provided to the Company by WAPDA at a reasonable time taking into account the construction schedule, then WAPDA shall reimburse the Company for all reasonable expenses incurred by the Company for the acquisition of the Metering System. Together with an invoice for reimbursement, the Company shall provide reasonable documentation of the expenses incurred for the purchase of the Metering System. Payment shall be due along with the first scheduled payment made pursuant to Section 9.7, provided, in case of any Dispute, the provisions of Section 9.8 shall apply.

8.3 Testing of Metering System.

(a) WAPDA shall initially test the Metering System for accuracy in accordance with Schedule 5 by the later of fifteen (15) Days after it is installed by the Company or the date scheduled for initial testing of the Complex to begin, and thereafter at intervals of not less than one hundred and eighty (180) Days after giving the Company no less than forty-eight (48) hours advance notice. The Company may have a representative present during any such testing, as well as during any inspection of the Metering System or adjustment thereof.

(b) WAPDA shall also test the Metering System at any other time reasonably requested by the Company, such additional testing to be at the Company's expense unless the test indicates that the Metering System is inaccurate by more than one-half percent (0.5%), in which case WAPDA shall bear the cost of the additional test. The Company may have a representative present during any such testing, as well as during any inspection of the Metering System or adjustment thereof.

(c) When on the Site, WAPDA shall comply with all reasonable instructions of the Company and the Contractors and, notwithstanding any other provision in this Agreement to the contrary, shall indemnify and hold the Company and the Contractors harmless from any loss or damage sustained by virtue of WAPDA's negligence (except in the case of an error made in good faith) or willful misconduct in the performance of its obligations pursuant to Section 8.3(a) and (b), but only to the extent that such loss or damage is not covered by insurance.

8.4 Reading of Meters.

(a) Procedures. The Metering System shall be read Monthly on the last Business Day of each Month (or such other Day as may be mutually agreed upon by the Parties) for the purpose of determining the Net Electrical Output of the Complex since the preceding reading. The Company shall read the Metering System during normal business hours, and unless otherwise mutually agreed by the Parties, shall give WAPDA at least forty-eight (48) hours notice of the time the Company shall read the Metering System. WAPDA shall have the right to have a representative present during any such reading. In the event that a WAPDA representative is present at such reading of the Metering System for the purpose of measuring Net Electrical Output, then such reading shall be jointly taken and recorded. All measurements of Dependable Capacity shall be jointly taken and recorded. In the event that a WAPDA representative is not present at a reading of Net Electrical Output, then the Company representative shall take and record such reading and make a photographic record thereof. The Company shall maintain a log of all such meter readings. Measurements recorded shall be delivered by the recording Party to the non-recording Party through facsimile within forty-eight (48) hours after the readings are taken. In the event that the Metering System is not in service as a result of maintenance, repairs or testing, then the best available information, which may include the Back-Up Metering System, shall be used during the period that the Metering System is not in service and the foregoing provisions of this Section 8.4(a) shall apply to the reading of the Back-Up Metering System.

(b) Inaccuracies in Metering System. When, as a result of any test pursuant to Section 8.3, the Metering System is found to be inaccurate by more than one-half percent (0.5%) or is otherwise functioning improperly, then the correct amount of Net Electrical Output delivered to WAPDA for the actual period during which inaccurate measurements were made, if any, shall be determined as follows:

(i) First, the readings of the Back-Up Metering System, if any, may be utilized to calculate the correct amount of Net Electrical Output, unless a test of such Back-Up Metering System, as required by either Party, reveals that the Back-Up Metering System is inaccurate by more than one-half percent (0.5%) or is otherwise functioning improperly;

(ii) If there is no Back-Up Metering System or if the Back-Up Metering System is found to be inaccurate by more than one-half percent (0.5%) or is otherwise functioning improperly, then the Company and WAPDA shall jointly prepare an estimate of the correct reading on the basis of all available information and such guidelines as may have been agreed to between the Company and WAPDA;

(iii) In the event that WAPDA and the Company fail to agree upon an estimate for the correct reading, WAPDA shall make any payments to the Company required as a result of its estimate of the correct reading and the matter may be referred by either Party for determination by an expert pursuant to Article XV; and

(iv) The difference between the previous payments by WAPDA for the period of inaccuracy and the recalculated amount shall be offset against or added to the next payment to the Company under this Agreement, as appropriate. If the period of inaccuracy cannot be accurately determined, it shall be deemed to have begun on the date which is midway between the date the meter was found to be inaccurate and the date of the last meter reading accepted by the Parties as accurate. In no event, however, shall any such adjustment be made for any period prior to the date on which the Metering System was last tested and found to be accurate within plus or minus one-half percent (0.5%) and not otherwise functioning improperly.

8.5 Sealing of Metering System.

The Metering System and the Back-Up Metering System shall comply with the specifications in Schedule 5 and shall be jointly sealed. Such seals shall be broken only by WAPDA personnel. The Company shall be given at least twenty-four (24) hours advance notice of the breaking of seals on the Metering System or the Back-Up Metering System: provided, however, that no such notice will be necessary when the breaking of a seal is necessitated by the occurrence of an Emergency. Such notice will specify the time at which a meter seal will be broken by WAPDA personnel, and the Company will be given the opportunity to be present when such seals are broken.

8.6 Repair, Replacement or Recalibration of Metering System.

When any component of the Metering System is found to be outside acceptable limits of accuracy or otherwise not functioning properly, WAPDA shall forthwith repair, recalibrate or replace such component of the Metering System at its expense. Similarly, when any component of the Back-Up Metering System is found to be outside acceptable limits of accuracy or otherwise not functioning properly, the Company shall forthwith repair, recalibrate or replace such component of the Back-Up Metering System at its expense. Upon the completion of any examination, maintenance, repair or recalibration of, or replacement of any component in, the Metering System or the Back-Up Metering System, the metering system shall be jointly sealed.

8.7 Telecommunications Circuit.

The Company, at its sole cost and expense, shall provide:

(a) Telecommunications system for (i) telecommunication and teleprotection facilities at WAPDA's grid station at WAPDA Town and the Complex Control Centre; and (ii) telemetering and data interface for WAPDA's Supervisory Control and Data Acquisition Systems (SCADA);

(b) An extension of the Control Centre's PBX system in the control room of the Complex to permit voice communications between the Complex and the Control Centre; and

(c) Equipment in the Complex to transmit and receive facsimiles.

The selection and installation of items to be provided by the Company in accordance with this Section 8.7(a) shall be subject to the prior written approval of WAPDA.

ARTICLE IX
COMPENSATION, PAYMENT AND BILLING

9.1 Capacity Payments.

(a) The Capacity Purchase Price shall be established on the basis of a sixty percent (60%) plant factor as provided in the Energy Policy of March 1994 and will be specified for each Agreement Year in Table 1 to Schedule 6. From and after the Commercial Operations Date, WAPDA shall pay the Capacity Payment to the Company, in accordance with Section 9.7. For each Month, the Capacity Payment shall be equal to the product of the Capacity Purchase Price and the Dependable Capacity in effect for such Month; provided, that if the Commercial Operations Date occurs on a date which is not the first Day of a Month, the Capacity Payment for the period from the Commercial Operations Date through the last Day of the Month in which the Commercial Operations Date occurs, shall be multiplied by a fraction the numerator of which is the number of Days remaining in the Month from and including the Day immediately following the Commercial Operations Date and the denominator of which is the number of Days in such Month.

(b) If, for a period of eighteen (18) consecutive Days, the Company is unable to deliver Net Electrical Output in an amount exceeding fifty percent (50%) of the Despatch levels requested by WAPDA for a reason other than Force Majeure, which Despatch requests are within the Technical Limits of the Complex, other than because of a Maintenance Outage or a Scheduled Outage (or a breach or default by the GOP under the Implementation Agreement or the Guarantee), then WAPDA shall be entitled to suspend the payment of Capacity Payments until such time as the Company notifies WAPDA that it is again capable of meeting WAPDA's Despatch requests and delivers Net Electrical Output for not less than three (3) hours in an amount not less than fifty percent (50%) of the next Despatch request by WAPDA, which Despatch request shall occur on the Day immediately following the notice from the Company. Any Capacity Payments or portions thereof not paid by WAPDA pursuant to this Section 9.1(b) shall be credited towards the payment of any liquidated damages payable by the Company pursuant to Section 9.4(b).

(c) If, during the Term, the Dependable Capacity of the Complex as determined by two consecutive Annual Capacity Tests is reduced by an amount that exceeds six percent (6%) of the AIDC and if there are any further reductions in Dependable Capacity in excess of two percent (2%) of the AIDC thereafter, then in each case the escalable component of the Capacity Purchase Price for the present Agreement Year and each subsequent Agreement Year shall be adjusted so that, after such adjustment, the Capacity Purchase Price for the average Dependable Capacity provided for the Term, taking into account the reduction thereof and assuming that such reduction shall continue for the remainder of the Term, shall equal the levelized Capacity Purchase Price shown in Table I of Schedule 6. If the Parties cannot agree on the appropriate adjustment to the Capacity Purchase Price to be made in connection with the reduction in Dependable Capacity, the matter shall be referred to an expert for determination in accordance with Section 15.2. If, following any downward adjustment in the Capacity Purchase Price pursuant to this Section 9.1(c), the Dependable Capacity is increased by one percent (1%) or more of the AIDC, the Capacity Purchase Price shall be adjusted upward in the like manner.

used for the downward adjustment.

(d) As soon as practicable after the date of this Agreement but in any event not later than the date of the Financial Closing, the Company shall notify WAPDA and the GOP in writing that it elects Exchange Risk Insurance (as defined in the Implementation Agreement), subject to proper application therefor with the National Bank of Pakistan, or indexation of the foreign loan portion of the Non-Escalable Component of the Capacity Purchase Price for changes in the value of the Pakistan Rupee against the Dollar under the terms and conditions of Schedule 6. If the Company elects Exchange Risk Insurance it will notify WAPDA not later than the date of Financial Closing whether it elects to pay the premium for the Exchange Risk Insurance or, after the Commercial Operations Date, to have the premium paid directly by WAPDA with a reduction in the Capacity Purchase Price equal to the Exchange Risk Insurance Component thereof.

9.2 Energy Payments.

(a) From and after the Commercial Operations Date, WAPDA shall pay to the Company, Monthly in arrears, the Energy Purchase Price for each kWh of Net Electrical Output, in accordance with the provisions of Section 9.7.

(b) During Commissioning, WAPDA shall pay to the Company, Monthly in accordance with Section 9.7, an amount equal to the Fuel Cost Component of the Energy Purchase Price as set forth in Schedule 6, for each kWh of Net Electrical Output delivered to WAPDA during testing performed pursuant to the Construction Contract and Commissioning.

(c) The Company may at its sole option nominate a revised Energy Purchase Price. This revised Energy Purchase Price will be used for the purpose of payment of Net Electrical Output and Despatch while in effect. The revised Energy Purchase Price will be effective until the Company notifies WAPDA that the revised Energy Purchase Price is no longer to be used for payment purposes; provided, however, that the revised Energy Purchase Price shall be effective for not less than one (1) week. The revised Energy Purchase price shall not in any event exceed the then-prevailing Energy Purchase Price calculated in accordance with this Article IX and Schedule 6.

9.3 Energy Purchase Price Premium.

In the event that the Commercial Operations Date occurs on or before December 31, 1997 (the "Premium Date"), in addition to the Energy Purchase Price, WAPDA shall pay to the Company a premium of Rupees equivalent to US Cent 0.25 per kWh of Net Electrical Output delivered to WAPDA from the Commercial Operations Date and continuing to the tenth (10th) anniversary of such date; provided, however, that the Dependable Capacity is maintained above 100 MW during such ten (10) year period. In no event shall the Premium Date or the period, if any, during which the premium shall be paid be extended by reason of a Force Majeure Event or for any other reason whatsoever, provided, however, that the Premium Date shall be extended on a Day-for-Day basis for (a) WAPDA's failure to complete the Interconnection and Transmission Facilities as required by Section 7.4 or (b) a delay caused by WAPDA of testing

of the Complex by the Company pursuant to Section 10.1(b). The judgement as to whether, but for WAPDA's failure to complete the Interconnection and Transmission Facilities or to accommodate the Company's testing schedule, the Complex was or would have been ready for the scheduled programme of tests, as described more fully in Sections 3.6 and 10.1, respectively, shall be made by a committee (the "Interconnection Committee") to be composed of two (2) experts each from WAPDA and the Company and an independent expert acceptable to the experts of each Party. If either Party believes that it is reasonably likely that the Interconnection and Transmission Facilities will not be completed as required by Section 3.6 and 7.4, such Party may require the formation of the Interconnection Committee. If either Party requests the formation of the Interconnection Committee, the experts of each Party to serve on the Committee shall be named by the earlier of (i) one hundred fifty (150) Days prior to the Scheduled Commercial Operations Date or (ii) ninety (90) Days prior to the date WAPDA expects to complete the Interconnection and Transmission Facilities, as such date is conveyed by WAPDA to the Company. The independent expert shall be selected within thirty (30) Days thereafter. The Committee shall monitor, and keep itself fully informed of the progress on the construction of the Complex through periodic inspections.

9.4 Liquidated Damages and Penalties.

(a) Delay in Commissioning. In the event that the Complex shall not have been Commissioned on or before the Required Commercial Operations Date, then the Company shall pay to WAPDA, Monthly in arrears, as liquidated damages for delays in the occurrence of the Commercial Operations Date \$2.50 per kW of the Estimated Dependable Capacity per Month prorated daily until the Commercial Operations Date.

(b) Forced Outages and Partial Derating.

(i) In the event that the sum of (A) the Equivalent Weighted Forced Outage Energy (as hereinafter defined) for the Complex plus (B) the Weighted Complex Partial Derating (as hereinafter defined) expressed in MWh plus (C) the Weighted Complex Maintenance Outages (as hereinafter defined) expressed in MWh, shall exceed Ω MWh in any Agreement Year (where Ω equals the Average Dependable Capacity multiplied by 500 hours), then the Company shall pay to WAPDA, as liquidated damages, the Capacity Damages Amount multiplied by $((A+B+C) - \Omega)$ for any Agreement Year. In computing liquidated damages payable by the Company for the first Agreement Year, the sum of $A+B+C$ in this equation shall be multiplied by .75. There shall be no adjustment in any subsequent Agreement Year.

(ii) For the purposes of this Section 9.4(b), the Equivalent Weighted Forced Outage Energy shall be the summation of the products of (A) each hour of Forced Outage, multiplied by (B) the Dependable Capacity of the Complex as last tested, expressed in MW, multiplied by (C) the applicable Weighting Factor.

(iii) For the purposes of this Section 9.4(b), the Weighted Complex Partial Derating shall be the summation of the products of (A) the Partial Derating during the period a Partial Forced Outage was in effect, multiplied by (B) the time in hours that such Partial Derating shall be in effect, multiplied by (C) the applicable Weighting Factor.

(iv) For the purposes of this Section 9.4(b), the Weighted Complex Maintenance Outages shall be the summation of the products of (A) the reduction in Dependable Capacity during the period a Maintenance Outage was in effect, multiplied by (B) the time in hours that such Maintenance Outage shall be in effect, multiplied by (C) the applicable Weighting Factor and multiplied by (D) 0.5.

(v) The "Weighting Factor" applicable to hours of Forced Outage, Partial Derating and Maintenance Outage shall be:

WEIGHTING FACTORS

<u>Months</u>	<u>WORKING DAYS</u>		<u>FRIDAYS</u>
	<u>12 Peak Hours</u>	<u>12 Non-Peak Hours</u>	<u>24 Hours</u>
January	2.5	2.0	1.5
February	2.5	1.5	1.0
March	1.0	0.5	0.5
April	1.0	0.5	0.5
May	2.5	0.5	0.5
June	2.6	0.5	0.2
July	1.0	0.5	0.2
August	0.5	0.0	0.2
September	0.5	0.5	0.2
October	0.5	0.1	0.2
November	1.0	0.5	0.2
December	2.0	1.0	1.0

provided, however, that WAPDA reserves the right to designate new periods and Weighting Factors for the purposes of this Section 9.4(b) by giving notice in writing to the Company at least twelve (12) Months prior to the first Day of any Agreement Year, provided, further, that the maximum value of any Weighting Factor shall be 2.6, the total weighted hours per Agreement Year shall be 8,760, the hours in any period shall be consecutive, there shall be no more than two (2) periods in any one Day, and on Fridays, except during any two of WAPDA's peak Months, there shall be one period only; provided, further, that WAPDA shall only make such redesignations in response to long term load and generation changes.



National Transmission & Despatch Company

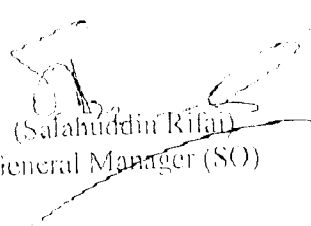
Phone: 051-9257209, 9257144
Exchange: 051-9258177, 9258178
Fax No. 051-9257146
No. 1586-90 GM (SO)/NPCC/PPCC

Office of the
General Manager (SO)
National Power Control Centre
H-8/1 Islamabad
Dated: 03/03/2006

✓ M/s JAPAN Power Generation Ltd.
26-Peshawar Block, Fortress Stadium,
Lahore cantt, Lahore.
Fax # 042-6664625

Subject:- 107-MW JAPAN Power Generation Limited - Weighting Factors

Enclosed please find herewith revised Weighting Factors under section 9.4 (b) (v) of the PPA. These Weighting Factors will be applicable from the next Agreement year i.e 14th March 2007, also re-designate both time periods for "Peak Hours" and "Non Peak Hours" in a Day, the Peak hours in a Day will be started from 1100hrs to 2300hrs and Non peak hours will be all remaining hours in such a Day. The day "Friday" will be replaced by "Weekly holiday" as non working day.


(Salahuddin Rifaat)
General Manager (SO)

C.C

1. General Manager (WPPC) Wapda House Lahore
2. General Manager (System Operation), NPCC, Islamabad.
3. Chief Engineer (Operational Planning), NPCC, Islamabad.
4. Chief Engineer (Network Operation), NPCC, Islamabad

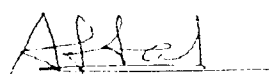
JAPAN

C.O.D dated: 14.03.2000

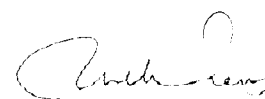
Date of Notice due 14.03.2006

Effective date 14.03.2007

Months	Working Days		One Weekly Holiday
	12 peak hours	12 Non peak hours	24 hours
January	2.25	1.80	1.30
February	0.70	0.24	0.23
March	1.10	0.70	0.47
April	1.10	0.70	0.47
May	1.70	0.70	0.70
June	1.50	1.00	0.70
July	1.50	1.25	0.70
August	1.50	1.25	0.70
September	1.50	1.25	0.65
October	0.80	0.50	0.40
November	0.40	0.25	0.24
December	1.20	0.60	0.50



(Director Private Power Control)



(Deputy Director PPC)

(c) Despatch Levels. In the event that after two (2) identical Despatch requests separated by the greater of (A) a sufficient period of time for the Company to have complied with the first request based on ramp time schedules as provided in the Technical Limits, or (B) ten (10) minutes, the Company does not achieve the operating level requested by WAPDA pursuant to Section 6.2(b) within the time allowed by the Technical Limits, within a tolerance of plus or minus three percent (3%), then the Company shall pay to WAPDA, as liquidated damages, an amount equal to Rs.0.30 per kWh for each kWh outside the tolerance; provided, however, that WAPDA shall not be entitled to liquidated damages pursuant to this Section 9.4(c) if the requested operating level cannot be achieved within the Technical Limits or is above the Declared Available Capacity of the Complex (as adjusted by Forced Outages or Partial Deratings, whether such Forced Outages or Partial Deratings are declared prior or subsequent to such Despatch requests). If the Company is unable to meet the requested Despatch for a continuous period of three (3) hours, then such shortfall shall be treated as a Partial Derating.

(d) Waiver of Defenses. The Parties agree that WAPDA may be substantially damaged in amounts that may be difficult or impossible to determine in the event that the Complex (i) is not in service by the Required Commercial Operations Date, (ii) is not capable of achieving and maintaining the expected Dependable Capacity, (iii) cannot minimize the number of Forced Outage hours and Partial Deratings, or (iv) cannot achieve the designated operating levels. Therefore, to the limited extent set out in this Agreement, the Parties have agreed on sums that the Parties agree are reasonable as liquidated damages and it is further understood and agreed that the payment of liquidated damages is in lieu of actual damages for such occurrences and the collection of such damages, plus any interest that may be due thereon, is the sole remedy of WAPDA in the event of any such failure by the Company. The Company hereby waives, to the extent permitted by applicable law, any defense as to the validity of any liquidated damages in this Agreement on the grounds that such liquidated damages are void as penalties.

(e) Adjustment. The amounts of all of the liquidated damages set forth in Sections 9.4(b) and (c) shall be adjusted from time to time in accordance with Schedule 6.

(f) Security.

(i) Company Security. (A) On the date of the Financial Closing, the Company shall provide to WAPDA the Company Letter of Credit in an amount equal to \$25.00/kW of Estimated Dependable Capacity. Upon delivery of the Letter of Credit required by Section 9.4(f)(i)(B), WAPDA shall release to the Company the Letter of Credit provided pursuant to this Section 9.4(f)(i)(A).

(B) On the Commercial Operations Date, the Company shall provide to WAPDA the Company Letter of Credit, which shall have a term of twelve (12) months from the Commercial Operations Date, in an amount equal to an aggregate of two (2) Months of Capacity Payments (as adjusted in accordance with Schedule 6) computed on the basis of the AIDC or, with respect to any replacement Company Letter of Credit, on the basis of the then-prevailing Dependable Capacity (in each case without regard in any event to amounts being held in escrow pending the resolution of a Dispute concerning

liquidated damages assessed against the Company). Not less than ten (10) Days prior to the expiration of the Company Letter of Credit and each replacement Company Letter of Credit, the Company shall provide a replacement Company Letter of Credit which shall have a term of twelve (12) months from the expiration of the immediately precedent Company Letter of Credit. The Letter of Credit provided pursuant to this Section 9.4(f)(i)(B) shall be maintained throughout the Term and shall be reinstated to the full required amount within thirty (30) days of any draw thereon by WAPDA.

(C) In the event that the Company shall be required to pay liquidated damages to WAPDA, and the Company fails to make any such payments of damages when due, then WAPDA shall be entitled to draw or collect such amounts, less any amounts disputed by the Company, from the Company Letters of Credit upon presentation of a certificate of an authorized officer of WAPDA stating that (1) amounts shown in the invoice accompanying the certificate are due and payable by the Company to WAPDA under this Agreement and (2) an invoice for such amount has been delivered to the Company at least twenty-five (25) Days prior to the presentation of the certificate and either (aa) no amounts shown in such invoice have been disputed by the Company or (bb) a portion of the amount shown in the invoice has been disputed by the Company, identifying such disputed amount. The certificate shall be accompanied by the relevant invoice delivered to the Company and any Invoice Dispute Notice delivered to WAPDA by the Company.

(ii) WAPDA Security. (A) On the Commercial Operations Date, WAPDA shall provide to the Company the WAPDA Letter of Credit, which shall have a term of twelve (12) months from the Commercial Operations Date. Not less than ten (10) Days prior to the expiration of the WAPDA Letter of Credit and any subsequent WAPDA Letter of Credit, WAPDA shall provide a replacement WAPDA Letter of Credit which shall have a term of twelve (12) months from the expiration of the immediately precedent WAPDA Letter of Credit. The WAPDA Letter of Credit shall provide for draws by the Company for the purposes of Section 9.7 in immediately available funds for any amounts due to the Company under Section 9.7, less any amounts disputed by WAPDA, upon presentation of a certificate of an authorized officer of the Company stating that (1) amounts shown in the invoice accompanying the certificate are due and payable by WAPDA to the Company under this Agreement and (2) an invoice for such amount has been delivered to WAPDA at least twenty-five (25) Days prior to the presentation of the certificate and either (aa) no amount shown in such invoice have been disputed by WAPDA or (bb) a portion of the amount shown in the invoice has been disputed by WAPDA, identifying such disputed amount. The certificate shall be accompanied by the relevant invoice delivered to WAPDA and any Invoice Dispute Notice delivered to the Company by WAPDA. The WAPDA Letter of Credit provided pursuant to this Section 9.4(f)(ii)(A) shall be maintained in the required amount throughout the Term. The WAPDA Letter of Credit shall be reinstated to the full required amount within thirty (30) Days of any draw thereon by the Company; provided, however, that if, after the draw by the Company, the amount remaining under the WAPDA Letter of Credit is less than the amount due to the Company under another invoice already delivered to WAPDA by the Company (the "Second Invoice"), then the WAPDA Letter of Credit shall be reinstated

to the full required amount by the twenty-fifth (25th) Day following the delivery to WAPDA of the Second Invoice.

(B) Notwithstanding the provisions of Section 9.4(f)(ii)(A) above, in lieu of delivering the WAPDA Letter of Credit or any replacement WAPDA Letter of Credit, WAPDA may in its sole discretion establish with the Escrow Bank an Escrow Account equal to the then-required amount of the WAPDA Letter of Credit from which only amounts due and payable by WAPDA to the Company under this Agreement may be withdrawn. The Escrow Agreement governing this account shall provide for withdrawals from the account upon presentation of a draft executed by the Company for any amount due and payable by WAPDA under this Agreement and shall be accompanied by (1) a certificate executed by an authorized officer of the Company stating that (aa) amounts due and payable by WAPDA to the Company under this Agreement have been invoiced to WAPDA in accordance with this Agreement at least twenty-five (25) Days prior to the presentation of the certificate and (bb) either (xx) no amount shown in such invoice has been disputed by WAPDA or (yy) a portion of the amount shown in the invoice has been disputed by WAPDA, identifying such disputed amount, (2) the relevant invoice delivered to WAPDA and (3) the Invoice Dispute Notice delivered to the Company by WAPDA, if any. The Company shall not be entitled to draw any amounts shown in the invoice to WAPDA that have been disputed by WAPDA. If and for so long as WAPDA maintains the Escrow Account in lieu of the WAPDA Letter of Credit, the Escrow Account shall be reinstated to the full required amount (in addition to any amounts being held in a separate account in escrow pursuant to section 9.8 pending the resolution of a Dispute) within thirty (30) days of any draw thereon by the Company; provided, however, that if, after the draw by the Company, the amount remaining in the Escrow Account is less than the amount due to the Company under another invoice already delivered to WAPDA by the Company (the "second invoice"), then the Escrow Account shall be reinstated to the full required amount by the twenty-fifth (25th) Day following the delivery to WAPDA of the Second Invoice. For so long as WAPDA maintains the Escrow Account in lieu of the WAPDA Letter of Credit, the Company shall draw or collect all amounts due and payable by WAPDA under this Agreement directly from the Escrow Account established by WAPDA.

(C) To the extent that WAPDA is required by the provisions of this Article IX to pay Capacity Payments, Energy Payments, Supplemental Tariff Payments or Supplemental Charges, the Company shall draw or collect such amounts directly from the WAPDA Letter of Credit or, if WAPDA has established the Escrow Account pursuant to Section 9.4(f)(ii)(B), the Escrow Account.

(iii) Improper Draws. In the event that either Party draws against the letter of credit or Escrow Account provided by the other Party and it is subsequently determined that the Party making such draw was not entitled to do so, then the drawing Party shall repay such amount to the other Party, together with all costs and expenses incurred by such other Party in connection with such drawing, plus interest thereon from the date of the draw through the date of repayment at the Base Rate plus four (4) percent per annum, compounded semi-annually.

9.5 Payment of Liquidated Damages.

(a) Within fourteen (14) Days after the end of each Month and within thirty (30) Days of the end of each Agreement Year, subject to the Company's review, WAPDA shall compute and advise the Company in the Invoice for Liquidated Damages of the amount of liquidated damages due to WAPDA pursuant to this Agreement for the preceding Month or Agreement Year, as the case may be. Disputes regarding payments of any amount specified in an Invoice for Liquidated Damages shall be resolved pursuant to the terms of Section 9.8.

(b) The Company shall pay the invoice amount to WAPDA by no later than twenty-five (25) Days after delivery by WAPDA of the Invoice for Liquidated Damages. Late payments shall bear interest at a rate per annum equal to the Base Rate plus two percent per annum (or at the Base Rate in the event that the Company has notified WAPDA within such twenty-five (25) Day period that it disputes such payment and pays within such twenty-five (25) Day period all undisputed amounts) compounded semi-annually and shall be computed for the actual number of Days on the basis of a three hundred sixty-five (365) Day year.

9.6 Bonus.

(a) In the event that the Net Electrical Output during any of the Bonus Months in any Agreement Year is in excess of the Bonus Threshold for the applicable Bonus Month, then WAPDA shall pay to the Company within sixty (60) days of the end of such Bonus Months, in addition to any other payments due to the Company pursuant to Section 9.2, an amount equal to Rs.0.08 for each kWh by which the Net Electrical Output of the Complex during each of the Bonus Months in the Agreement Year is greater than the Bonus Threshold for the applicable Bonus Month.

(b) The amount of the bonus payable pursuant to this Section 9.6 shall be adjusted from time to time in accordance with Schedule 6.

9.7 Billing.

(a) From and after the Commercial Operations Date, the Company shall invoice WAPDA for the Capacity Payment due for each Month at any time following the tenth (10th) Day of such Month, unless the eleventh (11th) Day of such Month is not a Business Day for WAPDA, then the Company may invoice WAPDA on the last preceding Day that is a Business Day for WAPDA. Each invoice shall set forth the then-prevailing Capacity Purchase Price, as determined in accordance with Schedule 6, and the then-prevailing Dependable Capacity. The Company shall draw on the WAPDA Letter of Credit, pursuant to Section 9.4(f)(ii)(A), or the Escrow Account, pursuant to Section 9.4(f)(ii)(B), for the amount of each invoice, as the case may be, less any disputed amounts, on or after the twenty-fifth (25th) Day following the later of the tenth (10th) Day of such Month or the Day the invoice is delivered to WAPDA.

(b) For each Month in which the Company delivers Net Electrical Output to WAPDA, the Company shall read the Metering System in accordance with Section 8.4 and shall prepare an invoice showing the amount of the Energy Payment payable to Company for such

Month (provided that in the case of the Month in which the Commercial Operations Date occurs the Company shall prepare two invoices, the first for the period commencing on the first Day of the Month through and including the Commercial Operations Date and the second invoice for the period commencing on the Day after the Commercial Operations Date through the end of the Month). Such invoices shall show the reading of the Metering System taken on or near the end of the Month in accordance with Section 8.4, the reading of the Metering System taken on or near the end of the preceding month and such other information and calculations, in reasonable detail, to permit WAPDA to confirm the consistency of the invoice with the provisions of Schedule 6. The Company shall draw on the WAPDA Letter of Credit or the Escrow Account for the amount shown in the invoice as due to Company (less any amount disputed by WAPDA) at any time on or after the twenty-fifth (25th) Day following the Day the invoice is delivered to WAPDA.

(c) Unless specifically provided otherwise in Section 10 of Schedule 6, any amounts or portions of amounts that are Supplemental Charges may be invoiced by the Company on a Monthly basis at any time after the first Day of the Month following the Month in which any such Supplemental Charges are incurred by the Company. The invoice shall state that the due date for payment of such invoice by WAPDA shall be the date twenty-five (25) Days following the date of delivery of such invoice. With respect to invoices for Pass-Through Items, such invoices from the Company to WAPDA shall be accompanied by the invoice to the Company for which recovery from WAPDA is being sought. The Company shall draw on the WAPDA Letter of Credit or the Escrow Account for the amount shown in the invoice as due to Company (less any amount disputed by WAPDA) at any time after the twenty-fifth (25th) Day following the Day the invoice is delivered to WAPDA.

(d) Either Party shall have the right to review an invoice or statement prepared by the other Party, and if it disagrees with the determination of the amount payable by or to such Party under such invoice or statement, may request clarification and substantiation of such invoice or statement. Neither Party shall waive the right to seek revision of an invoice and payment of the corrected amount unless such Party fails to deliver an Invoice Dispute Notice within the period provided in Section 9.8.

(e) Late payments shall bear interest at a rate per annum equal to the Base Rate plus two percent (2%) per annum (or at the Base Rate in the event that WAPDA has notified the Company within twenty five (25) Day period that it disputes such payment and all undisputed amounts are paid in accordance with Section 9.7(a),(b) and (c)) compounded semi-annually and shall be computed for the actual number of Days on the basis of a three hundred sixty-five (365) Day Year.

9.8 Payment Disputes.

(a) At any time prior to one hundred and eighty (180) Days after the date that an invoice has been received by a Party, such receiving Party may serve notice (an "Invoice Dispute Notice") on the other Party that the amount of such invoice is in dispute. Each Invoice Dispute Notice shall specify the invoice concerned, the amount of the Dispute and the basis therefor.

A copy of any Invoice Dispute Notice delivered by WAPDA to the Company shall also be delivered to the WAPDA Letter of Credit issuing bank or the Escrow Bank, as appropriate. Until a copy of the Invoice Dispute Notice delivered by WAPDA to the Company is received by the WAPDA Letter of Credit issuing bank or the Escrow Bank, as appropriate, such bank shall be entitled to assume that no amount shown in the relevant invoice delivered by the Company for payment is disputed by WAPDA.

(b) In the event of such a Dispute either Party may seek resolution of the Dispute in accordance with Article XV hereof. Upon the determination by the expert appointed under Article XV that all or any portion of a disputed amount is owed by a Party, such Party shall pay such amount to the other Party in accordance with subsection (c) below, or notify the other Party of its intent to arbitrate the Dispute and deposit the amount determined by the expert to be owed into an interest earning escrow account established for that purpose with a scheduled Pakistani bank, which in the case of WAPDA shall be a separate subaccount with the Escrow Bank (or, if WAPDA has not established an Escrow Account, in the bank in which WAPDA has established the WAPDA Letter of Credit) and in the case of the Company shall be an account with the bank issuing the Company Letter of Credit then in effect. Until a final resolution of the Dispute, the funds held in escrow shall not be used for any other purpose or as a credit against any other obligation hereunder, except as a reserve against the contingent obligation of the matter under Dispute.

(c) Upon the resolution of the Dispute, any amounts determined to be owing which have not been paid shall be paid or released from escrow by the owing Party to the other Party, as the case may be, together with interest equal to the Base Rate from the date payment under the applicable invoice was due through the date of deposit into the escrow account and any interest earned thereon while held in escrow.

9.9 Proration Resulting From WAPDA's Operation or Termination.

(a) If the Complex is operated by WAPDA pursuant to Section 6.11 or this Agreement is terminated in accordance with its terms, then for the purposes of calculating liquidated damages due to WAPDA under Section 9.4(b), such liquidated damages shall be determined by multiplying the applicable hourly threshold figure by the "Damages Proration Factor", as hereinafter defined, and substituting the product thereof for the applicable threshold figure.

(b) The "Damages Proration Factor" shall be one (1) minus a fraction, the numerator of which shall be the number of Days the Complex was operated by WAPDA or the number of Days remaining in the Agreement Year following termination, as the case may be, and the denominator of which is three hundred and sixty-five (365).

9.10 Supplemental Tariff Payments

(a) If there shall have occurred a Pakistan Political Force Majeure Event or a Change in Law, then upon the termination of the Force Majeure Event or compliance with the Change in Law, as the case may be, and the completion of restoration or modification of the Complex, if any is necessary, and the resumption of normal operations at the Complex, the Company will be entitled to invoice WAPDA and WAPDA will pay to the Company, in addition to the Capacity Payments and the Energy Payments pursuant to Sections 9.1 and 9.2 and any other payments due hereunder, the Supplemental Tariff Payments. Invoices for Supplemental Tariff Payments shall be delivered by the Company and paid by WAPDA in the same manner and on the same Schedule as invoices for Capacity Payments as provided in Section 9.7(a) (with respect to additional capital costs) and, if increased consumables are to be payable on a kWh basis, as agreed by the Company and the GOP, for Energy Payments as provided in Section 9.7(b) (with respect to the costs of additional consumables).

9.11 Retained Payments Fund

(a) On or before the Commercial Operations Date, the Company shall establish and maintain, for the remaining Term, a separate Reserve Fund with a depository institution and under depository agreements reasonably satisfactory to WAPDA. On the termination of this Agreement, all amounts in the Reserve Fund shall be payable to Company.

(b) The Reserve Fund shall be funded by the Company out of retained earnings commencing on the date that the first Capacity Payment is made. On each Capacity Payment date, one twenty-fourth of the annual operating and maintenance budget for the Complex, less fuel expenses, will be deposited into the Reserve Fund until a reserve of six such payments is established. After the second Agreement Year and at any time thereafter, the Reserve Fund may be reestablished at such other level that the Parties agree is appropriate for a facility of this size and type, considering Prudent Utility Practices, the design, technology and operating history of the Complex and other pertinent information. Any investment income resulting from the depository arrangements of the Reserve Fund shall remain in the Reserve Fund; provided, however, that so long as no Company Event of Default exists, any monies in excess of the minimum investment required above may be paid to the Company upon its request.

(c) Monies in the Reserve Fund may be drawn on and used by the Company, (i) to pay expenses on Major Maintenance Items (as defined below) or (ii) only to the extent the Company lacks other available funds therefor, for the purpose of paying maintenance and associated operating expenses with respect to the Complex or to pay for alterations, repairs, improvements, renewals and replacements with respect to the Complex which are necessary to the proper operation of the Complex. As used herein "Major Maintenance Item" means an item of maintenance or repair of the Complex which will require a material expenditure and which is anticipated to be performed in accordance with manufacturers recommendations, sound engineering practices or Prudent Utility Practices but which is not expected to be performed on an annual or more frequent basis.

(d) (i) If after the withdrawal of any funds from the Reserve Fund for the payment of Major Maintenance Items as described in Section 9.11(c)(i), the amount in the Reserve Fund is less than the amount required pursuant to Section 9.11(b), the Company shall replenish the Reserve Fund by depositing funds therein in accordance with Section 9.11(b).

(ii) If, after the withdrawal of any funds from the Reserve Fund for the purpose described in Section 9.11(c)(ii) above, the amount remaining in the Reserve Fund is less than the amount required pursuant to Section 9.11(b) above, the Company shall replenish the Reserve Fund by depositing therein, within one Month after the end of such Month in which such withdrawal occurred, an amount sufficient to restore the amount required in Section 9.11(b). Such amount shall be paid out of fifty percent (50%) of the escalable component of the Capacity Payment, available during the Month; provided, however, if the Company's net cash flow is insufficient to fund the Reserve Fund at the required level, any shortfall shall be carried over and due the following Month(s).

(e) The Company shall keep accurate records with respect to the Reserve Fund and all disbursements therefrom and shall, upon WAPDA's request, supply a complete accounting or independent audit thereof to WAPDA.

(f) Separate accounts established at the request of the lenders pursuant to the Financing Documents that in all material respects comply with the provisions of this Section 9.11 shall satisfy the Company's obligation to maintain a Reserve Fund hereunder.

ARTICLE X
TESTING AND CAPACITY RATINGS

10.1 Testing of the Complex Prior to Commercial Operations Date.

(a) The Company will use its best efforts to provide WAPDA on an on-going basis with relevant information regarding its programme for testing the Complex. Not less than thirty (30) Days prior to the commencement of such test programme, the Company will deliver to WAPDA in writing the final programme for testing the Complex, including the expected duration of the Company's start-up testing programme and a tentative schedule for conducting all tests required by Sections 10.2 and 10.3. The Company shall advise WAPDA in writing of any changes in its final schedule for the testing programme not less than seven (7) Days prior to the commencement of the tests required by Section 10.2. Such final schedule may not materially increase or advance the date of WAPDA's obligations as set forth in Section 7.4 without the prior written consent of WAPDA. If the schedule for any test required by Section 10.2 or 10.3 is adjusted after the Company has provided WAPDA with the final testing programme schedule, then the Company shall advise WAPDA not less than forty-eight (48) hours prior to the commencement of any such test. On each Day beginning with the Day on which testing commences, the Company shall provide WAPDA with a schedule of the tests to be conducted on the following Day or Days (if such test will continue for more than one (1) Day). All testing of the Complex shall satisfy the Commissioning and test criteria provided in Sections 10.2 and 10.3 and Schedule 4.

(b) If WAPDA is unable to accommodate the schedule for such test or tests as provided by the Company in the final schedule for the programme of tests pursuant to Section 10.1(a), WAPDA will give the Company notice within forty-eight (48) hours of its receipt of the final schedule for testing of its requirements regarding deferral of any Commissioning test or tests for the Complex and the Parties will mutually agree on a date for any deferral test or programme of tests; provided, however, that should WAPDA defer any Commissioning tests beyond ten (10) Days from the date on which the tests were originally scheduled and such deferral causes the Scheduled Commercial Operations Date of the Complex, as agreed to by the Parties under Section 7.4, to be delayed or deferred, then WAPDA shall pay to the Company Monthly, in arrears, (and prorated for any portion of a Month) an amount equal to the carrying cost on the debt related to the Complex under the Financing Documents plus fifty percent (50%) of the escalable component of the Capacity Purchase Price. Such payments shall continue until the date that the delay or deferral caused by WAPDA ceases; provided, however, that WAPDA shall notify the Company at the end of any such delay or deferral. In addition, the Required Commercial Operations Date and the Premium Date shall be extended on a Day-for-Day basis by the number of Days the testing is delayed due to WAPDA; provided, however, that the extension of the Required Commercial Operations Date and the Premium Date shall be subject to a certification by the Interconnection Committee (as defined in Section 9.3) that the Complex was ready for Commissioning tests and that the delay or deferral caused by the then-scheduled Commissioning of the Complex to be delayed or deferred.

10.2 Tests Prior to Synchronization of the Complex.

The Company shall carry out, or shall cause the Contractors to carry out, the following tests:

- (a) automatic voltage regulator setting and adjusting in stand-still condition and with the generator running at no load;
- (b) engine governor control checks, including overspeed test;
- (c) open and short circuit tests on the generator; and
- (d) functional testing and timing of high voltage switchgear in the sub-station of the Complex.
- (e) The Company and WAPDA shall verify that the protection level settings for the following are as agreed by the Operating Committee:
 - (i) stator earth fault;
 - (ii) negative phase sequence;
 - (iii) generator transformer overcurrent and earth fault; and
 - (iv) high voltage busbar protection.
- (f) Voltage phasing checks will be carried out between the sub-station of the Complex and the Grid System.

All intertripping circuits between the Complex and WAPDA equipment will be proved.

10.3 Tests After Synchronization of the Complex and Commercial Operations Test.

(a) After first synchronizing the Complex, initial operational testing of the Complex shall be conducted by the Company or its Contractors. Once the Company is satisfied that the Complex is capable of continued reliable operation, the Company shall so notify WAPDA and carry out or cause its Contractors to carry out, the Commercial Operations Test, which will include:

- (i) initial Dependable Capacity test;
- (ii) reliability run test;
- (iii) automatic voltage regulator droop;
- (iv) engine governor operation;
- (v) reactive capability;
- (vi) minimum load capability;
- (vii) response of Complex to step load changes; and
- (viii) full load rejection;

Minimum performance criteria for the above test or tests for the Complex to become Commissioned are included in Schedule 4.

(b) Reliability Run and Initial Dependable Capacity.

Upon completion of the reliability run test prerequisites as included in Schedule 4, the Company shall declare to WAPDA the commencement of the reliability run test. During the period of the reliability run test, the initial Dependable Capacity of the Complex will be determined in the following manner:

(i) The Complex shall be in operation with normal auxiliaries and full colony load, if connected directly to the Complex, in service.

(ii) The Company will declare to WAPDA the commencement of the test and will record the reading of the Metering System.

(iii) The test duration will be 6 hours and at the end of this period the Company will record the new reading of the Metering System. The initial Dependable Capacity as determined by such test shall be the difference between the reading taken at the end of the six (6) hour period and the reading taken at the beginning of such period, divided by six (6); provided, that the initial Dependable Capacity shall not be considered to have been established unless the result of such determination is equal to or greater than the minimum criteria for such test set forth in Schedule 4; provided, further, that such initial Dependable Capacity may not exceed 105% of the Estimated Dependable Capacity.

(c) Additional Commercial Operations Tests.

(i) The Company shall be entitled to attempt as many Commercial Operations Tests of the Complex as are necessary to satisfy the minimum criteria for achieving the Commercial Operations Date. The Company shall give WAPDA not less than three (3) Days notice of each additional Commercial Operations Test it desires to attempt.

(ii) If the results of a Commercial Operations Test satisfy the minimum performance criteria to achieve the Commercial Operations Date, but the Company is not satisfied with the results of such Commercial Operations Test, the Company may request two additional tests to establish the Commercial Operations Date with at least three (3) Days notice provided to WAPDA prior to a subsequent test; provided, however, that the Company will not be paid for capacity until it has notified WAPDA that the Company has designated the test as the Commercial Operations Test.

(iii) When the Company is satisfied with a test to establish the Commercial Operations Date, the Company shall notify WAPDA that the Company has designated such test as the Commercial Operations Test and shall set the Actual Initial Dependable Capacity at any level up to the tested level; provided, however, such AIDC may not exceed one hundred and five percent (105%) of the Estimated Dependable Capacity.

(iv) The Commercial Operations Date shall occur and Capacity Payments shall commence as of the Day following the date on which the Complex is Commissioned as certified in writing by the Engineer.

10.4 Testing of Dependable Capacity of the Complex after Commercial Operations Date.

(a) During each Demonstration Period a test shall be conducted to determine the Dependable Capacity of the Complex. The Company may at any time during a Demonstration Period declare a period to be a test period; provided, that WAPDA has scheduled in excess of ninety-five (95) percent of the Dependable Capacity of the Complex for a continuous period of six (6) hours or more in its notification of requirements to be given to the Company pursuant to Section 6.2(a)(iv). Upon the Company declaring a test period the Despatch level for the test period shall be deemed to be the maximum capability of the Complex, the Complex shall not be controlled by AGC.

(b) The test period shall be for six (6) continuous hours. The test shall be run using the Metering System and plant instrumentation for measurements. The Dependable Capacity shall be the Net Electrical Output during those six (6) hours divided by six (6), but may not exceed 105% of the Estimated Dependable Capacity. For purposes of determining Capacity Payments payable pursuant to Section 9.1, the Dependable Capacity Level shall be adjusted to reflect the tested Dependable Capacity, effective the Day after such testing is complete.

(c) In the event that the Company has not declared a test period within forty-two (42) Days of the start of a Demonstration Period, then if:

(i) WAPDA has not scheduled the required level and duration of generation pursuant to Section 10.4(a) during the forty-two (42) Day period, such that the Company was able to declare a test period, then the Company may request a test; or

(ii) WAPDA did schedule the required level and duration of generation pursuant to Section 10.4(a) during the forty-two (42) Day period, such that the Company was able to declare a test but then elected not to declare a test, then WAPDA may request a test.

(d) If either Party requests a test pursuant to Section 10.4(c), then such test shall be performed in accordance with the provisions of Section 10.4(b) within seven (7) Days following such request, provided that such request is made at least fourteen (14) Days prior to the end of the Demonstration Period. The Company shall give WAPDA not less than twenty-four (24) hours notice of its intention to perform the test.

(e) The Company may, within twenty-four (24) hours of completion of any test, reject the test and may conduct a retest, provided, however, that the Company cannot conduct more than two retests. The Company shall give WAPDA at least twenty-four (24) hours notice of the retest and the retest shall be conducted within six (6) Days of the completion of the rejected test.

(f) Either Party shall be entitled to request one test of Dependable Capacity of the Complex between any two consecutive Demonstration Periods. The Company shall be entitled to one re-test of any such test provided that it rejects the test within twelve (12) hours of completing the test. The test and, as appropriate, the re-test shall be conducted in accordance with Section 10.4(b), within six (6) Days of its request or, as the case may be, the rejection and the Company shall give WAPDA not less than twenty-four (24) hours notice of its intention to perform the test.

10.5 Notice of and Compliance With Testing Procedures.

The Company shall carry out Commissioning of the Complex, testing the Dependable Capacity of the Complex at the Commercial Operations Date and testing of Dependable Capacity of the Complex thereafter in accordance with Sections 10.2 through 10.4. WAPDA shall use its reasonable efforts to comply promptly with all reasonable requests by the Company for assistance in carrying out such testing and Commissioning. WAPDA shall be given prior written notice of any testing or Commissioning procedure in accordance with Sections 10.2 through 10.4 and shall be entitled to be present and observe any such testing and Commissioning.

10.6 Copies of Test Results.

The Company shall provide WAPDA with copies of the test results of all tests performed pursuant to Sections 10.2 through 10.4 above and after every general overhaul of a generating unit at the Complex. WAPDA shall not use or disclose such results other than in connection with the administration and enforcement of this Agreement.

10.7 Testing Disputes.

In the event that a Dispute arises between the Company and WAPDA regarding the testing of Dependable Capacity or the protection tests described in Sections 10.2 through 10.4, such Dispute shall be resolved pursuant to Article XV.

10.8 Estimated Dependable Capacity.

The Company's Estimated Dependable Capacity of the Complex, at the mean site conditions specified in Schedule 4, is 107 MW net.

ARTICLE XI INSURANCE

11.1 Maintenance of Insurance Policies.

(a) The Company, at its sole cost and expense (subject to the provisions of Section 11.1(b), below), shall obtain and maintain, or cause to be obtained and maintained, during the Term the policies of insurance set forth on Schedule 8 in the amounts set forth therein and during the periods mentioned therein; provided, however, that such amounts may be changed from time to time with the prior written consent of WAPDA; provided, further, that the Company shall not be in breach of its obligations hereunder if and to the extent that any particular insurance is unavailable to it under commercially reasonable terms for reasons other than any negligence or default by, or the condition of, the Complex or the Company.

(b) Following a Pakistan Political Force Majeure Event, (or an event or occurrence that, had it affected the Company directly, would have been a Pakistan Political Force Majeure Event) to the extent that the insurance required by Section 11.1(a), above, is not available to the Company at commercially reasonable rates due to the occurrence of the Pakistan Political Force Majeure Event, (or the other event described above) upon notice to WAPDA by the Company, the additional cost of such insurance attributable to the occurrence of the Pakistan Political Force Majeure Event (or the other event described above) as determined by an expert in conformity with the provisions of Section 15.2, shall be recoverable by the Company from WAPDA and treated as a Pass-Through Item. In such an event, in lieu of making such payment to the Company, WAPDA in its sole discretion may elect to procure the insurance required by Section 11.1(a) on behalf of the Company and deduct five percent (5%) of the escalable component of the then-prevailing Capacity Payments as full compensation therefor. The Company shall be named as the loss payee on any such insurance procured by WAPDA pursuant to this Section 11.1(b). The additional compensation provided under this Section 11.1(b) and any such deduction shall cease as soon as the Company's insurance rates are no longer affected by the Pakistan Political Force Majeure Event (or the other event described above). From time to time, at the request of WAPDA or the Company, the expert will determine the extent to which the Company's insurance rates are then affected by the Pakistan Political Force Majeure Event (or the other event described above).

11.2 Maintenance of "Occurrence" Form Policies.

The coverage requested in Section 11.1 and any "umbrella" or excess coverage shall be "occurrence" form policies. In the event the Company has "claims made" form coverage, the Company must obtain prior approval of all "claims-made" policies from WAPDA.

11.3 Policy Endorsements.

The Company shall cause the insurers to provide the following endorsement items in the comprehensive or commercial general liability and, if applicable, umbrella or excess liability policies relating to the ownership, construction, operation and maintenance of the Complex provided pursuant to Section 11.1:

(a) WAPDA, its directors, officers and employees shall be additional insureds under such policies with respect to claims arising out of or in connection with this Agreement;

(b) The insurance shall be primary with respect to the interest of WAPDA, its directors, officers, and employees and any other insurance maintained by them is excess and not contributory with such policies;

(c) The following cross liability clause shall be made a part of the policy:

"In the event of claims being made by reason of (i) personal and/or bodily injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, or (ii) damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies have been issued to each insured hereunder, except with respect to the limits of insurance.";

(d) The insurer shall waive all rights of subrogation against WAPDA, its officers, directors and employees; and

(e) Notwithstanding any provision of the policy, the policy may not be cancelled, non-renewed or materially changed by the insurer without giving thirty (30) Days, except in the case of non-payment, in which case it will be ten (10) Days, prior written notice to WAPDA. All other terms and conditions of the policy shall remain unchanged.

11.4 Endorsements to Fire and Perils and Machinery Breakdown Policies.

The Company shall cause the insurers to provide the endorsements referred to in Section 11.3(a), (b), (d) and (e) in the fire and perils and machinery breakdown policies covering the Complex as required by Section 11.1.

11.5 Certificates of Insurance.

The Company shall cause its insurers or agents to provide WAPDA with certificates of insurance evidencing the policies and endorsements listed above. Failure by the Company to obtain the insurance coverage or certificates of insurance required by this Article XI shall not in any way relieve or limit the Company's obligations and liabilities under any provision of this Agreement. If the Company shall fail to procure or maintain any insurance required pursuant to this Article XI, then WAPDA shall have the right to procure such insurance in accordance with the requirements of Schedule 8 and shall be entitled to offset the premiums paid for such insurance against any amounts owed to the Company pursuant to the terms of this Agreement. The Company shall be named as the loss payee on any such insurance procured by WAPDA pursuant to this Section 11.5.

11.6 Insurance Reports.

The Company shall provide WAPDA with copies of any underwriters' reports or other reports received by the Company from any insurer; provided, that WAPDA shall not disclose such reports to any other person except as necessary in connection with administration and enforcement of this Agreement or as may be required by any Public Sector Entity having jurisdiction over WAPDA and shall use and internally distribute such reports only as necessary in connection with the administration and enforcement of this Agreement.

ARTICLE XII
LIABILITY AND INDEMNIFICATION

12.1 Limitation of Liability.

Except as required by Section 12.2, 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; provided, however, that this provision is not intended to constitute a waiver of any rights of one Party against the other with regard to matters unrelated to this Agreement or any activity not contemplated by this Agreement.

12.2 Indemnification.

(a) WAPDA. Except as specifically provided elsewhere in this Agreement, WAPDA shall indemnify and defend the Company its officers, directors and employees against, and hold the Company its officers, directors 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 its officers, directors and employees, for personal injury or death to persons or damage to property arising out of any negligent or intentional act or omission by WAPDA in connection with this Agreement. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 12.2(a) shall apply to any Loss in respect of which the Company receives indemnification in full pursuant to the terms of the Implementation Agreement.

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

(c) Joint Negligence. In the event injury or damage 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) Survival. The provisions of this Section 12.2 shall survive for a period of five (5) years following the termination of this Agreement (or such later date as the Company actually vacates the Site where the Complex has been or is to be transferred to the GOP or WAPDA).

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

(c) Joint Negligence. In the event injury or damage 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) Survival. The provisions of this Section 12.2 shall survive for a period of five (5) years following the termination of this Agreement (or such later date as the Company actually vacates the Site where the Complex has been or is to be transferred to the GOP or WAPDA).

12.3 Assertion of Claims to Exceed Minimum Indemnification Amount.

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 Losses of such Party, in the aggregate, during the then-current Year exceed the Minimum Indemnification Amount. For the purposes of this Section 12.3, a Loss (or claim for indemnification) shall be deemed to arise in the Year the event giving rise to such Loss (or claim for indemnification) occurred, or if the event is continuing in more than one Year, in the Year such event ends.

12.4 Indemnification for Fines and Penalties.

Any fines or other penalties incurred by a Party for non-compliance with Laws of Pakistan shall not be reimbursed by the other Party but shall be the sole responsibility of the non-complying Party.

12.5 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 such claim, action, suit or proceeding at its expense with counsel of its selection, subject to the prior approval of 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 expenses incurred by the indemnified Party prior to the assumption by the indemnifying Party of such defense.

(b) 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 12.5(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 expense 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.

(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 which 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 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.

ARTICLE XIII
FORCE MAJEURE

13.1 Definition of Force Majeure.

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 that on or after the date of Financial Closing, materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement (including a Party's ability to deliver or receive energy from the Complex); provided, however, that such material and adverse effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts and activities to protect the Complex from a casualty event, which 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 or campaign of terrorism, or sabotage;

(ii) any Lapse of Consent that (i) shall itself have existed for twenty-six (26) Days or more, (ii) 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 (iii) together with any and all other Lapses of Consents that have occurred in the same and in the two 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;

(iv) strikes, works to rule or go-slows that extend beyond the Complex, are widespread or nationwide, or that are of a political nature, such as, by way of example and not limitation, labour actions associated with or directed against a Pakistan political party, or those that are directed against the Company (or its contractors) as part of a broader pattern of labour actions against companies or facilities with foreign ownership or management; or

(v) a nationwide shortage of fuel oil that prevents the Fuel Supplier from providing adequate deliveries of fuel oil to the Complex for more than twenty-one (21) Days as certified by the Director-General Oil, Ministry of Petroleum and Natural Resources; and

(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, fire, earthquake, tsunami, flood, storm, cyclone, typhoon, or tornado;

(B) fire, explosion or chemical contamination (other than resulting from an act referred to in Section 13.1(a)(i), in which case it shall be a Pakistan Political Force Majeure Event;

(C) epidemic or plague;

(D) a Lapse of Consent unless such Lapse is a Pakistan Political Force Majeure Event;

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

(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 13.1(a)(iii); and

(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 13.1(c)(i)(E), late delivery of machinery, equipment, materials, spare parts or consumables (including fuel);

(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.

13.2 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 WAPDA and (ii) give the other Party a second notice, describing the Force Majeure Event(s) in reasonable detail and, to the extent which can be reasonably determined at the time of such 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 such 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 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) its ability to recommence performance of its obligations under this Agreement as soon as possible and in any event not later than seven (7) Days after the occurrence of each of clause (i) and (ii) above.

(c) Failure by the affected Party to give written notice of a Force Majeure Event to the other Party within the forty-eight (48) hour period or six (6) hour period required by Section 13.2(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 13.4 for any failure or delay in complying with its obligations under or pursuant to this Agreement until such notice has been given. If said notice is given within the forty-eight (48) hour period or six hour period required by Section 13.2(a), the affected Party shall be excused for such failure or delay pursuant to Section 13.4 from the date of commencement of the relevant Force Majeure Event.

13.3 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 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.

13.4 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 13.3 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 during the existence of a Force Majeure Event and (ii) any performance deadline that the affected Party is obligated to meet under this Agreement shall be extended; provided, however, that no relief, including the extension of performance deadlines, shall be granted to the affected Party pursuant to this Section 13.4 to the extent that such failure or delay would have nevertheless been experienced by the affected Party had the Force Majeure Event not occurred; provided, further, that, in the case of a Force Majeure Event which damages the Complex, in no event shall the obligations of the affected Party under this Agreement to meet performance deadlines be extended beyond the end of the Restoration Period (as defined in the Implementation Agreement) determined in accordance with Article XVII of the Implementation Agreement. 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 XII or for payment pursuant to Article IX, 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.

13.5 Payments During Force Majeure Event.

(a) Upon the occurrence of any Force Majeure Event after the Commercial Operations Date, then during the pendency of a Force Majeure Event, WAPDA shall pay to the Company Energy Payments for Net Electrical Output delivered during the pendency of such Force Majeure Event plus Capacity Payments in an amount equal to the amount due to the Company pursuant to Section 9.1 immediately prior to such Force Majeure Event multiplied by the FM Ratio. For the purposes of this Section 13.5, the FM Ratio shall be:

(i) in the case of a Force Majeure Event declared by the Company where the Complex is capable of partial operation, a fraction, the numerator of which is the Dependable Capacity as determined by testing in accordance with Article X as soon as practicable after the declaration of such Force Majeure Event, and the denominator of which is the Dependable Capacity determined by the most recent test prior to the Force Majeure Event conducted pursuant to Article X;

(ii) in case of Force Majeure Event declared by the Company where the Complex is not capable of operation, the FM Ratio shall be zero; and

(iii) in the case of a Force Majeure Event declared by WAPDA the FM Ratio shall be one (1).

(b) During the pendency of a Force Majeure Event, either Party may request that a Dependable Capacity or gross capacity test, as the case may be, be performed in order to determine the FM Ratio applicable in Section 13.5(a)(i), and thereafter such new FM Ratio shall be used to compute the payments to be made by WAPDA to the Company; provided, however, that no more than two (2) tests may be requested by a Party within any thirty (30) Day period during the pendency of the Force Majeure Event. Except as provided in this Section 13.5, the Company shall not be entitled to any payments from WAPDA during any Force Majeure Event.

13.6 Supplemental Tariff for Pakistan Political Force Majeure Events.

In the event that a Pakistan Political Force Majeure Event results in damage to, or other adverse effects on, the Complex, which is repaired or otherwise remedied by the Company, and the Implementation Agreement is not terminated pursuant to Section 17.8(a) or Section 17.8(b) thereof, the Company shall be entitled to receive Supplemental Tariff Payments from WAPDA in accordance with the procedures set forth in Schedule 6 to recover the difference between the restoration costs approved in accordance with Section 17.7(d) of the Implementation Agreement and any insurance proceeds received by the Company as a result of the occurrence of the Pakistan Political Force Majeure Event.

13.7 Supplemental Tariff for Change in Law.

In the event of the occurrence of a Change in Law (including a Change in Law that becomes applicable to the Company because of damage to and the restoration of the Complex as described in Section 13.6)) that requires a material modification or a material capital addition to the Complex, which is completed by the Company, or in lieu thereof or in addition thereto, an increase or decrease in the use or quality of consumables by the Complex, in each case, as approved by the GOP, in the manner provided by the Implementation Agreement, and the Implementation Agreement is not terminated pursuant to Section 17.8(a) or Section 17.8(b) thereof, the Company will be entitled to receive Supplemental Tariff Payments from WAPDA in accordance with the procedures set forth in Schedule 6. Such Supplemental Tariff Payments will allow the Company to recover the costs of complying with the Change in Law, including (i) the cost of any material modifications or material capital additions to the Complex that are necessary for the Company to come into compliance with the Change in Law and are approved in accordance with Section 17.7(d) of the Implementation Agreement and (ii) the cost of additional quantities or higher quality of consumables that can be directly attributed to compliance by the Company with the Change in Law. Any reduction in cost due to a decrease in the use or quality of consumables by the Complex shall be credited to WAPDA.

ARTICLE XIV
TAXES

14.1 Taxes Applicable to the Company.

Subject to the terms of the Implementation Agreement, all present and future federal, provincial, municipal or other lawful taxes, duties, levies, or other impositions applicable to the Company, the Complex, the Project and the Company's other assets shall be paid by the Company in a timely fashion. Nothing herein, however, shall in any way limit or override any provisions of this Agreement, including Schedule 6, that allow certain taxes and charges to be treated as "Pass-Through Items."

14.2 Taxes Applicable to WAPDA.

All present and future federal, provincial, municipal or other lawful taxes, duties, levies, or other impositions applicable to WAPDA arising from or in connection with its rights and obligations under this Agreement shall be paid by WAPDA in a timely fashion.

ARTICLE XV
RESOLUTION OF DISPUTES

15.1 Resolution by Parties.

(a) In the event that a Dispute arises, the Parties shall attempt in good faith to settle such Dispute by mutual discussions within thirty (30) Days after the date that the disputing Party gives written notice of the Dispute to the other Party, which may include referring the Dispute to the Operating Committee for a specified time period; provided, however, that if the Dispute involves the amount of an invoice and after ten (10) Business Days of mutual discussion either Party believes in good faith that further discussion will not resolve the Dispute to its satisfaction, such Party may immediately refer the matter to the expert for consideration pursuant to Section 15.2;

(b) In the event that the Dispute is not resolved in accordance with Section 15.1(a), either Party may refer the Dispute to the chief executive officer or chief operating officer of the Company and the General Manager - System Operations of WAPDA (or such other official authorized by WAPDA) for further consideration. In the event that such individuals are unable to reach agreement within fifteen (15) Days, or such longer period as they may agree, then either Party may refer the matter to an expert in accordance with Section 15.2 hereof or, if the Dispute is not of a type required to be referred to an expert under Section 15.2, commence arbitration of the Dispute in accordance with Section 15.3.

15.2 Mediation by Expert.

(a) In the event that the Parties are unable to resolve a Dispute in accordance with Section 15.1, then either Party, in accordance with this Section 15.2, may refer the Dispute to an expert for consideration of the Dispute and to obtain a recommendation from the expert as to the resolution of the Dispute; provided, however, that with respect to Disputes that involve the amount of an invoice, either Party may require that an expert be appointed in accordance with the provisions of Section 15.2(b) to consider a Dispute in advance of the occurrence of such a Dispute, and shall nominate a person it proposes to be the expert.

(b) The Party initiating submission of the Dispute to the expert shall provide the other Party with a notice stating that it is submitting the Dispute to an expert and nominating the person it proposes to be the expert. The other Party shall, within fifteen (15) Days of receiving such notice, notify the initiating Party whether such person is acceptable. If the Party receiving such notice fails to respond or notifies the initiating Party that the person is not acceptable, the Parties shall meet and discuss in good faith for a period of ten (10) Days to agree upon a person to be the expert. If the Parties are unable to agree, the responding Party shall by the end of such ten (10) Day period nominate a person to be an expert, whereupon the two nominated experts shall meet and agree upon a third person who shall be the expert.

(c) (i) Consideration of the Dispute by an expert shall be initiated by the Party who is seeking consideration of the Dispute by the expert submitting to both the expert and the other Party written materials setting forth:

- (A) a description of the Dispute;
- (B) a statement of the Party's position; and
- (C) copies of records supporting the Party's position.

(ii) Within ten (10) Days of the date that a Party has submitted the materials described in Section 15.2(c)(i), the other Party may submit to the expert:

- (A) a description of the Dispute;
- (B) a statement of the Party's position; and
- (C) copies of any records supporting the Party's position.

The expert shall consider any such information submitted by the responding Party within the period provided in Section 15.2(c)(ii) and, in the expert's discretion, may consider any additional information submitted by either Party at a later date.

(d) The Parties shall not be entitled to apply for discovery of documents, but shall be entitled to have access to the other Party's relevant records and to receive copies of the records submitted by the other Party.

(e) Each Party shall designate one person knowledgeable about the issues in Dispute who shall be available to the expert to answer questions and provide any additional information requested by the expert. Except for such person, a Party shall not be required to, but may, provide oral statements or presentations to the expert or make any particular individuals available to the expert.

(f) Except as provided in Section 15.2(h) with respect to the payment of costs, the proceedings shall be without prejudice to any Party and any evidence given or statements made in the course of this process may not be used against a Party in any other proceedings. The process shall not be regarded as an arbitration and the laws relating to commercial arbitration shall not apply. Unless the Parties agree in a writing signed by both Parties at the time the expert is selected stating that the decision of the expert will be binding, the determination of the expert shall not be binding.

(g) When consideration of the Dispute by an expert is initiated, the expert shall be requested to provide a recommendation within fifteen (15) Days after the ten (10) Day response period provided in Section 15.2(c)(ii) above has run. If the expert's recommendation is given within such fifteen (15) Day period, or if the expert's recommendation is given at a later time and neither Party has at such time initiated any other proceeding concerning the Dispute, the Parties shall review and discuss the recommendation with each other in good faith for a period of ten (10) Days following delivery of the recommendation before proceeding with any other actions.

(h) If a Party does not accept the recommendation of the expert with respect to the Dispute, it may initiate arbitration proceedings in accordance with Section 15.3, provided, however, that prior to initiating the arbitration proceedings it shall have paid all costs of the expert (including the reimbursement of any costs paid to the expert by the other Party) and all out-of-pocket costs of the other Party. Similarly if the expert has not submitted its recommendation within the time period provided in Section 15.2(g), a Party may initiate arbitration proceedings in accordance with Section 15.3, provided that prior to initiating the arbitration proceedings it shall have paid all costs of the expert (including the reimbursement of any costs paid to the expert by the other Party).

(i) Except as provided in Section 15.2(h), the costs of engaging an expert shall be borne equally by the Parties and each Party shall bear its own costs in preparing materials for, and making presentations to, the expert.

15.3 Arbitration.

(a) Any Dispute arising out of or in connection with this Agreement and not resolved following the procedures described in Sections 15.1 and 15.2 shall, except as hereinafter provided, be settled by arbitration in accordance with the Rules of Procedure for Arbitration Proceedings (the "ICSID Rules") of the International Centre for the Settlement of Investment Disputes (the "Centre") established by the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "Convention") and the Parties hereby consent to Arbitration thereunder. For the purposes of consenting to the jurisdiction of the Convention, the Parties agree that the Company is a foreign controlled entity unless the amount of the voting stock in the Company held by Foreign Investors should decrease to less than thirty-five percent (35%) of the outstanding voting stock of the Company other than due to the purchase of shares by any of the Federally Controlled Entities, or the Provincial Government or any entity controlled by or under the influence of the Provincial Government.

(b) Notwithstanding the foregoing, unless and until the GOP has implemented the Convention by an Act or an Ordinance confirmed by an Act, or if for any reason the Dispute cannot be settled in accordance with the ICSID Rules, whether because the Company should not be agreed to be a foreign controlled entity, or the request for arbitration proceedings is not registered by the Centre, or the Centre fails or otherwise, such Dispute shall be finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") by one or more arbitrators appointed in accordance with the ICC Rules.

(c) Any arbitration shall be conducted in Lahore, Pakistan, and unless otherwise agreed by the Parties, the number of arbitrators shall be one; provided, however, that if the Company desired that arbitration be conducted outside of Pakistan, the arbitration shall be conducted in Singapore and the Company shall pay all costs of the arbitration as and when incurred by WAPDA, including the out of pocket costs of the arbitration of both Parties (excluding any award made by the arbitrator) in excess of the costs that would have been otherwise incurred by WAPDA had the arbitration been conducted in Lahore, Pakistan. The arbitrator shall resolve any Disputes as to whether a cost would have been incurred in connection with the arbitration in Lahore, Pakistan (the "Base Costs") or was associated with the removal

to Singapore (the "Incremental Costs"). The arbitrator may order that WAPDA bear its own Incremental Costs in part or in full if he finds that WAPDA's claim or defence in the Arbitration was spurious and without any merit whatsoever, and WAPDA shall pay the amount ordered; provided, however, that if a matter in Dispute involves a sum of five million Dollars (\$5,000,000) or more, or the validity or enforceability of this Agreement, or the termination of this Agreement, arbitration shall, unless otherwise agreed by the Parties, be conducted in Singapore, and, in such case, each Party shall pay its own costs of arbitration as and when incurred, unless such costs are ordered by the Arbitrator to be paid by one Party, in which case they shall be paid by such Party.

15.4 Commercial Acts; Sovereign Immunity.

WAPDA 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. In furtherance of the foregoing, WAPDA hereby irrevocably and unconditionally agrees that: (i) should any proceedings be brought against WAPDA or its assets, other than the Grid System, electric generation assets and equipment, electric distribution assets, other assets necessary for the fulfillment of its duties and responsibilities under the Pakistan Water and Power Development Authority Act of 1958 and assets protected by the diplomatic and consular privileges under the 1978 Immunity Act of the United Kingdom or the 1976 Sovereign Immunities Act of the United States or any analogous legislation (collectively, 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 WAPDA 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 other than the Protected Assets). The Company irrevocably waives any and all rights it may have to enforce any judgement or claim against the Protected Assets.

ARTICLE XVI
NOTICES

16.1 Addresses and Addressees.

Except as otherwise expressly provided in this Agreement, all notices or other communications to be given or made hereunder shall be in writing, shall be addressed for the attention of the persons indicated below and shall either be delivered personally or sent by courier, registered or certified mail or facsimile. The addresses for service of the Parties and their respective facsimile numbers shall be:

If to the Company:

Attention: MR. ZAFAR MAHMOOD
Chief Executive

Address: 26-Peshawar Block,
Fortress Stadium,
Lahore Cantt.

Facsimile No.: 00-92-42-6664349

cc: Legal Advisor to Company
Syed Rashid Rahim
Advocate High Court
13/A-Abdur Rehman Road,
Lahore Cantt.

If to WAPDA:

Attention:

For WAPDA: i) General Manager,
WAPDA Power Privatization Organization
2nd Floor, PIA Tower, Egerton Road
Lahore 54000
Fax No. (042) 6368794

ii) General Manager, System Operations
221-WAPDA House
Lahore 54000
Facsimile No.: (042) 6311729

cc: Legal Advisor, WAPDA
719-WAPDA House
Lahore 54000

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 a 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 written notice delivered to the delivering Party at its address or facsimile number specified above in accordance herewith) 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 in accordance herewith). 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.

16.2 Changes of Address.

Any Party may by notice change the addressees and/or addresses to which such notices and communications to it are to be delivered or mailed.

ARTICLE XVII
MISCELLANEOUS PROVISIONS

17.1 Amendment.

This Agreement can be amended only by agreement between the Parties in writing. No amendment of this Agreement will be effective without the prior written consent of the GOP if such amendment increases or potentially increases materially the liability of the GOP under the Implementation Agreement or the Guarantee.

17.2 Headings.

The headings contained in this Agreement are used solely for convenience and do not constitute a part of this Agreement nor shall such headings be used in any manner to aid in the construction or interpretation of this Agreement.

17.3 Third Parties.

This Agreement is intended solely for the benefit of the Parties hereto and, except for rights expressly granted to Lenders, nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

17.4 No Waiver.

(a) No waiver by either Party of any default or defaults by the other Party 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 or defaults whether of a like or different character; or

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

(b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.

(c) Settlement or waiver of any Dispute or breach related to Articles IV, XI, and XIV, and Sections 3.1 and 3.6 shall be effective only if agreed to, in writing, by both WAPDA and the GOP.

17.5 Relationship of the Parties.

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

17.6 Survival.

Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including, without limitation, warranties, remedies, promises of indemnity and confidentiality.

17.7 Language.

The language for the purpose of administering this Agreement shall be English.

17.8 Choice of Law.

This Agreement and the rights and obligations hereunder shall be interpreted, construed and governed by the laws of Pakistan.

17.9 Entirety.

This Agreement and the Schedules attached hereto are intended by the Parties as the final expression of their agreement on the matters contained herein and are intended also as a complete and exclusive statement of the terms of their agreement with respect to the Net Electrical Output and Dependable Capacity sold and purchased hereunder. All prior written or oral representations, understandings, offers or other communications of every kind pertaining to the sale or purchase of Net Electrical Output and Dependable Capacity hereunder to WAPDA by the Company are hereby abrogated and withdrawn.

17.10 Assignment.

(a) This Agreement may not be assigned by either Party other than by mutual agreement between the Parties in writing.

(b) Notwithstanding the foregoing, for the purpose of financing the Project, the Company may assign to, or grant a security interest in favour of, the Lenders in its rights and interests under or pursuant to (i) this Agreement, (ii) any agreement or document included within the Security Package, (iii) the Complex, (iv) the Site, (v) the movable, immovable and intellectual property of the Company, or (vi) the revenues or any of the rights or assets of the Company. The Company shall not create any security over its rights and interests under this Agreement without the prior written consent of WAPDA except as already provided above.

(c) The Lenders shall have no obligation to WAPDA 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 assume liability for all of the Company's obligations under this Agreement, including payment of any amounts due and owing to WAPDA for payment defaults by the Company under this Agreement (other than, so long as the liability insurance required by Section 11.1 has been and is in effect, damages or penalties incurred by the Company under Section 12.2(b), 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, WAPDA shall not be prevented from terminating this Agreement in respect of any liability of the Company arising under Section 12.2(b) that is not assured 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 give rise to any duties or obligations whatsoever on the part of any of the Lenders owing to WAPDA.

Upon notification by the Lenders or the Agent to WAPDA 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 under this Agreement as provided in Section 4.5. 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 Section 4.2 (f), (i), (j), (k) or (m) and no right will exist for WAPDA to terminate this Agreement based upon such Company Events of Default occurring prior to the delivery of the Lenders' notice. Without the requirement of obtaining any further consent from WAPDA, 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 a Transferee acceptable to GOP (hereinafter defined) so long as such Transferee shall assume 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.

(d) As used herein, a "Transferee" shall be a person who (i) either is an experienced and qualified power plant operator or who shall have agreed to engage the services of a person who is an experienced and qualified power plant operator, (ii) shall have paid all amounts, if any, then due and payable to WAPDA under this Agreement, and (iii) shall have expressly assumed in writing for the benefit of WAPDA the ongoing obligations of the Company under this Agreement (including the obligation of the Company to maintain and operate the Complex in accordance with the requirements of this Agreement).

(e) At the request of the Company, delivered to WAPDA not less than thirty (30) Days in advance WAPDA shall execute and deliver at the Financial Closing, all such acknowledgements to the Lenders or their designees of any security created in accordance with this Section 17.10 as are reasonably requested by the Company and the Lenders to give effect to the foregoing.

(f) Notwithstanding the above, WAPDA shall have the right to assign this Agreement to any entity or entities assuming all or part of WAPDA's rights and obligations in connection with the distribution of Net Electrical Output; provided, that the GOP without interruption guarantees the performance of the succeeding entity or entities on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligations of the succeeding entity or entities that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee and all of WAPDA's obligations under this Agreement are assigned pursuant to law to or contractually assumed, through a novation, by one or more entities, each of which has the legal capacity and appropriate commercial function to perform such obligations.

17.11 Confidentiality

(a) Each of the Parties and their contractors, consultants and agents shall hold in confidence all documents and other information whether technical or commercial supplied to it by or on behalf of the other Party relating to the design, construction, insurance, operation, maintenance, management and financing of the Complex and all information and documents obtained by it in the course of any inspection performed in accordance with the terms of this Agreement, and shall not, save as required by law or appropriate regulatory authorities, prospective lenders to, or investors in, the Company and their professional advisers, 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. Notwithstanding the above, nothing herein contained shall preclude the use of provisions similar to those contained in this Agreement and the other Agreements referred to herein and in agreements prepared and issued in connection with other projects.

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

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

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

(iii) information obtained from a third party who is free to divulge the same, and which is not obtained under any obligation of confidentiality.

17.12 Successors and Assigns.

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

17.13 No Liability for Review.

No review and approval by WAPDA 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 the applicable Laws of Pakistan with respect thereto, or to satisfy the Company's obligations under this Agreement, the Implementation Agreement and the other documents comprising the Security Package, nor shall WAPDA be liable to the Company or any other person by reason of its review and approval of an agreement, document, instrument, drawing, specification, or design.

17.14 No Third Party Beneficiaries.

This Agreement shall not confer any right of suit or action whatsoever on any third party except for the rights granted to the Lenders.

17.15 Affirmation.

The Company and WAPDA declare and affirm that neither Party has paid nor has it undertaken to pay and that it shall in the future not pay any bribe, pay-offs, kick-backs or unlawful commission and that it has not in any other way or manner paid any sums, whether in Pakistani currency or foreign currency and whether in Pakistan or abroad, or in any other manner given or offered to give any gifts and presents in Pakistan or abroad to any person or company to procure this Agreement, and the Company and WAPDA undertake not to engage in any of the said or similar acts during the term of and relative to this Agreement.

17.16 Approval Not to be Unreasonably Withheld or Delayed.

Unless otherwise provided herein with respect to a particular provision, whenever the acceptance, consent or approval of a Party is required herein, such acceptance, consent or approval shall not be unreasonably withheld or delayed by such Party.

17.17 Double Jeopardy.

A final, non-appealable order issued in a proceeding initiated by the GOP and based upon a claim of breach of the Implementation Agreement shall be with prejudice to any proceedings against the Company that WAPDA could otherwise bring for breach by the Company of substantially the same obligations under this Agreement. Nothing in this Section shall prevent WAPDA and the GOP from separately initiating proceedings to terminate this Agreement and the Implementation Agreement, respectively, pursuant to Sections 4.2 and 4.4 of this Agreement and Sections 19.1 and 19.3 of the Implementation Agreement.

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement as of the date first above written.

**THE PAKISTAN WATER AND POWER
DEVELOPMENT AUTHORITY**

GENERAL MANAGER
W.P.P.O.
2ND FLOOR, PIA TOWER
EGERTON ROAD, LAHORE.

By: [Signature]
Name: **ISHFAQ AHMED PARACHA**
Title: General Manager
WAPDA Power Privatization Organization

JAPAN POWER GENERATION LIMITED

By: [Signature]
Name: **ZAFAR MAHMOOD**
Title: Chief Executive



SCHEDULE 1

POWER PURCHASE AGREEMENTMINIMUM FUNCTIONAL SPECIFICATIONS

The Complex consists of 24 (Residual Fuel Oil)-fired units with the following design ratings:

GROSS CAPACITY (EACH UNIT) = 5.65 MW at ISO

GROSS CAPACITY (COMPLEX) AT SITE = 120 MW

ESTIMATED DEPENDABLE CAPACITY (COMPLEX) = 107MW at mean site conditions

The Site is located: = Jia Bagga, Raiwind Road, Lahore.

The average rainfall at the site area is 600 mm per year, but this amount falls in short durations. Ambient conditions at the site are expected to be as follows:

MEAN MAXIMUM AIR TEMPERATURE = 45 deg. C

MEAN MINIMUM AIR TEMPERATURE = 2.0 deg. C

EXTREME MAXIMUM AIR TEMPERATURE = 54 deg. C

EXTREME MINIMUM AIR TEMPERATURE = -1.7 deg. C

AVERAGE SITE AIR TEMPERATURE = 28 deg. C mean

LOW RELATIVE HUMIDITY = 24 %

HIGH RELATIVE HUMIDITY = 90 %

MAXIMUM NORMAL WIND SPEED = 20 km/hr

A maximum earthquake design factor of 0.2 g will be utilized for the design of the plant buildings and structures and the design wind speed will be 100 miles/hour.

The Site will be at elevation 200 m with respect to mean sea level (MSL). All structures will have a ground floor elevation of at least 201.00 meters above MSL. Access to the Site will be provided by Rail/Road.

The main power block consisting of diesel generator sets shall be arranged inside a hall. Other plant, buildings and structures outside of the main power block shall include the following:

- Cooling towers.
- Oil storage tank yard
- Fire fighting facility
- Switch yard
- Raw water storage
- Water treatment facility
- Administration Building
- Stores, Work shops.
- Residential Colony

The Complex will use an Internal Combustion Four Stroke Heat Cycle. The Diesel generator will be an Enclosed drip proof self ventilated "Self-excited, self-regulated, revolving field brushless, A.C. Generator". Cooling will be supplied via cooling towers and raw water will be provided from underground through tubewells. The primary fuel will be Residual Fuel Oil with Diesel Oil being used for start ups and shut downs.

Each Diesel generator will have a designed gross rating of 5.65 MW at the generator terminal.

Each Diesel generator will be nominally rated at 7062.5 kVA, 0.8 lagging and 0.9 leading, power factor, 11000 V, 3 phase, 50 cycle, not less than [0.55]* short circuit ratio.

The Complex will be capable of operation within a voltage range of $\pm 10\%$ on the 132kV system.

The Complex will be with 4 main transformers 50 MVA (each) 11/132 kV. Interconnection with the WAPDA system will be via a 132 kV step up out door SF6 type substation with interrupting capacity of 31.5 kA at 132 kV. The Complex will have provision for connecting two 132 kV transmission lines.

A common control room is provided to monitor and control the Complex. Operator interfaces

Note:

[]* Figure may change slightly during detailed designing subject to approval by WAPDA.

for control of the Complex will be via computerized data logging. The plant control systems will include a data acquisition system. Diesel engine will be capable starting and stopping locally.

Fuel supply to the Complex will be via Rail/Road. The Site will have sufficient Residual Fuel Oil storage capacity to support operation of the Complex for the equivalent of 100 % of full load for thirty (30) Days. The site will also have sufficient storage capacity of H.S.D for start-ups and shut downs.

All material, plant, equipment and machinery incorporated in the construction of the Complex shall be new and unused.

SCHEDULE 2

1 TECHNICAL LIMITS

1.1 Design Limits

Maximum Ambient Air Temperature	45 deg. C
Minimum Ambient Air Temperature	0 deg. C
Maximum Charge Coolant Air Temperature	45 deg. C
Minimum Charge Coolant Air Temperature	0 deg. C
Maximum Relative Humidity	90 %
Minimum Relative Humidity	12 %

1.2 Unit Starts

(a) The notice required by the Company to Start-Up the Complex and synchronize to Grid System will vary according to the length of time the unit has been shut down. Table 1 below shows the length of the notice required against various period of shutdown.

Table 1

Length of Shutdown	Notice required to synchronize	
	Complex	Each Unit
(i) Hot Start	40 minutes	5 minutes
(ii) Cold Start	60 minutes	6 minutes

(b) For the purposes of this Schedule Start-Up of the Complex is classified as follows:

"Hot Start" - A start following a shutdown period of less than 6 hours.

"Cold Start" - A start following a shutdown period of more than 6 hours.

1.3 Complex loading

- (a) The Complex minimum continuous loading shall be 5 MW at Mean Site Conditions, and the Complex maximum continuous loading (at the generator terminals) shall not exceed 107 MW at Mean Site Conditions. The maximum load ramping rates are shown below in table 2.

Table 2

	<u>Unit Load Range</u>	<u>Hot Start % per minute</u>
(i)	0 < 75	10%
(ii)	75 < 100	5%

- (b) Step changes in Despatched load of up to 30% per minute per unit are allowable provided that Complex load is greater than 25%. After such step changes the new Complex load must be held constant for 5 minutes for stabilization purposes, or for a prorata period for lesser step changes.
- (c) The Complex can withstand a full load rejection and remain in a safe condition. Provided the Complex auxiliaries are operated continuously, the Complex can be re-synchronized within one hour, provided that the reason for load rejection has been removed.
- (d) The Complex minimum continuous loading shall be equal to rating of one unit i.e; 5 MW.

1.4 Frequency, Power Factor, Voltage Limits and Droop Settings

- (a) The Complex/Unit will operate at 100% load with a power factor in the range 0.8 lagging to 0.9 leading which range shall not be exceeded. The Unit has a Reactive Power capability of:

at 0 % load	4.5 MVAR lag	3 MVAR lead
at 100 % load	4.2 MVAR lag	3 MVAR lead

- (b) The Complex can operate within the range $\pm 10\%$ on the 132 kV which range shall not be exceeded.
- (c) The Complex can operate within the frequency range 47.5 Hertz to 52.5 Hertz which range shall not be exceeded.
- (d) The Complex will be subject to tripping if frequency and/or voltage fluctuations outside the ranges stated in 1.4(b) and 1.4(c) occur.
- (e) The Unit governor droop is adjustable in the range 0 % to 10 %. The automatic voltage regulator droop setting is adjustable in the range $\pm 10\%$ of rated voltage.

1.5 General

- (a) The Company shall advise WAPDA of any temporary operating constraints and limits which may from time to time apply to the Complex.

2. Design Maintenance Limits

The cycle of Scheduled Outages is set out in Table 3 below together with manufacturer's recommended durations for such inspections.

TABLE 3

Proposed yearly Maintenance Schedule	Manufacturers Recommendation		Required Time
	<u>Parts/Components</u>	<u>Nature of Inspection</u>	
After Approx. 2500 Hr.	Fuel injection Intake valve stem & seat	Valve cleaning Lapping	3 days
	Exhaust valve stem & seat	Lapping	
After Approx. 5000 Hr.	Nozzle tip of FOV	Exchange	3 days
	Intake valve stem & seat	Lapping	
	Exhaust valve stem & seat	Lapping	
After (Approx. 7500 Hr.)	piston incl. rings (2 pcs.)	Inspection	10 days
	Fuel injection valve	Cleaning	
	Intake valve stem & seat	Lapping	
	Exhaust valve stem & seat	Lapping	
	Piston	Overhaul	
	Main bearing (Lower)	Exchange	
	Crankpin bearing (Upper)	Exchange	
	Turbo charger Air cooler etc.	Overhaul Overhaul	
After four year	Major over hauling		30 days

The scheduling of maintenance inspections will be compatible with regulatory requirements. All regulatory inspections will be carried out during Scheduled Outages. Subject to regulatory requirements, the timing of Scheduled Outages shall be within a range 9 months to 15 months from the start of the previous Scheduled Outage, provided that the commencement of the first Scheduled Outage in each successive four year cycle shall be no less than 45 months and no more than 51 months apart.

3. Prudent Utility Practice

Notwithstanding anything to the contrary, the Company shall operate and maintain the Complex in accordance with Prudent Utility Practices.

SCHEDULE 3

INTERCONNECTION FACILITIES AND TRANSMISSION FACILITIES

1. Interconnection and Transmission Facilities

- (a) The connection between the Complex and Grid System shall be through WAPDA's 132 kV transmission lines. The transmission lines will terminate in the substation of the Complex, the location of which is shown on the Site plans Figures 1 and 2. The circuits of the transmission line will connect at terminals of the gantries provided by the Company as shown on the single line diagram of the substation at Figure 3. The boundary of responsibility between the Company and WAPDA will be at the top of the terminal of the line gantries. The Company will provide WAPDA with an earth connection from the earthing system of the Complex. The Company will install the Metering System which together with the transmission line referred to above within the Site boundary shall comprise the Interconnection Facilities. This equipment will remain the property of WAPDA and shall be commissioned and maintained thereafter by WAPDA.
- (b) Protection. A carrier intertripping circuit for each transmission line shall be provided between the line circuit breakers at the Complex owned by the Company and the line circuit breakers at Wapda Town Grid station owned by WAPDA.

2. Design Data

The following preliminary design data has been provided by the Company to WAPDA to enable completion of WAPDA of the design of the Interconnection Facilities and the Transmission Facilities. Detail design data will be provided before Financial Closing.

2.1 Generator Design Data(a) Rating

Nominal Rated Capacity	7062.5 kVA
Power factor	0.8 lagging 0.9 leading
Number of phases	3
Number of poles	8
Frequency	50 \pm 5 % Hz
Rated speed	750 rpm
Terminal voltage	11 \pm 10 % kV
Short circuit ratio at rated MVA	not < 0.55 (*)
Excitation system	Brushless

(b) Generator Reactances (at the rated MVA & kV base)

Unsaturated direct axis synchronous reactance	182 % (*)
Saturated direct axis sub-transient reactance	24 % (*)
Saturated direct axis transient reactance	32 % (*)
Negative phase sequence reactance	20 % (*)
Zero phase sequence reactance	9 % (*)
Leakage reactance	12 % (*)

Note: (*) Figures may change slightly during detailed designing subject to approval by WAPDA.

(c) Generator Time Constants

Direct axis open circuit time constant	5.0 seconds (*)
Direct axis open circuit sub-transient time constant	0.2 seconds (*)
Direct axis short circuit transient time constant	1.0 seconds (*)
Direct axis short circuit sub-transient time constant	0.16 seconds (*)

Note: (*) The values may change on detailed designing but shall be subject to approval by WAPDA.

(d) Inertia constant

Generator plus Diesel Engine	GD sq.=10,930kg-m sq.
------------------------------	-----------------------

Note: The above design values will have tolerances as specified in the relevant IEC standards.

2.2 Excitation System

Excitation of the main generator is provided by a brushless system using PMG. The excitation control system has a voltage regulator which is an automatic voltage regulator (AVR). During normal operation, the whole excitation system is subject to automatic control by means of AVR. (Sufficient no. of spare AVR's shall be provided and can be used to replace any faulty AVR at short notice).

Technical Characteristics

- (i) Voltage setting range for AVR operation $\pm 10\%$
- (ii) Voltage adjusting range for MEC operation N/A
- (iii) Generator terminal voltage is held within $\pm 10\%$ from no load to full load at rated frequency

(iv) Under the maximum direct current supplied from the excitation system for a specified time, the ceiling voltage to the generator field voltage is 2 p.u.

(v) The transfer function diagram of excitation system as shown in Figure 4.

2.3 Generator Transformer*

MVA rating	40 MVA with ONAN & 52 MVA with ONAF
Rated voltage	11/132 kV $\pm 10\%$ (In steps of 2.5%)
Maximum and minimum operating voltages	11/132 kV $\pm 10\%$ i.e; 145.2 kV Max. 118.8 kV Min.
Connection of winding	Y N D 11
Type of cooling	ONAN/ONAF
Positive and zero sequence reactances	
i. X air core (from HV terminal)	[]*
ii. X air core (from LV terminal)	[]*
Saturation curve at no load	Insulation level
Maximum AC withstand over voltage as per IEC	Impulse AC withstand 275 kV for 1 min.
Temperature Rise - Winding/Oil	55/50 deg.C
Impedances and Losses	
Impedance	[]*
No Load Losses	[]*
Load Losses	[]*
Aux. Losses	[]*

* Data to be supplied by manufacturer of transformer shall be subject to approval by WAPDA.

2.4 The governor droop will be adjustable from 0 to 10 % and is designed to operate over the frequency range 47.5 to 52.5 Hz.

2.5 The AVR droop setting is 0-10 % of rated voltage.

Note:

The Company undertakes to firm up the technical data given by it and to supply the missing data including formula for adjustment of Capacity for temperature variations not later than 120 days prior to Financial Closing.

NO.	DESCRIPTION	REMARKS
1	POWER HOUSE (GENSET)	24 Nos
2	MAINTENANCE BLDG	
3	WORKSHOP & WARE HOUSE	
4	WATER HOUSE	
5	GRID STATION	4 Nos
6	ADMINISTRATION BLOCK	
7	CLASH HOUSE & B.O.C	
8	SAFE HOUSE	
9	FUEL TREATMENT HOUSE	
10	WATER TOWER HOUSE	
11	SCW PUMP HOUSE	
12	FIRE FIGHTING HOUSE	
13	WATER TREATMENT HOUSE	
14	PUMP STATION (UNLOAD)	
15	PUMP STATION (TRANSFER)	
16	TRAM TRAIL	
17	MAIN FUEL STORAGE AREA	4 Nos
18	DIESEL OIL STORAGE TANK	
19	LUBE OIL STORAGE TANK	
20	SLUDGE COLLECTING TANK	
21	DIESEL OIL SERVICE TANK	2 Nos
22	WATER OIL BUFFER TANK	2 Nos
23	HEAVY OIL SERVICE TANK	2 Nos
24	TUBE WELL	
25	RAW WATER POND	
26	COOLING TOWERS	
27	TREATED WATER POND	
28	FIRE FIGHTING WATER POND	
29	BOILER FEED WATER TANK	2 Nos
30		

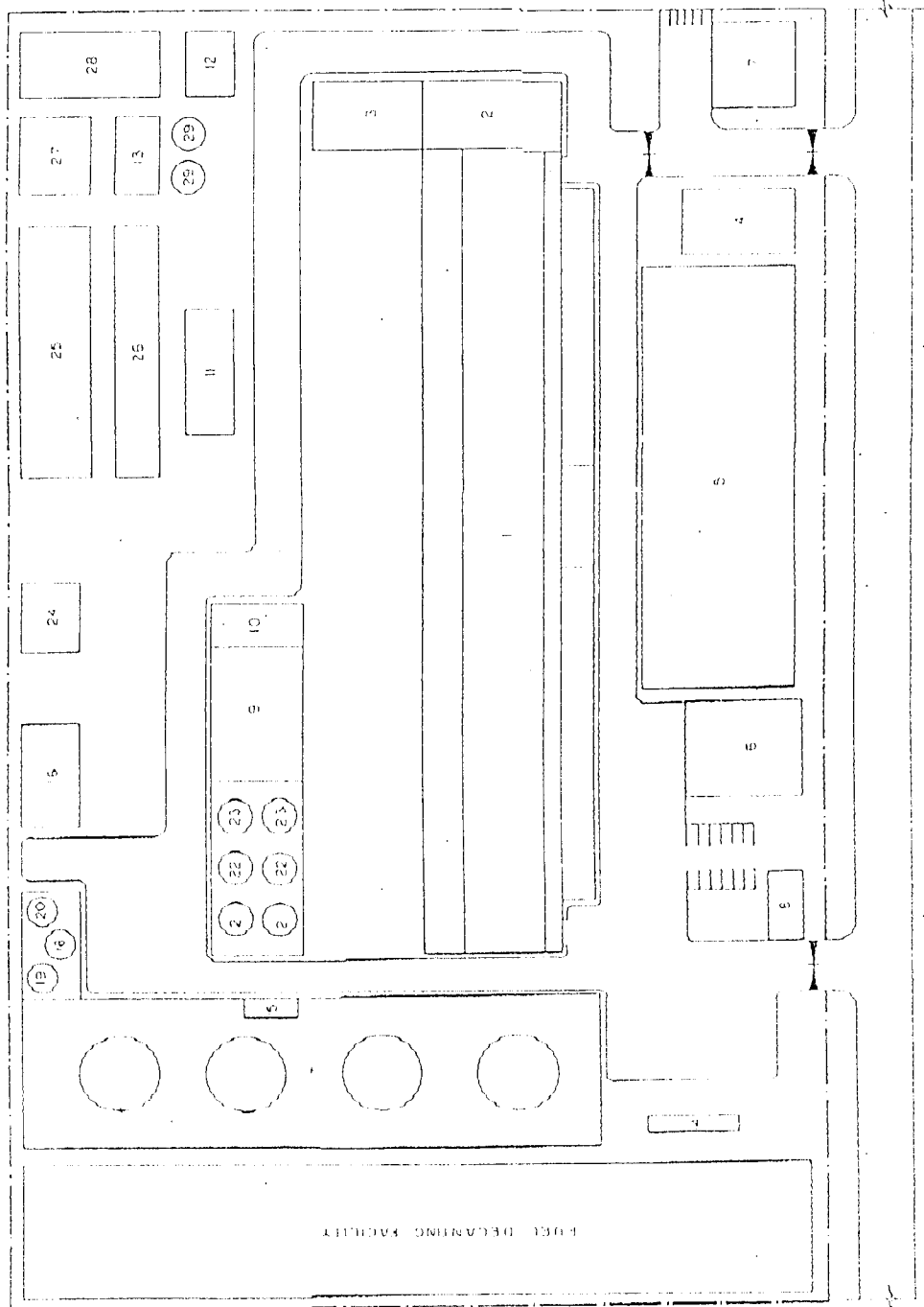
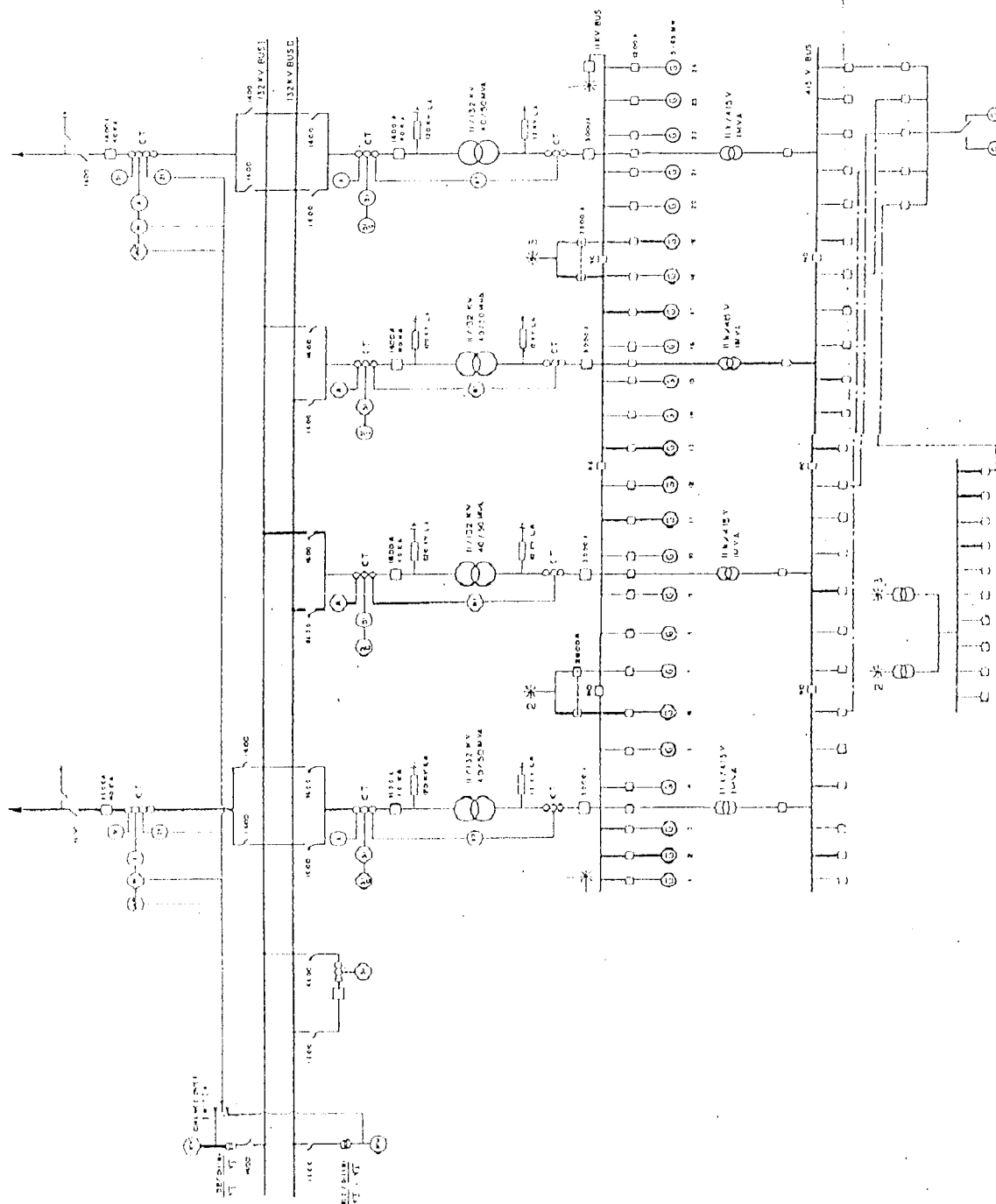


FIG. 2

CLIENT		JAPAN POWER GEN LTD	
DATE		20.11.94	
SCALE		N.T.S.	
DRAWN		M. Jafri	
CHECKED		S. Jafri	
APPROVED		A-02	
DRAWING NO. 01-02			
TITLE: PLANT LAYOUT			
JAFRI & ASSOCIATES CONSULTING ENGINEERS B-12, 2ND FLOOR, NORTH CHINDAMBA ROAD, KIRORJI PHARMACY, GANDHINAGAR, P.O. 560024			



LEGEND

- POWER CABLE BREAKER
- ISOLATOR
- GROUNDING ISOLATOR
- CURRENT TRANSFORMER
- POTENTIAL TRANSFORMER
- LIGHTNING ARRESTOR
- POWER TRANSFORMER
- OVER CURRENT RELAY
- EARTH FAULT RELAY
- TRIP RELAY
- DIFFERENTIAL RELAY
- DISTANCE RELAY
- ANALOGUE
- WATT METER
- VOLT METER
- WAX METER

FIG. 3

JAPAN POWER GEN LTD



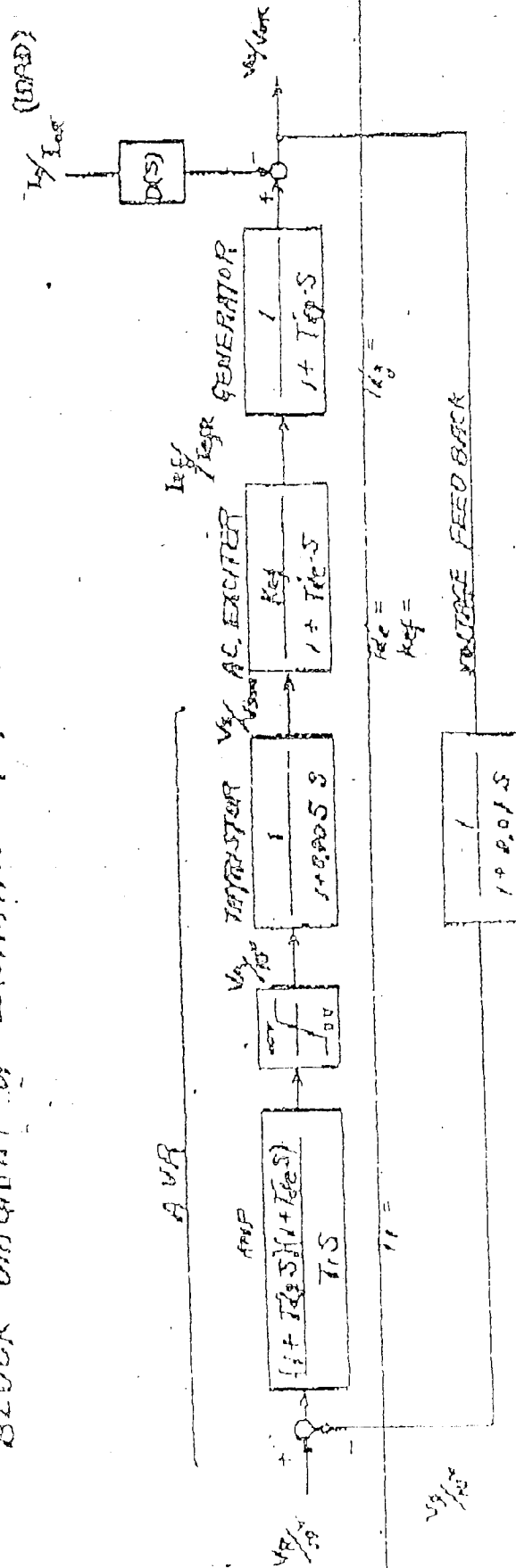
JAFRI AND ASSOCIATES
CONSULTING ENGINEERS
B-12, BLOK M, WEST KALIBURAH PARAH
P. O. BOX 65, KALIBURAH 25, KALIBURAH 25, KALIBURAH 25

TITLE SINGLE LINE DIAGRAM

DATE 13-11-84
DRAWING NO E-01
DESIGNER
CHECKER
APPROVED

CUSTOMER ORDER NO.	CUSTOMER NAME	QTY	UNIT	THERMAL PRODUCTION	
				SCALE	END IN AREA

BLOCK DIAGRAM OF EXCITATION SYSTEM



EXPLANATION OF SYMBOL

V_r = REFERENCE VOLTAGE (UNIT: V)
 V_g = OUTPUT VOLTAGE OF AMP. (UNIT: V)
 V_d = OUTPUT VOLTAGE OF THYRISTOR CONVERTER (UNIT: V)
 V_{d0} = MAXIMUM VALUE OF V_d (UNIT: V)
 I_{ef} = FIELD CURRENT OF AC EXCITER (UNIT: A)
 I_{gr} = RA... (UNIT: A)

K_{d0} = GAIN OF AC EXCITER FIELD CURRENT

I_{gr} = OUTPUT CURRENT OF GENERATOR (UNIT: A)

I_{oc} = RATED VALUE OF I_{gr} (UNIT: A)

V_g = FEEDBACK VOLTAGE OF GENERATOR OUTPUT VOLTAGE (UNIT: V)

V_d = DISTURBANCE TRANSFER FUNCTION

V_{d0} = OUTPUT VOLTAGE OF GENERATOR (UNIT: V)

V_{oc} = RATED VOLTAGE

STANDARD ELECTRICAL SYMBOLS

DATE: 10/10/80

FIG. 4

1-22-00

SCHEDULE 4

COMMISSIONING AND TESTING

(a) Delivered Capacity

During Commissioning the delivered capacity of the Complex will be demonstrated to be 107 MW measured at 132 kV busbar using Metering System and results corrected to Mean Site Conditions indicated below. The test shall be to ISO 3046/IEC standards and shall be based on a cooling water temperature of 27 deg.C. In the event of a shortfall in gross capacity exceeding ten (10) percent, WAPDA shall have the right to reject the Complex.

MEAN SITE CONDITIONS :

Ambient Air Temperature	= 28 deg.C.
Charge Air coolant Temperature	= 28 deg.C.
Relative Humidity	= 40 %

(b) Reliability Run

A reliability run will be carried out as part of the Commissioning tests and must be satisfied prior to the Complex being certified Commissioned by the Engineer. The run will be for a period of 7 days (168 hours) and will include seventy-two (72) continuous hours at maximum continuous rating. The output during the remaining 96 hours of the test will be as requested by WAPDA. The test shall have been satisfactorily completed only if it continues without interruption for not less than 168 hours.

(c) Automatic Voltage Regulator (AVR) Droop

The AVR will be demonstrated to control the generator voltage over the range of ± 10 percent of rated voltage with a droop characteristic of 0-10 %.

(d) Governor Operation

The operation of the speed governor will be demonstrated over the range, of 0 to 10% the droop being adjusted from 1 % to 10 %.

(e) Reactive Capacity

Tests will demonstrate the reactive capability of each unit to operate at rated voltage and frequency at power factors and under reactive conditions as follows:

	<u>Lagging</u>	<u>Leading</u>
at 100% load	4.2 MVAR	3.0 MVAR
at 0% load	4.5 MVAR	3.0 MVAR

(f) Minimum Load Capability

Tests will demonstrate the capability of the Complex to be operated at twenty (20) percent of gross rated output while the diesel generator and auxiliaries remain in a stable and controlled condition.

(g) Response of Complex to Step Load Changes

The unit shall be demonstrated to be capable of a step increase in load of thirty percent (30%) per minute of gross rated output provided the Complex load is greater than thirty five percent (35%). It shall also be demonstrated to be capable of withstanding a sudden loss of demand of ten percent (10%) of gross rated output from any load in the range thirty five percent (35%) to hundred percent (100%). The unit must not trip and must otherwise remain in a safe condition.

The Company's obligation to conduct such test within the time required is subject to the provision by WAPDA of the required load.

(h) Full Load Rejection

Tests shall demonstrate the ability of the Complex and its auxiliaries to withstand full and part load rejection and remain in a safe condition.

SCHEDULE 5

METERING STANDARDS AND TESTING

1. Provision of Tariff Metering

The metering points to record the MWh and MVARh exchange between the Complex and the Grid System shall be as shown in an appropriate diagram to be provided by the Company. The current and voltage transformers will measure current and voltage on the outgoing busbar of the 132 kV substation of the Complex. The meters owned by WAPDA will be located within the substation in a building housing all marshalling cubicles, control and metering panels and communication equipment. Any photographic facilities will be provided by the Company as part of the verification process for monthly meter readings. (Photographs of the meter readings will be made as an evidence of the meter reading at the time of inspection).

The Metering System and the Back-up Metering System shall be to a mutually agreed international standard providing a measured accuracy of $\pm 0.5\%$ for kVARh and kWh measuring type meters. Other measuring type instruments shall have accuracy as per relevant IEC.

2. Testing

2.1 The calibration of meters will be checked to ensure that the accuracy remains within the specified limits. The method of calibration and frequency of tests will be agreed between the Company and WAPDA based on knowledge of the performance and the design of the installed meters and the manufacturers' recommendations.

2.2 Financial Compensation will be made for the errors of current and voltage transformers in the meter calibration or during the computation of records. Current and voltage transformers will be tested for ratio and phase angle errors following manufacture at an accredited testing station in the presence of representatives from the Company and WAPDA. Test certificates issued by the testing station will be issued independently to both Parties.

2.3 Testing and calibration of the Metering System shall be carried out by WAPDA after giving appropriate notice to the Company in line with the agreed frequency of testing or in the event of either party having reasonable cause to believe the meters are outside specified limits. During such tests and calibration the Company shall have the right to have a representative present at all times.

2.4 Testing and calibration of the Back-up Metering System shall be carried out by

SCHEDULE 5

Page 2 of 2

the Company as in paragraph 2.3 above. During such tests and calibration WAPDA shall have the right to have a representative present at all times.

JAPAN POWER GENERATION LTD.

POWER PURCHASE AGREEMENT

SCHEDULE 6

TARIFF, INDEXATION AND ADJUSTMENT

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PART I: THE REFERENCE TARIFF**A -- ESTABLISHMENT OF THE REFERENCE TARIFF****1. Introduction and Definitions**

1.1 This Schedule 6 shall be read in conjunction with, and is subject to, the provisions of Article IX of the Power Purchase Agreement of which this Schedule 6 is a part. To the extent that any provision of this Schedule 6 is inconsistent with any provision of Article IX, the provision of Article IX shall prevail. References to Articles and Sections are to Articles and Sections of this Schedule 6 unless indicated otherwise. References to Tables and Annexes are to the Tables and Annexes to this Schedule 6.

1.2 Payments to be made to the Company under the Power Purchase Agreement shall be calculated in accordance with this Schedule 6, and adjusted from time to time as provided herein.

1.3 The procedures for the presentation and payment of invoices as set out in Article IX of the Power Purchase Agreement shall apply to all invoices referred to in this Schedule 6.

1.4 Definitions

Capitalized terms used and not defined herein are used herein as defined in the Power Purchase Agreement. Without prejudice to the generality of Section 1.1, for the purposes of this Schedule 6 the following words and phrases shall bear the meanings ascribed thereto:

"Base Date" - The base date for the application of indexation under Sections 12.3, 13.1(b)(ii) and 13.2(a)(ii) of this Schedule 6.

"Customs Duties" - has the meaning ascribed thereto in the Implementation Agreement;

"E_t" - The Exchange Rate Adjustment Factor, as calculated pursuant to Section 15.2;

"Exchange Risk Insurance" - has the meaning ascribed to that term in the Implementation Agreement;

"Foreign Lenders" - the Lenders that are not incorporated under the Laws of Pakistan providing foreign currency loans to the Company under the Financing Documents;

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"IE" - The Inflation and Exchange Rate Indexation Factor, as calculated pursuant to Section 15.1;

"Loans" - means the loans made by any of the Lenders to the Company;

"Period" - the period from the Commercial Operations Date through 1 January or 1 July, whichever is earlier, and each period of six Months beginning on 1 January and 1 July thereafter;

"Reference Date" - 1 January 1994; and

"Reference Tariff" - the Capacity Purchase Price and the Energy Purchase Price for each Agreement Year during the Term as each would be computed as of the Reference Date and according to the assumptions stated herein.

2. Establishment

- 2.1 The reference tariff (the "Reference Tariff"), and each component thereof, computed on the basis of the assumptions stated herein, for each Agreement Year during the Term is shown in Table I.
- 2.2 The actual tariff (the "Tariff") payable in any Period shall be determined by applying the provisions of this Schedule 6 to the Reference Tariff.

B -- DESCRIPTION OF REFERENCE TARIFF

3. Capacity Purchase Price

The Capacity Purchase Price shall comprise the following three components as adjusted from time to time in accordance with this Schedule 6:

- 3.1 The Escalable Component as set out in Section 8.1;
- 3.2 The Non-Escalable Component as set out in Section 8.2; and
- 3.3 The Exchange Risk Insurance Component as set out in Section 8.3.

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4. Energy Purchase Price

The Energy Purchase Price shall comprise the following components as adjusted from time to time in accordance with this Schedule 6:

- 4.1 The Fuel Cost Component as set out in Section 9.1(a); and
- 4.2 The Variable O&M Costs Component as set out in Section 9.1(b).

5. Supplemental Charges and Supplemental Tariff

5.1 Supplemental Charges

In addition to the Capacity Purchase Price and the Energy Purchase Price, the Company shall be entitled to submit after the Commercial Operation Date each month an invoice to WAPDA and receive payment for any Pass-Through Item identified in Section 14.1 that have been incurred in the immediately preceding Month.

5.2 Supplemental Tariff

5.2(a) If, due to a Pakistan Political Force Majeure Event or a Change in Law, a Supplemental Tariff is due and payable to the Company from WAPDA as provided in Sections 13.6 and 13.7 of the Power Purchase Agreement, the Company shall invoice WAPDA for payment of the Supplemental Tariff. When any necessary restoration or modification to the Complex is complete and the Complex has returned to operation, the Supplemental Tariff will be payable to the Company by WAPDA.

5.2(b) (i) Supplemental Tariff payments, as approved by GOP, will be structured to permit the Company to recover costs of restoration or modification of the Complex over a reasonable term approved by the GOP, which term shall not be greater than the term of the debt, if any, secured by the Company to effect the restoration or modification of the Complex, and to adjust any increase or decrease in cost in each Agreement Year due to the cost of any increases or decreases in the quantity and or quality of consumables directly attributable to a Change in Law or to an event of damage and restoration, as approved by GOP in each case pursuant to Section 17.5 of the Implementation Agreement. Any Supplemental Tariff Payment amounts to recover debt incurred in connection with the restoration or modification of the Complex shall not be indexed after the date the Complex

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returns to operation. Any Supplemental Tariff payment amounts to recover the return on additional equity contributions made in connection with the restoration or modification of the Complex shall be escalable in accordance with Section 13.2(a)(ii). It is recognized that subject to approval of GOP, up to all of the funds used to pay for a restoration or modification may consist of additional equity contributions. The Supplemental Tariff Payment amounts on the additional equity shall provide a return on equity of twenty (20) percent.

(ii) Supplemental Tariff Payment amounts to recover/adjust the cost of increase/decrease in consumables shall be fixed prior to the date the Complex returns to operation (or if the Complex does not cease operation, at a date agreed by the Company and the GOP) and shall thereafter be subject only to indexation in conformity with Sections 13.1(a) and 13.1(b)(ii) of this Schedule 6, provided, however, that the Reference Date shall be the date the Complex returns to operations or if the Complex does not cease operations, at a date agreed to by the Company, WAPDA and GOP, except that in the event that after the restoration or modification the Complex experiences increased or decreased parasitic load, this shall be treated as a consumable but shall be adjusted as before the restoration or modification; that is, the kW's of variation in capacity and in the energy consumed due to any modification or restoration shall be accounted for in the determination of the Supplemental Tariff.

5.2(c) Invoices for Supplemental Tariff Payments shall be submitted by the Company to WAPDA at any time after the first Day of the Month in which such payments are due and shall show the due date to be thirty (30) Days after the delivery of the invoices.

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6. Assumptions

The Capacity Purchase Price and the Energy Purchase Price of the Reference Tariff are based upon the following assumptions set out in paragraphs 6.1 to 6.11 below, established as at the Reference Date (the "Assumptions"):

- 6.1 The Complex will burn RFO supplied by the Fuel Supplier under the Fuel Supply Agreement and the price of such RFO, shall be the delivered price of RFO at the Complex as set by the GOP on the Reference Date.
- 6.2 Withholding tax on dividends on shares of the Company shall be payable at the rate of 7.5 percent and the Government of Pakistan shall exempt shareholders in the Company from any withholding tax in excess of 7.5 percent.
- 6.3 The Company shall be exempt from the payment of Iqra and Import License Fees on all plant and equipment imported into Pakistan for incorporation into the Complex through the Commercial Operations Date. All Octroi charges before and after the Commercial Operations Date shall be payable by the Company without adjustment of the Tariff.
- 6.4 The Company shall be liable to withhold and pay to the GOP as full and final tax liability of the Contractors (and sub-contractors) 4% of the relevant payments made by the Company to the Contractors plus 4% of the relevant payments made by the Contractors to their direct sub-contractors so that (i) the Company shall deduct income tax of 4% from its relevant payments to the Direct Contractors; (ii) the Direct Contractors will deduct 4% from the relevant payments to the direct sub-contractors.
- 6.5 The Company, provided it shall remain incorporated in Pakistan, shall be exempt from the payment of corporate tax on its income from the Complex for the term of the Power Purchase Agreement.
- 6.6 The Foreign Lenders shall not be liable to taxation in Pakistan.

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- 6.7 Exemptions shall be granted from the payment of Customs Duties, sales tax and surcharges as specified in Section 18.1(b) of the Implementation Agreement, including spare parts imported prior to the Commercial Operations Date, which shall be imported free of all duties/taxes. After the Commercial Operations Date, imported spare parts not manufactured in Pakistan, as reasonably determined by the Private Power and Infrastructure Board, will be subject to duty of 20%, and if manufactured in Pakistan but nonetheless imported by the Company, will be subject to duty at the then-prevailing rates.
- 6.8 *Zakat*
- 6.8(a) For so long as the majority of the shareholders of the Company are non-Muslims or non-residents of Pakistan, the GOP shall exempt the Company from the payment of *Zakat*.
- 6.8(b) Non-Muslim and non-Pakistan resident shareholders shall be exempt from the payment of *Zakat* on dividends paid by the Company.
- 6.9 If the O & M Contractor is a Pakistan subsidiary of a foreign company:
- 6.9(a) income tax will be payable by such subsidiary on the income derived by the parent company from the provision of technical services to the O & M Contractor at the rate of 20 percent of the gross revenue derived from the provision of such services; and
- 6.9(b) the subsidiary shall be exempt from income tax on its profits in Pakistan.
- 6.10 If the O & M Contractor is a Pakistan branch of a foreign company, it shall pay income tax on its profits derived from the O&M Agreement in accordance with the Laws of Pakistan.

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6.11 Change in Assumptions

If and to the extent that any of the Assumptions shall be or shall become invalid or inapplicable or shall vary, adjustments to the Reference Tariff shall be calculated in accordance with the following provisions:

6.11(a) To the extent that changes in the assumptions set out in paragraphs 6.2 to 6.10 give rise to variations in expenditure, or, in the case of paragraph 6.2 or 6.4, to any variation in withholding tax payable by the Company in accordance with paragraph 6.2 or 6.4, such variations in expenditure or such amounts paid by way of withholding tax (net of any tax refunds or rebates received by the Company) shall be Pass-Through Items and, on and after the Commercial Operations Date, shall be reimbursed by an exact payment equal to the relevant variation in expenditure or withholding tax from WAPDA to the Company and, in the case of changes in the assumptions that reduce an applicable expenditure or withholding tax below the amount or percentage specified in the assumptions, from the Company to WAPDA. These changes shall be effected as described in Section 10.3. Changes in such assumptions occurring prior to the Commercial Operations Date shall earn interest at the Company's average rate of interest occurring under the Financing Documents from the date paid by the Company through the Commercial Operations Date, and the Supplemental Tariff Payments shall be structured to allow the recovery of such expenditures recovered through the first five (5) Agreement Years of the Power Purchase Agreement or, in the case of reductions in expenditures or withholding taxes, paid by the Company to WAPDA over the same term.

6.11(b) Changes in the assumption set out in Section 6.1 shall not fall within the provisions of Section 6.11(a). Changes in the assumptions referred to in Section 6.1 shall be dealt with as provided in Section 13.

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C -- CAPACITY PURCHASE PRICE

7. Payment of Capacity Purchase Price

The Capacity Purchase Price shall be established on the basis of a sixty percent (60%) plant factor as provided in the Energy Policy March 1994. The Capacity Purchase Price will be payable by WAPDA to the Company each Month for each kW of Dependable Capacity and each Monthly invoice delivered pursuant to Section 9.7(a) of the Power Purchase Agreement shall include the Monthly amounts for the components set out in Section 8 below and all adjustments made thereto from the Reference Tariff in sufficient detail to allow WAPDA to confirm the accuracy of such adjustments. A pro forma monthly invoice is included at Annex I.

8. Capacity Purchase Price Components

8.1 Escalable Component.

This component includes the fixed operations and maintenance cost, the insurance cost, the administrative cost and the return on equity, etc. The escalable component of the Capacity Purchase Price as set forth in Table 1 is only adjustable against change, if any, proposed in the Energy Price by the Company. Once determined at the time of Financial Closing, the base figure will remain unchanged during the term of the Power Purchase Agreement and only indexation will be provided in accordance with the procedure set forth in Section 13.2(a)(i).

8.2 Non-Escalable Component.

(a) The non-escalable component as set forth in Table 1 covers the debt servicing charges including payments of principal, interest and other fees to the Company's lenders. This component will decline with the passage of time as the loans related to the Project are repaid. Once adjusted at the time of Financial Close, unless the Company has elected indexation in lieu of Exchange Risk Insurance pursuant to Section 14.6 of the Implementation Agreement and Section 9.1(d) of the Power Purchase Agreement, this component will not be indexed.

(b) If the Company elects indexation of the Non-Escalable Component in lieu of Exchange Risk Insurance, the actual foreign loan portion (as shown in each Agreement Year or portion thereof as at the Financial Closing) of the Non-Escalable Component will be indexed for changes in the value of the Pakistan Rupee against the Dollar from the

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date of Financial Closing and the Exchange Risk Insurance Component will be deleted from the Reference Tariff.

8.3 Exchange Risk Insurance Component.

The Exchange Risk Insurance Component covers the premium payable to the National Bank of Pakistan for obtaining Exchange Risk Insurance on foreign debts. It will, after the Commercial Operations Date at the option of the Company if the Company elects to obtain Exchange Risk Insurance, either (a) be paid by WAPDA directly to the National Bank of Pakistan on the basis of actual invoices delivered or (b) indexed as provided in Section 13.2(c).

D -- ENERGY PURCHASE PRICE

9. Energy Purchase Price

9.1 The Energy Purchase Price as set forth in Table 1 is adjustable against change, if any, proposed by the Company in the escalable component of the Capacity Purchase Price. Once determined at the time of Financial Close, the components of the Energy Purchase price shall only be adjusted as specifically provided herein. The Energy Purchase Price comprises two components, each relating to the energy output of the Complex, as follows:

9.1(a) Fuel Cost Component.

Escalation in Fuel Cost Component will be provided over the term of the Power Purchase Agreement on the basis of changes in the fuel prices, maintaining the Guaranteed Heat Rate (thermal efficiency) as constant, and with respect to RFO, an assumed calorific value of 9,700 (net) kCal/Kg.

9.1(b) Variable O&M Costs Component.

This component includes the costs of operation and maintenance that are attributable to the operation of the Complex and are recoverable on a per kWh basis. Escalation of the Variable O&M Costs component will be provided over the term of the Power Purchase Agreement as provided in Section 13.1(b)(i) or 13.1(b)(ii) as applicable.

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- 9.2 Each invoice submitted to WAPDA pursuant to Article IX of the Power Purchase Agreement in respect of the Energy Purchase Price shall include the amount per kWh for the Energy Purchase Price components multiplied by the number of kWh's delivered by the Company in the Month to which the relevant invoice relates. A pro-forma invoice for the Energy Purchase Price is set out in Annex II.

E -- SUPPLEMENTAL CHARGES

10. Supplemental Charges

The Company may submit to WAPDA, on a Monthly basis, invoices for Supplemental Charges as the Company shall have incurred in the immediately preceding Month. With respect to the Supplemental Charges set out in Section 10.1, invoices may be submitted by the Company to WAPDA at any time after the first Day of the Month following the Month in which any such Supplemental Charges are incurred and shall show the due date to be thirty (30) Days after the delivery of the invoices. A pro-forma Monthly invoice for the Supplemental Charges referred to in Section 10.1 is set out in Annex III.

10.1 Pass-Through Items

"Pass-Through Items" pursuant to Part III of this Schedule 6 shall be treated as Supplemental Charges for the purpose of invoicing and payment on the basis of the actual cost or charge incurred by the Company therefor as agreed between the Parties or, failing agreement, as determined by an expert pursuant to Sections 15.2 and 15.3 of the Power Purchase Agreement. Unless otherwise provided in Section 14, the Company shall present an invoice to WAPDA for a Pass-Through Item on the first Day of the Month following the Month in which the cost, charge, or other liability was incurred by the Company and shall show the due date of the invoice to be thirty (30) Days after its delivery.

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PART II: INDEXATION/ADJUSTMENT PROVISIONS

11. Indexation Factors

- 11.1 Pursuant to this Schedule 6, certain items as specified herein shall be indexed in accordance with the provisions of this Part II of this Schedule 6.
- 11.2 If, at any time, an index is applied under this Part II to any component of the Reference Tariff, either Party may seek to verify the application of the relevant index and may require the other Party, where appropriate, to provide to it copies of its calculations, with reasonable supporting information for the application of the relevant index, to enable that Party to verify the result of applying the relevant index to the relevant component of the Reference Tariff.
- 11.3 The escalable components of the Reference Tariff shall be adjusted upward or downward, as appropriate, to reflect changes in the indexation or adjustment formula, as the case may be, according to which each such component is to be indexed or adjusted, as specified below.

12. Methodology to be used for Indexation

Except as otherwise provided in the Power Purchase Agreement in this Schedule 6, the base date from which all values are to be indexed pursuant to this Schedule 6 is the Reference Date.

The methodology applicable to the calculation of each of the indices listed below shall be in accordance with this Article 12.

12.1 Fuel Price Factor

The Fuel Price Factor is the index to be used to calculate variations in those elements of the Fuel Cost Component or the Supplemental Charges with respect to variations in the price per unit of fuel (per Tonne of RFO) under the Fuel Supply Agreement (as established by the GOP or pursuant to Section 12.6) at any date "p", and is calculated as follows:

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$$\text{Fuel Price Factor} = \text{Fuel Price}_p \div \text{Fuel Price}_{\text{REF}}$$

where:

Fuel Price_p = the delivered price per unit of fuel at the complex under the Fuel Supply Agreement (as established by the GOP or pursuant to section 12.6) (after correction for standard temperature and expressed in Rupees), at date "p", and

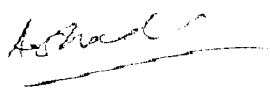
Fuel Price_{REF} = the delivered price per unit of fuel at the complex as established by the GOP (after correction for standard temperature and expressed in Rupees), at the Reference Date which is Rs.2,843.50 tonne delivered at the Complex.

If the fuel is RFO, in calculating the price of RFO, the accounting convention of first-in/first-out shall be employed.

The Fuel Price Factor shall be applied to those elements stated to be subject to indexation for Fuel Price from the date when the price of fuel as established pursuant to the Fuel Supply Agreement is changed.

12.2 Inflation and Exchange Rate Indexation Factor

The components of the Tariff stated to be subject to indexation for inflation and exchange rate movements in Section 13 below shall be adjusted with effect from the Reference Date in accordance with the Inflation and Exchange Rate Indexation Factor (as defined in Section 15.1) on the Commercial Operations Date and on each 1 January and 1 July thereafter using the most current exchange rate and inflation rate information available on that date. No retroactive adjustments will be permitted in the event that an index figure is subsequently revised. The adjusted Tariff payable to the Company in any Period, p, will be calculated by multiplying the Reference Tariff components subject to indexation for inflation and exchange rate movements by the Inflation and Exchange Rate Factor from the Reference Date through the calculation date, t, immediately preceding Period p.



12.3 Exchange Rate Adjustment Factor

If the foreign loan portion of the Non-Escalable Component of the Capacity Purchase Price is subject to indexation for exchange rate movements pursuant to Section 13.2(b)(ii), the actual foreign loan portion of such component in each Agreement Year (as shown at Financial Closing and as adjusted pursuant to a certificate delivered by the Lenders to WAPDA identifying the foreign loan amount outstanding on the first day of each Month during the following Agreement Year, which certificate shall be delivered not less than sixty (60) Days prior to the beginning of such Agreement Year; provided, however, that such adjustment shall not in any event increase the amounts as at Financial Closing, unless otherwise approved by GOP) shall be adjusted with effect from the date of the Financial Closing, in accordance with the Exchange Rate Adjustment Factor (as defined in Section 15.2) on the Commercial Operations Date and on each 1 January, 1 April, 1 July and 1 October after the Commercial Operations Date using the most current exchange rate information available on that date. No retroactive adjustments will be permitted in the event that an index figure is subsequently revised. The adjusted Tariff payable to the Company in any Period, p , will be calculated by multiplying the foreign loan portion of the Non-Escalable Component of the Reference Tariff by the Exchange Rate Adjustment Factor from the Base Date, which shall be the date of the Financial Closing, through the calculation date, t , immediately preceding Period p .

12.4 Exchange Rates

The source for exchange rate for the Foreign Currencies against the Rupee shall be the quotation by the State Bank of Pakistan in the most recently published Exchange Rates Bulletin issued by the Foreign Exchange Rates Committee of the Authorised Dealers' Spot T.T & O.D Selling Rate (as defined in the SBP Exchange Control Manual).

12.5 Inflation Factors

The source indices for the calculation of the impact of inflation shall be the Consumer Price Index (IFS CPI), reported in the publication of the International Monetary Fund entitled "International Financial Statistics" for the USA.

12.6 Replacement of an Index

In this Schedule 6, where an element is stated to be subject to indexation by reference to a specified index or factor and at any time such index is withdrawn, becomes unavailable for any reason or becomes, in the reasonable opinion of WAPDA or the Company, inappropriate as a basis for indexation pursuant to this Schedule, then upon written notice from either Party, WAPDA and the Company shall use their best endeavors to identify a mutually acceptable alternative index.



If after fourteen (14) Days the Parties are unable to agree on an alternative index to be substituted for the index that requires replacement pursuant to this Section, the Parties shall appoint an expert pursuant to Section 15.2 of the Power Purchase Agreement who shall nominate an index that in his sole opinion most adequately replaces the withdrawn, unavailable, or inappropriate index within fourteen (14) Days after his appointment. The Parties shall be bound by the determination of the expert as to the alternative index.

Pending the substitution of an alternative index, no indexation adjustment shall be made with respect to the relevant index. Upon the substitution of an alternative index, the Parties shall make the indexation adjustment with the alternative index retrospectively to the date when the relevant adjustment would otherwise have been made.

In the event that an index or factor, used to compute or index the same element in the Fuel Supply Agreement and in this Schedule 6, is no longer available and an alternate therefor is not established or approved by the GOP, an alternate index or factor, as the case may be, acceptable to WAPDA, the Company and the Fuel Supplier shall be used under this Schedule 6. If WAPDA, the Company and the Fuel Supplier cannot agree to an alternate index or factor, as the case may be, within ninety (90) Days, an expert acceptable to WAPDA, the Company and the Fuel Supplier will nominate an alternate index or factor, as the case may be, that shall be binding on the Parties. In lieu of referral of the matter to an expert, the Company, the Fuel Supplier and WAPDA may agree to refer the matter to the National Electric Power Regulatory Authority (NEPRA) for final determination. The expert or NEPRA shall be requested to make a final determination within ninety (90) Days of the referral of the matter to the expert or NEPRA.

In case the GOP abolishes the freight pool mechanism, as described in Section 7.5 of the Fuel Supply Agreement, Fuel Supplier and the Company will determine the new transportation charges. If such charges are not acceptable to WAPDA, the matter will be referred to NEPRA or to an expert acceptable to the Company, the Fuel Supplier and WAPDA. NEPRA or the expert, as the case may be, shall be requested to determine the transportation costs within ninety (90) days of the referral of the matter to NEPRA or the appointment of the expert. Until the new Transportation Costs have been determined, the transportation costs will continue to be billed at the costs applicable under the GOP's freight pool rules. Any reconciliation payments shall bear a mark-up equal to the Base Rate.



13. Application of Indices to Variables

All of the escalable components of the Tariff shall be indexed in accordance with the formulae set out in this Article 13.

13.1 Energy Purchase Price

13.1(a) The Fuel Cost Component ("FCC") of the Energy Purchase Price.

Variations to the FCC shall be calculated as provided in the following formula with respect to the components shown and as at the times indicated in this Section 13.1(a) for each of the Fuel Price Factors:

$$FCC_c = FCC_{(REF)} * \text{Fuel Price Factor},$$

where:

FCC_c = the Fuel Cost Component on the relevant calculation date, c.

$FCC_{(REF)}$ = the value for FCC for the relevant Agreement Year given in Table I.

Fuel Price Factor has the meaning set out in section 12.1.

13.1(b)(i) The Variable Operations & Maintenance Costs Component.

This component is directly escalable against exchange rate variations of Rupee to Dollar and United States inflation rate as described in Sections 12.4 and 12.5 of this Schedule 6. For determining the Exchange Rate, State Bank of Pakistan's TT&OD selling rate will apply. For determining the inflation rate the Consumer Price Index (CPI) of the United States of America as published by the International Monetary Fund (IMF) in the International Financial Statistics (IFS) will be applied.

The base date for application of indexation will be the Reference Date. The indexation will apply prospectively on the Commercial Operations Date and on each 1 January and 1 July thereafter.

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The Variable Operations & Maintenance Costs Component shall be indexed as follows:

$$O\&M_c = O\&M_{(REF)} * IE_t$$

where:

$O\&M_p$ = the value of the Variable Operations and Maintenance component of the Tariff per kWh, expressed in Rupees, as adjusted at the relevant calculation date, c,

$O\&M_{(REF)}$ = the value of the Variable Operations and Maintenance Costs component of the Reference Tariff per kWh, expressed in Rupees, in the relevant Agreement Year, as shown in Table I, and

IE_t = the value of the Inflation and Exchange Rate Indexation Factor ("IE_t") as calculated pursuant to Section 15.1 at the indexation date, immediately preceding the calculation date.

13.1(b)(ii) Costs of Increase/Decrease in Consumables Relating to Variable Operation & Maintenance Component

The costs of increase/decrease in consumables relating to variable operation and maintenance component incurred in connection with a Change in Law pursuant to Section 5.2(b) of this Schedule 6 shall be directly escalable against exchange rate variations of Rupee to Dollar and United States inflation rate as described in Sections 12.4 and 12.5 of this Schedule 6.

The Base Date for application of indexation will be the date at which the Complex is restored to commercial operations after the said Pakistan Political Force Majeure Event or the effective date of Compliance to Change in Law, as the case may be.

The costs of increase/decrease in consumables will be indexed as follows:

$$\text{Add Con } O\&M_c = \text{Add Con } O\&M_{(Base)} * IE_t$$

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Where:

Add Con O&M_c = the increase/decrease in consumables expressed in Rupees per kWh as adjusted at the relevant calculation date, C,

Add Con O&M_(base) = the increase/decrease in consumables expressed in Rupees per kWh on the date the Complex is restored to commercial operations.

IE_t = the value of the Indexation and Exchange Rate Factor as calculated in accordance with Section 15.3 at the indexation date, t, immediately preceding the calculation date.

13.2 Capacity Purchase Price

13.2(a)(i) Escalable Component:

The escalable component ("ESC-C") of the Capacity Purchase Price is directly escalable against exchange rate variations of Rupee to Dollar and United States inflation rate. For determining the Exchange Rate, State Bank of Pakistan's TT&OD selling rate will apply. For determining the United States inflation rate the Consumer Price Index (CPI) of the United States of America as published by the International Monetary Fund (IMF) in the International Financial Statistics (IFS) will be applied.

The base date for application of indexation will be the Reference Date. The indexation will apply prospectively on the Commercial Operations Date and on each 1 January and 1 July thereafter.

The Escalable Component of the Capacity Purchase Price shall be indexed as follows:

$$ESC-C_c = ESC-C_{(REF)} * IE_t$$

where:

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$ESC-C_c$ = the Escalable Component of the Tariff, expressed in Rupees per kW per Month, as adjusted at the relevant calculation date, c.

$ESC-C_{(REF)}$ = the Escalable Component of the Reference Tariff in the relevant Agreement Year, expressed in Rupees per kW per Month, as shown in Table I, and

IE_t = the value of the Inflation and Exchange Rate Indexation Factor ("IE_t"), as calculated in accordance with Section 15.1 at the indexation date, t, immediately preceding the calculation date.

13.2(a)(ii) Additional Equity under Supplemental Tariff

The additional equity element of the Supplemental Tariff in connection with a restoration or a modification of the Complex following a Pakistan Political Force Majeure Event or a Change in Law pursuant to Section 5.2(b) of this Schedule 6 shall be directly escalable against exchange rate variations of Rupee against Dollar and US inflation rate.

The Base Date for application of indexation will be the date the Complex is returned to commercial operations following a Pakistan Political Force Majeure Event or a Change in Law. The indexation will apply prospectively on the date the Complex is returned to commercial operations following a Pakistan Political Force Majeure Event or a Change in Law and each 1 January and 1 July thereafter.

The additional equity element of the Supplemental Tariff shall be indexed as follows:

$$\text{Add Eqt}_c \text{ element} = \text{Add Eqt}_{(Base)} \times IE_t$$

Where:

Add Eqt_c element = the additional equity element of Supplemental Tariff expressed in Rupees per kW per Month as adjusted at the relevant calculation date, c.

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Add $E_{qt(HREV)}$ = the additional equity element of the Supplemental Tariff expressed in Rupees per kW per Month at the weighted average rate of infusion of additional equity.

IE_c = the value of the Inflation and exchange Indexation rate factor as calculated in accordance with Section 15.1 at the indexation date, c

13.2(b) Non-Escalable Component:

(i) The Non-Escalable Component of the Capacity Purchase Price will be adjusted at Financial Closing, for the variation in exchange rates of Pakistan Rupee to US Dollar, using a base value of 30.03 Pakistan Rupees to Dollar. The adjustment factor for this component will be equal to 0.7% for each 1% variation in Dollar to Rupee exchange rate. Once adjusted at the time of Financial Closing, unless the Company has elected indexation of the foreign loan portion of the Non-Escalable Component in lieu of Exchange Risk Insurance as provided in Section 13.2(b)(ii) below, the Non-escalable Component will not be further indexed during the term of the Power Purchase Agreement.

(ii) If the Company has elected to have the actual foreign loan portion of the Non-Escalable Component indexed for changes in the value of the Rupee against the Dollar in lieu of obtaining Exchange Risk Insurance, the actual foreign loan portion of the Non-Escalable Component of the Capacity Purchase Price shall be indexed for changes in the Rupee to the Dollar and the Exchange Risk Insurance Component shall be removed from the Tariff payable to the Company. The Base Date for the application of such indexation will be the date of the Financial Closing. The indexation of the foreign loan portion of the Non-Escalable Component will apply prospectively on the Commercial Operations date and each 1 January, 1 April, 1 July and 1 October following the Commercial Operations Date.

If indexation as described above is selected by the Company, the actual foreign loan portion of the Non-Escalable Component shall be indexed as follows:

As per

$$N-ESC_c = N-ESC_{(REF)} * E_t$$

where:

$N-ESC_c$ = the value of the actual foreign loan portion of the Non-Escalable Component of the Tariff, as adjusted at the relevant calculation date, c,

$N-ESC_{(REF)}$ = the value of the actual foreign loan portion of the Non-Escalable Component of the Reference Tariff in the relevant Agreement Year, as at the Financial Closing and shown in Table I, and

E_t = the value of the Exchange Rate Adjustment Factor ("E_t") as calculated pursuant to Section 15.2 at the indexation date, t, immediately preceding the calculation date.

13.2(c) Exchange Risk Insurance Component

Exchange Risk Insurance is a Pass-Through Item that, at the Company's option, will either (a) be paid by WAPDA directly to National Bank of Pakistan after Commercial Operations Date on the basis of actual invoices or (b) the Exchange Risk Insurance Component in the Reference Tariff will be indexed in direct proportion for the variation in Exchange Risk Insurance rate for Dollars from the Reference Date and paid to the Company.

13.3 Bonus and Liquidated Damages

The bonus payments payable to the Company pursuant to Section 9.6 of the Power Purchase Agreement and the liquidated damages payable to WAPDA by the Company pursuant to Section 9.4 and 9.5 of the Power Purchase Agreement shall be indexed for inflation and exchange rates as follows:

13.3(a) Bonus

- (i) The bonus payments described in Section 9.6 of the Power Purchase Agreement shall be indexed for exchange rate variations of the Rupee to the Dollar and for United States inflation. The base date for application of indexation will be the Reference Date. The indexation will apply prospectively on the Commercial Operations Date and on each 1 January and 1 July thereafter.

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$$B_t = B_{(INT)} * IE_t * K$$

where:

B_t = the value of the relevant bonus payment as adjusted at the relevant payment date,

$B_{(INT)}$ = the value of the relevant bonus payment per kWh as shown in Section 9.6 of the Power Purchase Agreement,

IE_t = the value of IE_t at the indexation date, t, immediately preceding the calculation date.

K = the number of kWh's for which a bonus payment is applicable during the relevant Agreement Year pursuant to the terms of Section 9.6 of the Power Purchase Agreement.

- (ii) The Energy Purchase Price Premium provided in Section 9.3 of the Power Purchase Agreement is not subject to any escalation or indexation.

13.3(b) Liquidated Damages

All of the liquidated damages payable under Section 9.4 and 9.5 shall each be indexed on the dates as set out in Section 12.2 as follows:

$$LD = LD_{(INT)} * IE_t$$

where:

LD = the value of the relevant liquidated damages payment as adjusted at the relevant calculation date,

$LD_{(INT)}$ = the initial value of the relevant liquidated damages payment as computed in accordance with Section 9.4, and

IE_t = the value of IE_t at the indexation date, t, immediately preceding the calculation date.

The base date for application of indexation will be the Reference Date. The indexation will apply prospectively on the Commercial Operations Date and on each 1 January and 1 July thereafter.

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PART III: PASS-THROUGH ITEMS

14. Items Payable on the Basis of Actual Cost

14.1 The items contained in this Part III of this Schedule 6 to the extent attributable to the Project ("Pass-Through Items") shall be payable by WAPDA to the Company on the basis of the actual cost incurred by the Company (or, in the case of Section 14.2(c), the Lenders or the direct Contractors to the extent that and at the time that the Company is obligated to reimburse such person therefor), and shall be invoiced by the Company and paid by WAPDA as Supplemental Charges. Unless otherwise provided in this Schedule 6, the Company shall invoice WAPDA for obligations incurred by the Company with respect to such Pass-Through Items at such time as the Company incurs the liability for such Pass-Through Item, and any invoice presented by the Company to WAPDA for these purposes shall show the due date of such invoice to be twenty-five (25) Days after the delivery of the invoice to WAPDA. WAPDA shall pay any such invoice in accordance with Article IX of the Power Purchase Agreement.

14.2 Pass-Through Items

The costs and charges constituting Pass-Through Items hereunder shall be:

- 14.2(a) payments into the Workers' Welfare Fund and the Workers' Profit Participation Fund ;
- 14.2(b) reasonable costs approved by WAPDA incurred by the Company after Commercial Operations Date for modifications or expansion of the requirements for protective devices required by WAPDA; and
- 14.2(c) Customs Duties on permanent equipment which are levied on the Company prior to the Commercial Operations Date and which are not refunded to the Company by Central Board of Revenue ("CBR") after the issuance of the consent of the CBR specified in Schedule 2 of the Implementation Agreement.
- 14.2(d) The tariff does not account for the 0.5% Turnover Tax on revenues and if it is to be paid by the Company during operations, the Tariff will be increased accordingly.

Approved

PART IV: ADJUSTMENT FORMULAE

15 Calculation of Inflation and Exchange Rate Factors

15.1 The Inflation and Exchange Rate Indexation Factor for adjustment as at the Commercial Operations Date and every 1 January and 1 July thereafter is as follows:

$$IE_t = \frac{P_{(US)} t}{P_{(RD)}} * \frac{FX_{(US/P)} t}{FX_{(RD)}}$$

where:

IE_t = the Inflation and Exchange Rate Indexation Factor applicable for the Period following date of calculation, t.

$FX_{(US/P)}$ = the average exchange rate of the US Dollar against the Pakistan Rupee over the six months prior to the date of calculation. This average will be calculated as the sum of the exchange rates (as described in Section 12.5) for each of the last days of the six Months prior to date of calculation divided by six.

$FX_{(RD)}$ = the exchange rate of the US Dollar against the Pakistan Rupee at Reference Date (which shall be deemed for all purposes herein to be 30.03 Rupees to one Dollar) or the Base Date, as applicable.

$P_{(US)}$ = the average value of the end of Month values for the IFS CPI index for the United States (as described in Section 12.4) over the six Months immediately prior to the date of calculation; provided, that if values for any of the Months are not available, then the average of the values of the most recent six Months for which figures are available shall be used.

$P_{(RD)}$ = the value of the IFS CPI index for the United States at the Reference Date or the Base date as applicable.

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- 15.2 The Exchange Rate Adjustment Factor for adjustment as at the Commercial Operations Date and every 1 January, 1 April, 1 July and 1 October following the Commercial Operations Date is as follows:

$$E_t = \frac{FX_{(US/P)_t}}{FX_{(RD)}}$$

where:

E_t = the Exchange Rate Adjustment Factor applicable for the Period following date of calculation, t.

$FX_{(US/P)_t}$ = the exchange rate of the Dollar against the Rupee on the last day of the Month immediately prior to the date of calculation.

$FX_{(RD)}$ = the exchange rate of the Dollar against the Rupee at the date of Financial Closing, established in accordance with section 12.4.

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TABLE - I
REFERENCE TARIFF

Estimated Dependable Capacity = 107 MW
Units Sold at 60% Plant Factor = 562.39 GWh

Years	ENERGY PURCHASE PRICE (Rs./kWh)			CAPACITY PURCHASE PRICE (Rs./kWh)			Total Cap. Purchase Price (Rs./kWh)	TOTAL TARIFF (Rs./kWh)	CAPACITY PAYMENT (Rs./kW/Month)			
	Fuel	Var. O&M	Total Rs.	Escalable	Non-Escal.	FERI			Escalable	Non-Escal.	FERI	Total Capacity Payment
1	0.621	0.150	0.771	0.271	0.872	0.585	1.728	2.499	118.70	381.94	256.23	756.86
2	0.621	0.150	0.771	0.271	0.813	0.144	1.228	1.999	118.70	356.09	63.07	537.86
3	0.621	0.150	0.771	0.271	0.830	0.127	1.228	1.999	118.70	363.54	55.63	537.86
4	0.621	0.150	0.771	0.271	0.848	0.109	1.228	1.999	118.70	371.42	47.74	537.86
5	0.621	0.150	0.771	0.271	0.867	0.089	1.227	1.998	118.70	379.75	38.98	537.43
6	0.621	0.150	0.771	0.271	0.889	0.068	1.228	1.999	118.70	389.38	29.78	537.86
7	0.621	0.150	0.771	0.271	0.911	0.045	1.227	1.998	118.70	399.02	19.71	537.43
8	0.621	0.150	0.771	0.271	0.937	0.020	1.228	1.999	118.70	410.41	8.76	537.86
9	0.621	0.150	0.771	0.271	0.749	0.009	1.029	1.800	118.70	328.06	3.94	450.70
10	0.621	0.150	0.771	0.271	0.185	0.001	0.457	1.228	118.70	81.03	0.44	200.17
11	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
12	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
13	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
14	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
15	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
16	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
17	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
18	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
19	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
20	0.621	0.150	0.771	0.271	0.185	0.000	0.456	1.227	118.70	81.03	0.00	199.73
21	0.621	0.150	0.771	0.271	0.184	0.000	0.455	1.226	118.70	80.59	0.00	199.29
22	0.621	0.150	0.771	0.271	0.184	0.000	0.455	1.226	118.70	80.59	0.00	199.29
Average for 1-10 years =			0.771	0.271	0.790	0.120	1.181	1.952				
Average for 11-22 years =			0.771	0.271	0.185	0.000	0.456	1.227				
Average for 1-22 years =			0.771	0.271	0.460	0.054	0.785	1.556				
Levelized Tariff =			0.771	0.271	0.626	0.108	1.005	1.776				

NOTE: The procedure for Levelization of Tariff will be:

- Calculate the present value of yearly tariff at year one by using 10% discount rate.
- Calculate the annuity over the life of the project using the same 10% interest rate.

ANNEX I

Pro forma monthly invoice for Capacity Purchase Price

WAPDA
713-WADPA House
Lahore

JAPAN POWER GENERATION LTD.
26-PESHAWAR BLOCK, FORTRESS
STADIUM, LAHORE CANTT.

INVOICE FOR [INSERT MONTH AND YEAR] CAPACITY PAYMENT

Invoice No:

Invoice Date:

Capacity Purchase Price for the Month commencing _____ is due as follows:

- | | |
|--|------------|
| (1) Non-Escalable Component | Rs |
| (2) Escalable Component ¹ | Rs |
| (3) Total Capacity Purchase Price | Rs |
| (4) Current Dependable Capacity (in MegaWatts) | MW |
| (5) Total Capacity Payment | Rs |
| (6) Less Liquidated Damages (net of Bonus) as per Bonus and Liquidated Damages Notice No. dated | Rs (.....) |
| [or] | |
| (6) Plus Bonus (net of Liquidated Damages) as per Bonus and Liquidated Damages Notice no dated | Rs (.....) |
| (7) Total Adjusted Capacity Payment | Rs |

This invoice is payable in full on or before the twenty-fifth (25th) day following the date of this invoice.

¹ Calculation of the escalation of Escalable Component of the Reference Capacity Purchase Price shall be shown in reasonable detail.



ANNEX II
Pro forma Invoice for Energy Purchase Price

WAPDA
713 WAPDA House
Lahore.

JAPAN POWER GENERATION LTD.
26-PESHAWAR BLOCK, FORTRESS
STADIUM, LAHORE CANTT.

INVOICE FOR [INSERT MONTH AND YEAR] ENERGY PAYMENT

Invoice No.....

Invoice Date

Energy Purchase Price due for the Period from to

(a) Fuel Costs Component² Rs.....

(b) Variable Operations and
Maintenance Cost Component³ Rs.....

(c) Total Energy Purchase Price Rs.....

(d) Total Net Electrical Output Delivered in kWhkWh

(1) Date of Initial Meter Reading
Initial Meter ReadingkWh

(2) Date of Final Meter Reading
Final Meter ReadingkWh

(e) Total Energy Payment Rs.....

Payment of this amount is to be made in full on or before the twenty-fifth (25th) day following the date of this invoice.

² Calculation of adjustment of Fuel Cost Component of the Reference Energy Purchase Price shall be shown in reasonable detail. Include with this invoice the relevant invoices from the Fuel Supplier.

³ Calculation of escalation of Variable O&M component of the Reference Energy Purchase Price shall be shown in reasonable detail.

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ANNEX III
Pro forma monthly invoice for Supplemental Charges

WAPDA
713-WAPDA House
Lahore

JAPAN POWER GENERATION LTD.
26-PESHAWAR BLOCK, FORTRESS
STADIUM, LAHORE CANTT.

INVOICE FOR SUPPLEMENTAL CHARGES

Invoice No:

Invoice Date:

Supplemental Charges for the month ending are due as follows:

Pass-Through Items:

..... (description of item(s))

Rs

Total Supplemental Charges

Rs

Payment of this amount is to be made in full within 30 days of this invoice.
(payment and account details to be inserted)
immediately preceding the calculation date.

Accepted

by

SCHEDULE 7

CONSTRUCTION REPORTS

1. Monthly Progress reports will be during the construction phase for the following areas:

Civil Works, Mechanical, Electrical, Site Development

Each report will discuss and indicate the following

Progress during the last month

Progress to date

Progress Analysis

2. Schedule Gantt Charts will be provided with relevant information showing

Completion vs. Target

Delays and Advancement

3. Equipments deliveries status reports will track progress in all areas.

4. General Reports

Minutes of meeting and action programme

Outstanding issues

SCHEDULE 8
INSURANCE

PART I: CONSTRUCTION PERIOD

1. Marine and Air Cargo:

Cover: All materials, equipment, machinery, spares and other items for incorporation in the Complex against all risks of physical loss or damage while in transit by sea or air from country of origin anywhere in the world to the Site in Pakistan, or vice versa, from the time of the insured items leaving warehouse or factory for shipment to the Site. Cover to institute Cargo Clauses (Air), institute War Clauses (Air), (Sendings By Post), institute Strikes Clause (Cargo, Air Cargo) or equivalent.

Sum insured: An amount equal to cost and freight of any shipment

Deductible: US\$ 10,000 each loss.

Insured: The Company, the Contractors and suppliers to the Company and to the Contractors.

2. Loss of Revenue Profits (following Marine incident):

Cover: Against loss of revenue following delay in start of commercial operations as a direct result or physical loss or damage to the materials, equipment, machinery and other items in transit by sea or air to the Site, to the extent covered under the Marine Cargo insurance.

Sum insured: An amount equal to the estimated Capacity Purchase Price which will be received following the Commissioned Date of the Complex.

Indemnity Period: 12 months.

Deductible: 30 days.

Insured: The Company and the Lenders.

Note:

Unless expressly indicated to be "Required", Sums insured and deductibles are indicative only, and the requirements for insurance hereunder are for commercially reasonable amounts available at commercially reasonable rates.

Agreed

3. Contractors' All Risks:

Cover: The contract Works executed and in the course of execution, materials and temporary works, while on the Site, against all risks of physical loss or damage other than war and kindred risks, nuclear risks, unexplained shortage, cost of replacing or repairing items which are defective in workmanship, material or design; penalties; consequential losses; cash; vehicles; vessels; aircraft. Cover shall provide the equivalent terms, conditions and perils/causes of loss provided under an Erection All Risks insurance policy.

Sum insured: The Contract Price.

Deductibles: In relation to Contract Works, Materials etc.

(a) arising during the Construction and Testing period:

(i) from Storm, Tempest, US\$ 10,000
Flood, Water Damage,
Earthquake, Tsunami,
Subsidence and Collapse

(ii) from any other cause US\$ 5,000
[other than in (a)(i) above]

(b) arising out of operational testing or commissioning:

(i) of turbine generators US\$ 50,000
and boilers

(ii) of plant other than US\$ 35,000
turbine generators and
boilers

Period of Cover: Actual construction, testing and commissioning until expiry of the warranty period.

Insured: The Company, the Contractors and all suppliers and GOP, WAPDA, PSO, and the Lenders.

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General: During the warranty period, cover shall be limited to the loss or damage for which the Construction Contractor is liable under the warranties of the Construction Contract, due to the construction contractors fault during construction. Cover shall include transit within Pakistan of locally procured materials. Cover shall cease, and be transferred to Operating Period insurance, on the day following the Commercial Operations Date.

4. Loss of Revenue (following C.A.R.):

Cover: Against loss of revenue following delay in start of commercial operations as a direct result of physical loss of or damage to the Works during construction or operational testing to the extent that such loss or damage is covered under the Contractors' All Risks policy.

Sum insured: An amount equal to the estimated Capacity Purchase Price which will be received following the Commissioned Date of the Complex.

Indemnity Period: 12 months.

Insured: The Company, Lenders and O&M Contractor.

Deductible: 30 days.

Period of Cover: Actual Construction, testing and commissioning periods of the Project from mobilization of the Contractors until the day following Commercial Operations Date.

5. Public Liability:

Cover: Against legal liability to third parties for bodily injury or damage to property arising out of the construction, testing and commissioning of the Complex in Pakistan.

Sum insured: For any one claim:

US\$ 5,000,000. (Required)

Deductible: Not to exceed US\$ 25,000 for each claim for damage to property. None for injury to persons. (Required)

Agreed

Insured: The Company, Contractors, all suppliers and GOP, WAPDA, PSO and Lenders

Period of Cover: The actual construction, testing and commissioning of the Complex from mobilization of the Contractors until the day following Commercial Operations Date.

6. Miscellaneous:

Other insurance as is customary, desirable or necessary to comply with local or other requirements, such as Workmen Compensation Insurance in relation to all workmen employed in the construction of the Project and Motor Insurance on any vehicle.

PART II: OPERATING PERIOD

1. All Risks Insurance - Fixed Assets:

Cover: All building contents, machinery, stock, fixtures, fittings and all other personal property forming part of the Complex against "All Risks" of physical loss or damage, including (but not limited to) those resulting from fire, lightning, explosion, spontaneous combustion, storm, wind, tempest, flood, hurricane, water damage, riot, strikes, malicious damage, earthquake, tsunami, collapse and/or loss of contents of tanks.

Sum insured: Full replacement value of the Complex. (Required)

Deductible: Not to exceed US\$ 50,000 each loss. (Required)

Insured: The Company the O&M Contractor, GOP, WAPDA, PSO and the Lenders.

2. Consequential Loss Following All Risks:

Cover: Loss of revenue due to loss of capacity and/or loss of output as a direct consequence of loss of or damage to the Complex and caused by a peril insured under paragraph 1 above.

Sum insured: An amount equal to the estimated Capacity Purchase Price which will be received during the Indemnity Period following the current period of the insurance policy.

Indemnity Period: 12 months.

Deductible: First 15 days of any interruption.

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Insured: The Company, the O&M Contractor and the Lenders.

General: Rights of recourse against WAPDA, PSO, the Lenders and O&M Contractor shall be waived.

3. Machinery Breakdown:

Cover: All machinery, plant, boilers and ancillary equipment forming part of the Complex against sudden and unforeseen physical loss or damage resulting from mechanical and electrical breakdown or derangement, explosion or collapse of boilers and pressure vessels, electrical short circuits, vibration, misalignment, excessive current or voltage, abnormal stresses, centrifugal forces, failure of protective or regulating devices, overheating, entry of foreign bodies, impact, collision and other similar causes.

Sum insured: Full replacement value of all machinery, plant, boilers, etc.

Deductible: US\$ 10,000 each loss.

Insured: The Company and the Lenders, WAPDA and the O&M Contractor

4. Consequential Loss following Machinery Breakdown:

Cover: Loss of revenue due to loss of capacity and/or loss of output as a direct consequence of loss or damage to the Complex caused by a peril insured under paragraph 3 above.

Sum insured: An amount equal to the estimated Capacity Purchase Price which will be received during the Indemnity Period following the current period of the insurance policy.

Indemnity Period: 12 months.

Deductible: First 15 days of any interruption.

Insured: The Company, the O&M Contractor and the Lenders.

General: Rights of recourse against WAPDA, PSO, the Lenders and O&M Contractor shall be waived.

5. Public Liability:

Cover: Legal liability of the insured for damage to property of third parties or bodily injury to third parties arising out of the ownership, operation and maintenance of the Complex.

Sum insured: US\$ 5,000,000 for any occurrence. (Required)

Deductible: Not to exceed US\$ 25,000 each claim for property. None for injury to persons. (Required)

Insured: The Company, the O&M Contractor, the Lenders and GOP, WAPDA, PSO.

6. Miscellaneous:

Other insurance as are customary, desirable or necessary to comply with local or other requirements, such as Workmen Compensation Insurance in relation to all workmen employed in the Complex or in connection with its operation, and Motor Insurance on any vehicle.

7. Indexing of Limits:

The coverage provided under Section 5 in Part I and Part II and for consequential loss Following All Risk in paragraph 3 above and consequential loss Following Machinery Breakdown in paragraph 4 above will be indexed for US inflation in accordance with the Schedule 6.

As per

SCHEDULE 9

FORM OF LETTER OF CREDIT

**[ISSUED ON ISSUING BANK LETTERHEAD
SHOWING FULL NAME AND ADDRESS]**

Date and Place of Issue:

Applicant

Name The _____ Power Company, Limited

Address _____,
_____, Pakistan

Advising and Negotiating Bank

[name and address]
_____, Pakistan

Beneficiary

WAPDA

[address]
_____, Pakistan

Attention:

We hereby issue our documentary credit as follows:

Type of Credit:

Irrevocable

Letter of Credit Number:

Date and Place of Expiry:

Date -

Place - [Advising and Negotiating Bank name and address]

Approved

Amount

[figures]

[words]

Credit Available with: [Advising and Negotiating Bank], by negotiation against presentation of the documents detailed herein and of your draft(s) at sight drawn on Issuing Bank accompanied by a certificate signed on your behalf by a person describing himself therein as your duly authorized officer stating that:

- A. "This drawing in the amount of [currency and amount] is being made pursuant to the Power Purchase Agreement (Agreement) between The _____ Power Company, Limited ("Company") and WAPDA as a result of Company's failure to perform in accordance with Article/Section _____ of the Agreement."

OR

- B. "WAPDA is making a drawing in the full available amount of [Issuing Bank] Letter of Credit No. _____ because the term of the Letter of Credit will expire within ten (10) business days of the date of this certificate and The _____ Power Company, Limited ("Company") has failed to deliver a replacement or renewal Letter of Credit acceptable to WAPDA, and security is still required under the terms of Article/Section _____ of the Power Purchase Agreement between the Company and WAPDA, dated _____ 199_."

Presentation of either of the above certificates and all communications in writing with respect to this Letter of Credit shall be addressed to us at Issuing Bank name and address referencing Letter of Credit No. _____, Attention: _____, or at Advising and Negotiating Bank name and address] referencing Letter of Credit No. _____, Attention: _____.

This Letter of Credit sets forth in full the terms of our undertaking and this undertaking shall not in any way be modified, amended, limited, or amplified by reference to any document, instrument, or agreement referred to herein, except only the certificates and draft referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for such certificates.

This Letter of Credit is transferable. Transfer may be effected only by Issuing Bank upon our receipt of an acceptable application for transfer accompanied by the original Letter of Credit and payment of our transfer commission in effect at the time of transfer.

Partial drawings are allowed.



Tested telex reimbursement is allowed.

Drafts drawn under this Letter of Credit must bear the clause:

"Drawn under Issuing Bank Letter of Credit No. _____ dated
_____ 199__"

It is a condition of this Letter of Credit that it shall be automatically extended for an additional period of one year from the present and each future expiration date, unless, thirty (30) days prior to the then-current expiration date, we notify you by registered mail that this Letter of Credit will not be renewed for an additional period.

We hereby engage with you that drafts drawn strictly in compliance with the terms of this credit and amendments shall meet with due honor upon presentation. This credit is subject to "Uniform Customs and Practice for Documentary Credits" (1983 Revision), International Chamber of Commerce, Publication No. 400.

Authorised Signature

A. Brad.

Authorised Signature

[Signature]

SCHEDULE 10

KEY DATES FOR PROJECT IMPLEMENTATION

<u>Stage</u>	<u>Month</u>
1. Letter of Support (July 27, 1994)	0
2. Implementation Agreement, Power Purchase Agreement	4
3. Financial Closing	12
4. Mobilization	12
5. Shipment of Major Equipment	24
6. Completion of Transmission Facilities	32
7. Required Commercial Operations Date	36

AMENDMENT NO.1 DATED AUGUST 28, 1995
TO
THE POWER PURCHASE AGREEMENT DATED MARCH 21, 1995

THIS AMENDMENT No.1 TO THE POWER PURCHASE AGREEMENT is made as of August 28, 1995 by and between:

- (1) The Pakistan Water & Power Development Authority, a statutory corporation established pursuant to Pakistan Water & Power Development Authority Act of 1958, with its principal office located in Lahore, Pakistan ("WAPDA")

AND

- (2) Japan Power Generation Limited, a public limited company incorporated under the laws of Pakistan having its registered office located at 26-Peshawar Block, Fortress Stadium, Lahore Cantt., Pakistan (the "Company")

WHEREAS

The Parties executed a Power Purchase Agreement (the "Agreement") on March 21, 1995.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Schedule 6 of the Power Purchase Agreement is hereby amended as follows:
 - 1.1 The definition of "Exchange Risk Insurance" in Section 1.4 is deleted in its entirety.
 - 1.2 Under Section 1.4, a new definition is hereby added after the definition of "Reference Tariff":

" "Yen" or "¥" = the lawful currency of Japan. "
 - 1.3 Section 3.3 is hereby deleted in its entirety.
 - 1.4 In twelfth line of Section 5.2(b)(i), after the words "to operation", the words "except as provided in Section 13.2(b)(iii)" are hereby added.
 - 1.5 Section 8.2 is hereby replaced in its entirety by the following:

"8.2 Non-Escalable Component

- (a) The non-escalable component as set forth in Table I covers the debt servicing charges including payments of principal, interest and other fees to the Company's lenders/creditors. This component will decline with the passage of time as the loans related to the Project are repaid.
- (b) The actual foreign loan portion of the non-escalable component of the Reference Tariff as set forth in Table I, as adjusted at Financial Closing in accordance with Section 13.2(b)(i) of this Schedule 6, will be indexed for changes in the value of the Rupee against Yen from the date of the Financial Closing in accordance with Section 13.2(b)(ii)."

1.6 Section 8.3 is hereby deleted in its entirety.

1.7 In the first line of Section 11.3, after the word "escalable", the words "and non-escalable" are added..

1.8 Section 12.3 is hereby replaced in its entirety with the following:

"12.3 Exchange Rate Adjustment Factor

The actual foreign loan portion of the non-escalable component of the Capacity Purchase Price as adjusted at Financial Closing, is subject to indexation for exchange rate movements pursuant to Section 13.2(b)(ii). The non-escalable component in each Agreement Year shall be indexed with effect from the date of the Financial Closing, in accordance with the Exchange Rate Adjustment Factor, as defined in Section 15.2, on the Commercial Operations Date and on the first day of each 1 January, 1 April, 1 July and 1 October thereafter using the most current exchange rate information available on that date. No retroactive adjustments will be permitted in the event that an index figure is subsequently revised."

1.9 Section 13.2(b) is hereby replaced in its entirety with the following:

"(b) Non-Escalable Component

- (i) The actual Yen denominated loan portion of the Non-Escalable Component of the Capacity Purchase Price will be adjusted at Financial Close by 0.7% for each 1% variation in the exchange rate of the Rupee to the Yen using a base value of 0.32 Rupee to the Yen. The remaining portion of the Non-Escalable Component (other than the Rupee denominated loan portion, if any) of the

Capacity Purchase Price will be adjusted at Financial Close by 0.7% for each 1% variation in the exchange rate of the Rupee to the Dollar, using a base value of 30.03 Rupees to the Dollar. For purposes of this Section 13.2(b), the Company confirms that the actual Yen loan portion is 85.05% of the non-escalable component of the Reference Tariff. This percentage shall be multiplied by the non-escalable component of Table I to determine the actual Yen denominated loan portion for adjustment at Financial Close. The portion of the non-escalable component of the Capacity Purchase Price relating to Japanese Yen loans shall be adjusted for variations in the value of the Rupee to the Yen only for the actual repayment period of the Yen denominated loans. Pursuant to Section 9.1(d) of the Agreement, the Company has elected indexation of the actual foreign loan portion of the non-escalable component and the exchange risk insurance component has been removed from Table I. No cross currency adjustments for tariff calculations shall be allowed."

- "(ii) The actual foreign loan portion of the Non-Escalable Component of the Capacity Purchase Price as adjusted at Financial Closing denominated and repayable in Yen, shall be indexed as follows for changes in the exchange rate of the Rupee against the Yen, up to the actual repayment period of the foreign currency loans as per Financing Documents. The base date for the application of such indexation will be the date of the Financial Closing. The indexation of the actual foreign loan portion of the non-escalable component denominated and repayable in Yen will apply prospectively on the Commercial Operations Date and the first day of each 1 January, 1 April, 1 July and 1 October thereafter ("Indexation Dates").

$$N-ESC_c = N-ESC_{(Base)} * E_t$$

where:

$N-ESC_c$ = the value of actual foreign loan portion of non-escalable component of the Reference Tariff expressed in Rs/kW/Month, as adjusted at the relevant calculation date, c,

$N-ESC_{(Base)}$ = the value of actual foreign loan portion of the non-escalable component of the Reference Tariff in the relevant Agreement Year, expressed in Rs/kW/Month, as adjusted at the Financial Closing pursuant to Section 13.2(b)(i), and

E_t = the value of the Exchange Rate Adjustment Factor (" E_t ") as calculated pursuant to Section 15.2 at the indexation date, t , immediately preceding the calculation date."

(iii) "The actual foreign currency portion of the debt service component for the debt incurred, if any, in the event of restoration or modification to the Complex following a Pakistan Political Force Majeure Event or a Change in Law, shall be indexed for variations in the value of the Rupee against the Dollar by using the weighted average exchange rate of actual foreign currency loan drawdowns, as the base exchange rate."

1.10 Section 13.2(c) is hereby deleted in its entirety.

1.11 The words "on the dates as set out in Section 12.2" occurring in the second line of Section 13.3(b) are hereby deleted.

1.12 Section 15.2 is hereby replaced in its entirety as follows:

The Exchange Rate Adjustment Factor for adjustment as at the Commercial Operations Date and every 1 January, 1 April, 1 July and 1 October following the Commercial Operations Date is as follows:

$$E_t = \frac{FX_{(Yen/R)t}}{FX_{(RD)}}$$

where:

E_t = the Exchange Rate Adjustment Factor applicable for the Period following date of calculation, t .

$FX_{(Yen/R)t}$ = the exchange rate of the Yen against the Rupee on the last day of the quarter immediately prior to the date of calculation.

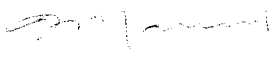
$FX_{(RD)}$ = the exchange rate of the Yen against the Rupee at the date of Financial Closing, established in accordance with section 12.4.

1.13 Table I has been revised and captioned as Table I (Rev.1) and is enclosed at Annexure-I.

3. Unless otherwise defined in this amendment, the terms used in this amendment shall bear the same meaning as defined in the Power Purchase Agreement.
4. All other terms and conditions of the Power Purchase Agreement dated March 21, 1995 shall remain unchanged.

IN WITNESS WHEREOF the Parties have agreed to this Amendment No.1 to the Power Purchase Agreement as of the date first above written.

Pakistan Water & Power Development Authority
By:


(Ishfaq Ahmad Paracha)
General Manager
Wapda Power Privatization Organization

GENERAL MANAGER,
W.P.P.O.
2ND FLOOR, *IA TOWERS,
EGERTON ROAD, LAHORE,

Japan Power Generation Ltd.
By:


(Zafar Mahmood)
Chief Executive

JAPAN POWER GENERATION LIMITED

TABLE - I (REV.1)
REFERENCE TARIFF

Estimated Dependable Capacity = 107 MW
Units Sold at 60% Plant Factor = 562.39 GWh

Years	ENERGY PURCHASE PRICE (Rs./kWh)			CAPACITY PURCHASE PRICE (Rs./kWh)			Total Cap. Purchase Price (Rs./kWh)	TOTAL TARIFF (Rs./kWh)	CAPACITY PAYMENT (Rs./kW/Month)			
	Fuel	Var. O&M	Total Rs.	Esca-lable	Non-Escal.	FERI			Esca-lable	Non-Escal.	FERI	Total Capacity Payment
1	0.649	0.100	0.749	0.293	0.871	0.000	1.164	1.913	128.33	381.50	0.00	509.83
2	0.649	0.100	0.749	0.293	0.838	0.000	1.131	1.890	128.33	367.04	0.00	495.38
3	0.649	0.100	0.749	0.293	0.837	0.000	1.130	1.879	128.33	366.61	0.00	494.94
4	0.649	0.100	0.749	0.293	0.837	0.000	1.130	1.879	128.33	366.61	0.00	494.94
5	0.649	0.100	0.749	0.293	0.837	0.000	1.130	1.879	128.33	366.61	0.00	494.94
6	0.649	0.100	0.749	0.293	0.837	0.000	1.130	1.879	128.33	366.61	0.00	494.94
7	0.649	0.100	0.749	0.293	0.763	0.000	1.056	1.805	128.33	334.19	0.00	462.53
8	0.649	0.100	0.749	0.293	0.759	0.000	1.052	1.801	128.33	332.44	0.00	460.78
9	0.649	0.100	0.749	0.293	0.714	0.000	1.007	1.756	128.33	312.73	0.00	441.07
10	0.649	0.100	0.749	0.293	0.601	0.000	0.894	1.643	128.33	263.24	0.00	391.57
11	0.649	0.100	0.749	0.293	0.400	0.000	0.702	1.451	128.33	179.14	0.00	307.48
12	0.649	0.100	0.749	0.293	0.400	0.000	0.702	1.451	128.33	179.14	0.00	307.48
13	0.649	0.100	0.749	0.293	0.350	0.000	0.643	1.392	128.33	153.30	0.00	281.63
14	0.649	0.100	0.749	0.293	0.309	0.000	0.602	1.351	128.33	135.24	0.00	263.63
15	0.649	0.100	0.749	0.293	0.209	0.000	0.502	1.251	128.33	91.54	0.00	219.88
16	0.649	0.100	0.749	0.293	0.049	0.000	0.342	1.091	128.33	21.46	0.00	149.80
17	0.649	0.100	0.749	0.293	0.049	0.000	0.342	1.091	128.33	21.46	0.00	149.80
18	0.649	0.100	0.749	0.293	0.040	0.000	0.333	1.082	128.33	17.52	0.00	145.85
19	0.649	0.100	0.749	0.293	0.039	0.000	0.332	1.081	128.33	17.08	0.00	145.42
20	0.649	0.100	0.749	0.293	0.039	0.000	0.332	1.081	128.33	17.08	0.00	145.42
21	0.649	0.100	0.749	0.293	0.029	0.000	0.322	1.071	128.33	12.70	0.00	141.04
22	0.649	0.100	0.749	0.293	0.009	0.000	0.302	1.051	128.33	3.94	0.00	132.28
Average for 1-10 years =			0.749	0.293	0.789	0.000	1.082	1.831				
Average for 11-22 years =			0.749	0.293	0.162	0.000	0.455	1.204				
Average for 1-22 years =			0.749	0.293	0.447	0.000	0.740	1.489				
Levelized Tariff =			0.749	0.293	0.628	0.000	0.921	1.670				

NOTE: The procedure for Levelization of Tariff will be:

- (i) Calculate the present value of yearly tariff at year one by using 10% discount rate
- (ii) Calculate the annuity over the life of the project using the same 10% interest rate.

AMENDMENT NO.2 DATED 13 MARCH 2001

TO

POWER PURCHASE AGREEMENT DATED MARCH 21,1995

This Amendment No.2 to the Power Purchase Agreement is made at Lahore, Pakistan and is effective as of 13 March 2001 by and between:-

- 1) The Pakistan Water & Power Development Authority, a statutory corporation established pursuant to the Pakistan Water and Power Development Authority Act of 1958, with its principal office located in Lahore, Pakistan ("WAPDA")

AND

- 2) Japan Power Generation Limited a public limited company, incorporated under the laws of Pakistan with its principal office located at 26-Peshawar Block, Fortress Stadium, Lahore Cantt, Pakistan (the "Company")

WHEREAS

- i) WAPDA and the Company (collectively, the "Parties") are parties to the Power Purchase Agreement dated March 21, 1995 as amended by Amendment No.1 made as of dated August 28, 1995 (the March 21, 1995 agreement and August 28, 1995 amendment are collectively referred to hereinafter as the "PPA").
- ii) The Parties held negotiations on tariff and other issues and signed a Memorandum of Understanding (the "MoU") dated July 29, 1999.
- iii) The Parties further agree to amend the PPA as set forth under Clauses 4, 8(a) & 11(c) of this Amendment No.2.
- iv) Pursuant to Section 17.1 of the Agreement, the GOP gave its consent to the MoU through PPIB letter dated 8.9.1999.
- v) Pursuant to Section 17.1 of the Agreement, the Company's Board of Directors has given its consent to the MoU communicated through the Company's letter dated 22.9.1999.
- vi) The Lenders have given their consent to the MoU through Prime Commercial Bank Ltd, L.C.C.H.S. Head Office, Lahore Cantt. letter dated 9.3.2000.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS: -

1. Capitalized Terms

Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the PPA.

2. Headings

The headings contained herein are used solely for convenience and do not constitute a part hereof nor shall such headings be used in any manner to aid in the construction or interpretation of this amendment.

3. Required Commercial Operations Date

Section 1.107 of the PPA is deleted and replaced with the following provision:

“The Required Commercial Operations Date shall be the actual Commercial Operations Date”

4. Energy & Capacity

- a) The words “one hundred five percent (105%) of” appearing in sub section 2.1 (a)(i) are deleted.
- b) The words “one hundred and five percent (105%) of” appearing in 5th line of Sub-Section 10.3 © (iii) are deleted.
- c) The words “105% of” appearing in 4th line of Sub-Section 10.4 (b) are deleted.

5. Company Covenants:

- a) The words “twenty two (22) years” occurring in lines 16 & 17 of Sub-Section 5.1(b)(i) of the PPA are substituted with “thirty (30) years”.
- b) Following is added at the end of Section 5.1 (b)(iii) of the PPA:

“Notwithstanding the above, the Company shall ensure putting in place reliable supply of Fuel arrangements not later than 20 years after Commercial Operations Date for the 23rd-30th year of the Term. In case, Company fails to comply with this requirement, WAPDA would have the right to review the Tariff for downward revision, in consultation with the Company, to realize the benefit of levelized tariff agreed as per the MOU”

- c) A new Sub-Section (xiii) is added under Section 5.1(b) of the PPA as follows:

“(xiii) Concessions by Lenders, Bankers, DFI and Insurance Companies, etc.”

Any concession given by the Lenders, Bankers, DFI and Insurance Companies, etc to the Company over and above the existing terms of the debt, registered with State Bank of Pakistan (SBP), shall be passed on to WAPDA”.

6. Term of Agreement

- a) The words "twenty two (22) Agreement Years" in the 3rd line of Section 4.1 (a) of the Agreement are hereby replaced with the words "thirty (30) Agreement Years".
- b) The words "twenty second (22nd) Agreement Year" occurring in the 5th+6th and 10th lines of Section 4.1(b) of the Agreement are hereby deleted and substituted by the words "thirtieth (30th) Agreement Year".
- c) The words "twentieth (20th) Agreement Year" occurring in the 1st line of Section 4.1© of the Agreement are hereby deleted and substituted by the words "twenty-eighth (28th) Agreement Year".

7. Telecommunication Circuit

A new Sub-Section(d) is added under Section 8.7 of the Agreement as under:-

"(d) The Company commits to provide Remote Terminal Unit (RTU) by end of September 2001. SCADA system shall be provided as per Interim Agreement dated July 28, 1999 signed between WAPDA and the Company."

8. Schedule 2

- a) In Sub-Section 1.3 (a) of Schedule 2 the words "5 MW" appearing in line 1 are substituted with "8 MW" and the words "at the generator terminals" occurring within parenthesis in lines 2 & 3 are substituted with " at 132 kV Bus-bar".
- b) Sub-Section 1.3 (d) of Schedule 2 is deleted in entirety and replaced with the following:

"The Complex minimum continuous loading shall be equal to 8 MW"

- c) The words " at 0%" appearing in the line 4 of Section 1.4 (a) of Schedule 2 are substituted with the following:-

"at minimum possible load"

- d) The range of "0% to 10% " appearing in line 1 of sub-section 1.4(e) of Schedule 2 is substituted with "2% to 8%".

1. Schedule 3

The range of "0 to 10%" appearing in line 1 of Sub-Section 2.4 of Schedule 3 is substituted with "2% to 8%".

10. Schedule 4

- a) The existing text of Sub Section(d) of Schedule 4 is deleted and substituted by the following:

“The operation of the speed governor will be demonstrated over the range of 2% to 8% the droop being adjusted from 2% to 8%”.

- b) The words “at 0% load” appearing in the last line of Section (e) of Schedule 4 are substituted with the following:

“at minimum possible load”.

- c) The following new sentence is added at the end of Section (h) of Schedule 4

“During full load rejection test, the number of Diesel Generating Sets to remain in operation shall be at least 50%”.

11. Schedule 6

- a) The word “Table-1” appearing at the end of Section 2.1 of Schedule 6 is replaced with the words “Table-1 (Revision July 1999)”.

- b) Table 1 of Schedule 6 is deleted and substituted by “Table-1 (Revision July 1999)” attached with this Amendment No.2.

- c) Following is added at the end of Section 12.4 of Part-II of Schedule-6:

“The Exchange Rate with effect from May 19, 1999 shall be the minimum of the TT & OD Selling Rates of the following Banks, namely:

ABN Amro Bank, Bank of America, Citibank, Habib Bank Limited, National Bank of Pakistan, Standard Chartered Grindlays Bank Limited and United Bank Limited”.

- d) A new Sub-Section 8.4 is hereby added to Schedule-6 to read as follows:-

“8.4. Concessions By Lenders, Bankers etc.

The amount equivalent to the concession given by the Lenders, Development Financial Institutions and Insurance Companies etc. to the Company over and above those contained in the Financing Documents registered with the SBP shall be credited to WAPDA within forty-five (45) Days of becoming available to the Company. In case the interest rate or other financing fees / charges are reduced than that registered with the SBP, the Revised Reference Tariff shall be revised to reflect the corresponding reduction. Moreover, in case of extension of the term of the principal repayment schedule or concession of a similar nature, the Revised Reference Tariff shall be revised to reflect the corresponding adjustment provided that the Levelized Tariff will not increase.”

12. Integration

This Amendment No.2 constitutes the Parties complete and final agreement and understanding with regard to the subject matter hereof and supercedes any and all written or oral agreements, understandings, and communications with regard thereto, including without limitation the MoU.

13. Approvals

By executing and delivering this Amendment No.2, each Party acknowledges and confirms that it has obtained all approvals, consents and waivers necessary in order to make this Amendment No.2 such Party's legal and valid agreement and obligation, binding upon it in accordance with the terms hereof.

14. PPA Continues in Full Force and Effect.

All other terms and conditions of the PPA shall remain unchanged.

For and on behalf of
Japan Power Generation
Company Limited Pakistan

For and on behalf of
Water and Power Development
Authority (WAPDA)




(ASAD ALI UPPAL)
DIRECTOR




(MUHAMMAD AKBAR)
CHIEF ENGINEER-IV (WPPO)


WITNESSES

WITNESSES

1. 
AKHTAR ALI UPPAL

1. 
Muhammad Amjad
Director Technical (WPPO)
Wapda House, Lahore.

2. 
ASAD ALI UPPAL

2. 
Asst. Director (Tech) WPPO
Wapda House, Lahore.

REVISED REFERENCE TARIFF

Installed Capacity
Revised Dependable Capacity =
Avg. Sd at 60% Plant Factor =

120 MW
107 MW
562.39 GWh

Years	ENERGY PURCHASE PRICE (Rs./kWh)			CAPACITY PURCHASE PRICE (Rs./kWh)		Total Cap Purchase Price (Rs./kWh)	TOTAL TARIFF (Rs./kWh)	CAPACITY PAYMENT (Rs./kW/Month)		
	Fuel	Var. O&M	Total Rs.	Escalable	Non-Escal.			Escalable	Non-Escal.	Total Capacity Payment
1	0.6000	0.1000	0.7000	0.2930	0.5000	0.7930	1.4930	128.3340	219.0000	347.3340
2	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
3	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
4	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
5	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
6	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
7	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
8	0.6000	0.1000	0.7000	0.2930	0.5198	0.8128	1.5128	128.3340	227.6724	356.0064
9	0.6000	0.1000	0.7000	0.2930	0.2000	0.4930	1.1930	128.3340	87.6000	215.9340
10	0.6000	0.1000	0.7000	0.2930	0.1700	0.4630	1.1630	128.3340	74.4600	202.7940
11	0.6000	0.1000	0.7000	0.2930	0.1200	0.4130	1.1130	128.3340	52.5600	180.8940
12	0.6000	0.1000	0.7000	0.2930	0.0500	0.3430	1.0430	128.3340	21.9000	150.2340
13	0.6000	0.1000	0.7000	0.2285	0.0400	0.2685	0.9685	100.0830	17.5200	117.6030
14	0.6000	0.1000	0.7000	0.2285	0.0110	0.2395	0.9395	100.0830	4.8180	104.9010
15	0.6000	0.1000	0.7000	0.2285	0.0110	0.2395	0.9395	100.0830	4.8180	104.9010
16	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
17	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
18	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
19	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
20	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
21	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
22	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
23	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
24	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
25	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
26	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
27	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
28	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
29	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830
30	0.6000	0.1000	0.7000	0.2285	0.0000	0.2285	0.9285	100.0830	0.0000	100.0830

						US Cents
Average for 1-10 years =	0.7000	0.2930	0.4509	0.7439	1.4439	4.81
Average for 11-20 years =	0.7000	0.2414	0.0232	0.2646	0.9646	3.21
Average for 21-30 years =	0.7000	0.2285	0.0000	0.2285	0.9285	3.09
Average for 1-30 years =	0.7000	0.2543	0.1580	0.4123	1.1123	3.70

Levelized Tariff = 0.7000 0.2751 0.3162 0.5913 1.2913 4.30

The procedure for Levelization of Tariff will be:

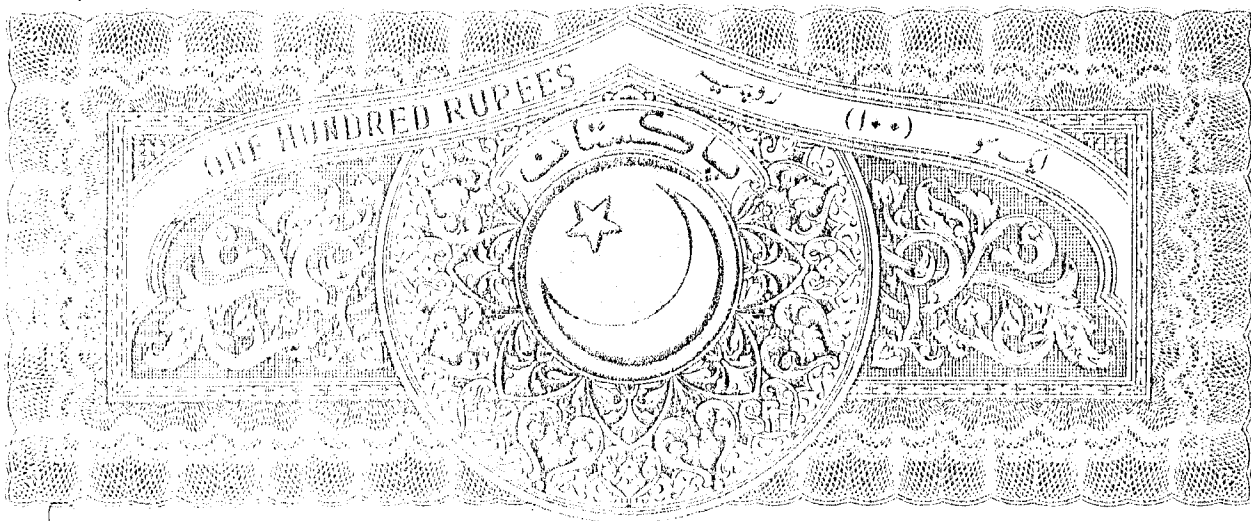
- Calculate the present value of yearly tariff at year one by using 10% discount rate
- Calculate the annuity over the life of the project using the same 10% interest rate.

Note

Errors and Omission are acceptable

29/7
29/7

final7/29/99



AMENDMENT NO.3

TO

THE POWER PURCHASE AGREEMENT DATED MARCH 21, 1995, AS AMENDED

This Amendment No. 3 to the Power Purchase Agreement (this "Amendment") is made at Lahore, on this 12th day of July 2007.

BETWEEN

THE PAKISTAN WATER AND POWER DEVELOPMENT AUTHORITY, a statutory corporation established pursuant to the Pakistan Water and Power Development Authority Act of 1958, with its principal office located in Lahore, Pakistan, of the one part;

AND

JAPAN POWER GENERATION LIMITED, a public limited company incorporated under the laws of Pakistan, with its principal office at Jia Bagga, Raiwind Road, Lahore, Pakistan, of the other part.

Each a Party and collectively Parties.

WHEREAS, the Parties entered into a Power Purchase Agreement dated 21st March 1995, which was duly amended by an Amendment No. 1 dated 27th August 1995 and an Amendment No. 2 dated 13th March 2001 (together the "PPA").

WHEREAS, the Company has offered to sell to WAPDA up to 13.5MW additional capacity (the "Additional Dependable Capacity") at Mean Site Conditions, as mentioned in Schedule 4 of the PPA, over and above the existing Dependable Capacity of 107 MW at Mean Site Conditions and WAPDA, after due consideration, has agreed to purchase the Additional Dependable Capacity and the Net Electrical Output relevant to the Additional Dependable Capacity.

WHEREAS the Company has proposed to readjust the Energy Purchase Price components of the Revised Reference Tariff Table - 1 (Revision July 1999) attached with Schedule 6 of the PPA (the "Reference Tariff Table") while keeping the prevalent levelized tariff intact, and WAPDA has agreed to such shift/transfer up to Rs.0.01958/kWh from the Variable Operation & Maintenance Costs Component to the Fuel Cost Component of the Energy Purchase Price as per the Reference Tariff Table, subject to availability of Additional Dependable Capacity up to 13.50 MW through a capacity test.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Definitions:** For the purposes of this Amendment, the definitions and the capitalized terms not otherwise defined herein (including Recitals) shall have the respective meanings set forth in the PPA.
2. **No Other Change:** The terms of this Amendment shall not constitute a release, waiver, or modification of any provision, term or condition of the PPA. Except solely to the extent and for the purposes stated otherwise herein, all terms and conditions of the PPA shall remain unchanged and continue in full force and effect; the Parties shall continue to the rights and obligations as per the PPA.
3. **PPA Amendments:** The PPA is amended as follows:
 - 3.1 In paragraph 1 of the Recital at page 1 of the PPA, the figure "120" appearing in line 2 is hereby replaced with the figure "134".
 - 3.2 In Section 1.12, lines 2 and 3, of the PPA, after the words "the Actual Initial Dependable Capacity of the Complex", the words "plus the Additional Dependable Capacity up to 13.5MW" are hereby added.
 - 3.3 Section 1.14 is hereby amended by adding a semi-colon and the following words at the end of the definition of the term "Capacity Damages Amount": "; provided however, that for any de-rating or non-availability from 120.5MW down to 107MW, the applicable average Capacity Purchase Price shall be that calculated on the basis of Escalable Component of the Reference Tariff Table, while for any de-rating or non-availability from 107MW downwards, the applicable average Capacity Purchase Price shall be that calculated on the basis of the Capacity Purchase Price (Escalable and Non Escalable Components), as specified in the Reference Tariff Table.
 - 3.4 Section 1.16 of the PPA is hereby replaced with the following:

1.16 "Capacity Purchase Price" - For each Agreement Year, shall mean:

 - (i) the amount expressed in Rs. per kW per Month shown as Escalable plus Non Escalable Components in the Reference Tariff Table for Dependable Capacity up to 107,000 kW; and
 - (ii) the amount expressed in Rs. Per kW per Month shown as Escalable Component in the Reference Tariff Table for the Additional Dependable Capacity over and above 107,000 kW.

as such amounts are adjusted / indexed from time to time in accordance with Schedule 6.
 - 3.5 Section 1.26 of the PPA is hereby amended by replacing the figure "120" from the definition of "Complex" with the figure "134".
 - 3.6 Section 9.1(a) of the PPA is hereby amended by substituting the words "For each Month, the Capacity Payment shall be equal to the product of the Capacity Purchase Price and the Dependable Capacity in effect for such Month" appearing in lines 5 and 6 with the following words:

For each Month, the total Capacity Payment shall be equal to the sum of (a) the product of the Dependable Capacity in effect for such Month up to 107,000 kW and the Capacity Purchase Price (Escalable Component plus Non Escalable Component) as shown in the Reference Tariff Table ; and (b) the product of the Additional Dependable Capacity in effect for such Month, that is over and above 107,000 kW, and the Escalable Component of the Capacity Purchase Price as shown in the Reference Tariff Table.


- 3.7 Section 9.4 (b) (i) is hereby amended by adding at the end the following new sentence: "However, for the eighth Agreement Year, computation of liquidated damages payable by the Company in respect of Additional Dependable Capacity, the sum of A+B+C in this equation shall be multiplied by 0.75."
- 3.8 Section 10.8 is hereby amended by adding the words "and the Additional Dependable Capacity of up to 13.5MW" at the end of the said Section.
- 3.9 Schedule 1 is hereby amended to replace the figure "120" with the figure "134" in line 3 and to replace the figure "107" with the figure "120.5" in line 4.
- 3.10 Section 1.3(a) of Schedule 2 of the PPA is hereby amended by replacing the figure "107" with the figure "120.5".
- 3.11 For the avoidance of doubt various components of the Reference Tariff Table shall be applicable as follow:
- i) Energy Purchase Price shall be applicable to the whole of the Net Electrical Output delivered from the Complex;
 - ii) Capacity Purchase Price (Escalable Component plus Non Escalable Components) shall be applicable in respect of the Dependable Capacity up to 107MW;
 - iii) Escalable Component of the Capacity Purchase Price shall be applicable in respect of the Additional Dependable Capacity.
- 3.12 A new Sub-section (d) is hereby added in Section 9.2 of the PPA as under:
- "In case the Company provides the Additional Dependable Capacity up to 13.5MW to WAPDA, it shall have the right to shift / transfer up to Rs. 0.01958/kWh from the Variable Operation & Maintenance Costs Component to the Fuel Cost Component of the Energy Purchase Price of the Reference Tariff Table. Either Party shall be entitled to request any number of test(s) of Additional Dependable Capacity either all at once or in increments within one year through test(s) as per the test procedures "Dependable Capacity Testing after COD dated 22ND July 2003" already signed between the Parties under the PPA. Provided, however, that where the Company is unable to demonstrate 13.5MW of the Additional Dependable Capacity in any of the said test(s), the applicable shift / transfer from the Variable Operation & Maintenance Costs Component to the Fuel Cost Component of the Energy Purchase Price of the Reference Tariff Table shall be calculated in accordance with this Sub-section and Section 4.3 of Schedule 6 of the PPA, and shall be effective from the Day following the date of the said test(s) till the next test(s)."
- 3.13 A new Sub-section 4.3 is hereby added in Schedule 6 of the PPA as under:
- "From and after the first test conducted pursuant to Section 9.2 (d) of the PPA, in case the Company is unable to demonstrate 13.5MW of the Additional Dependable Capacity, the shift / transfer of Rs. 0.01958/kWh from the Variable Operation & Maintenance Costs Component to the Fuel Cost Component of the Energy Purchase Price of the Reference Tariff Table shall be calculated in the following manner, which shall be effective until the next test is conducted:
- Applicable Shift (Rs./kWh) = $\text{Rs. } 0.01958/\text{kWh} \times \frac{X}{13.5}$
- Where 'X' is Additional Dependable Capacity demonstrated in MW, and shall be equal to demonstrated capacity in MW minus 107 MW. The maximum value of "X" shall be 13.50 MW, if total demonstrated capacity minus 107 MW > 13.50 MW.

4. **Counterparts:** This Amendment may be executed in two counterparts by the Parties and each of which when executed and delivered shall be an original but all of which together shall constitute one and the same instrument.

5. **Miscellaneous:** This Amendment covers the entire understanding of the Parties on the matters covered herein and the Parties after fully understanding the matters covered herein have entered into this Amendment. The provisions of Article XVII of the PPA shall be applicable to this Amendment.
6. **Effectiveness:** This Amendment shall come into effect from the date the Company demonstrates the Additional Dependable Capacity. The payment for the Net Electrical Output, dispatched and delivered, shall be made at the Energy Purchase Price as per the Reference Tariff Table. However, the payment of the Escalable Component of the Capacity Purchase Price in respect of the Additional Dependable Capacity, as demonstrated, and the applicable shift between the Variable Operation & Maintenance Costs Component to the Fuel Cost Component of the Energy Purchase Price shall be paid in arrears from the date of the test(s) subject to the approval of this Amendment by the GOP.
7. **Full Force and Effect:** The Parties reaffirm that all other terms of the PPA remain unchanged and the PPA continues in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

For and on Behalf of
Japan Power Generation Limited


Name: Yoshiaki A. SATOH

Date: 2009 12 10 07

Witnesses:

1: 

Name: Sh. H. H. Khan

Address:


635-HI Township Lahore.

For and on behalf of
Water and Power Development Authority



Date: 12-17-07

Witnesses:

2: 

Name: ABDUL RAUF

Address:

113-WAPDA House, Lahore.

JAPAN POWER GENERATION LIMITED

JIA BAGGA, RAIWIND ROAD, LAHORE. TEL : 042-5835864 -6 FAX: 042-5835860
E-mail: jppl@brain.net.pk Website: http://www.jpplpk.com




SECRETARY'S CERTIFICATE

I, Zain-ul-Abidin, do hereby certify that I am duly appointed, qualified and acting Secretary of Japan Power Generation Limited, a public limited company incorporated under the laws of Pakistan with its principal office located at Jia Bagga, off Raiwind Road, Lahore, Pakistan (the Company), and that in such capacity I am authorized to certify on behalf of the Company and do hereby certify that the following resolutions have been duly adopted by the Board of Directors of the Company through circulation on July 11, 2007; such resolutions have not been altered, amended modified or rescinded and remain in full force and effect on the date hereof; and such resolutions are the only resolutions adopted by the Company's Board of Directors relating to the transactions described herein.

1. "Resolved that the Board members hereby approve proposed Amendment No. 3 to the Power Purchased Agreement Dated March 21, 1995 (the Amendment).
2. Resolved Further that the Board members hereby authorize Mr. Nadeem Babar, Chief Executive Officer OR Mr. Khan A. Saleem, General Manager (Commercial) of the Company, to singly execute and deliver such documents, instructions, consents, agreements and other papers, on behalf of the Company as may be necessary and relevant to the Amendment and receive and provide all Notices and take all other actions requisite to give full effect thereto with WAPDA and any other concerned Government Departments.
3. Resolved Further that any and all actions taken by Mr. Nadeem Babar OR Mr. Khan A. Saleem, in connection with foregoing resolution be and hereby ratified and approved."

WITNESS my hand this 12th day of July 2007.




Zain-ul-Abidin
Company Secretary

Telephone: 9202224
Fax : 9202030



SECRETARY

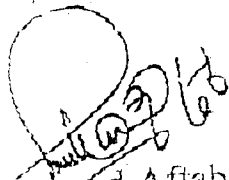
PAKISTAN
WATER AND POWER DEVELOPMENT AUTHORITY

73A-WAPDA House Lahore

AUTHORIZATION NO.949

DATED 12 / 07 / 2007

In exercise of power conferred under Section 20 of Pakistan Water And Power Development Authority Act, 1958, Authority is pleased to authorize Mr. Muhammad Masood Akhtar, Chief Engineer-IV (WPPO) to sign the Amendment No.3 to the PPA with M/s Japan Power Generation Ltd.


Muhammad Aftab
Secretary WAPDA

Telephone: 9202224
FAX : 9202223

PAKISTAN
WATER AND POWER DEVELOPMENT AUTHORITY

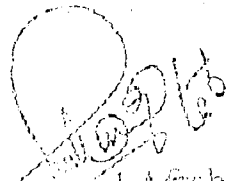
734-WAPDA House Lahore

SECRETARY

AUTHORIZATION NO. 349

DATED 12/37/2007

In exercise of power conferred under Section 20 of Pakistan Water And Power Development Authority Act, 1958, Authority is pleased to authorize Mr. Muhammad Masood Akhtar, Chief Engineer-IV (WPPD) to sign the Amendment No.3 to the PPA with M/s Japan Power Generation Ltd.


Muhammad Aftab
Secretary WAPDA

JAPAN POWER GENERATION LIMITED

JIA BAGGA, RAIWIND ROAD, LAHORE. TEL : 042-5835864 - 6 FAX: 042-5835860
E-mail: jpgl@brain.net.pk Website: http://www.jpgl.pk.com

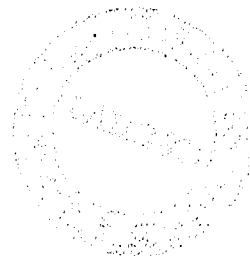



SECRETARY'S CERTIFICATE

I, Zain-ul-Abidin, do hereby certify that I am duly appointed, qualified and acting Secretary of Japan Power Generation Limited, a public limited company incorporated under the laws of Pakistan with its principal office located at Jia Bagga, off Raiwind Road, Lahore, Pakistan (the Company), and that, in such capacity I am authorized to certify on behalf of the Company and do hereby certify that the following resolutions have been duly adopted by the Board of Directors of the Company, through circulation on July 11, 2007; such resolutions have not been altered, amended modified or rescinded and remain in full force and effect on the date hereof; and such resolutions are the only resolutions adopted by the Company's Board of Directors relating to the transactions described herein.

1. "Resolved that the Board members hereby approve proposed Amendment No. 3 to the Power Purchased Agreement Dated March 21, 1995 (the Amendment).
2. Resolved Further that the Board members hereby authorize Mr. Nadeem Babar, Chief Executive Officer OR Mr. Khan A. Saleem, General Manager (Commercial) of the Company, to singly execute and deliver such documents, instructions, consents, agreements and other papers, on behalf of the Company as may be necessary and relevant to the Amendment and receive and provide all Notices and take all other actions requisite to give full effect thereto with WAPDA and any other concerned Government Departments..
3. Resolved Further that any and all actions taken by Mr. Nadeem Babar OR Mr. Khan A. Saleem, in connection with foregoing resolution be and hereby ratified and approved."

WITNESS my hand this 12th day of July 2007.




Zain-ul-Abidin
Company Secretary

PAKISTAN STATE OIL COMPANY
- AND -
JAPAN POWER GENERATION LIMITED
FUEL SUPPLY AGREEMENT

-Relating to-

Power Generation Complex at Jia Bagga,
Raiwind Road, Lahore

February 01, 1995

COUNSEL FOR PSO

Orr, Dignam & Co.
Advocates
Building No. 1-B
State Life Square
11 Chundrigar Road
Karachi
Tel: (021) 241-5384, 241-6003
Fax: (021) 241-6571



COUNSEL FOR COMPANY

Syed Rashid Rahim
Advocate High Court
13/A, Abdur Rehman Road,
Lahore Cantt.

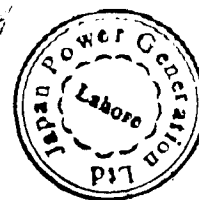
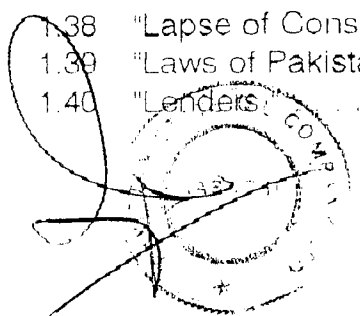


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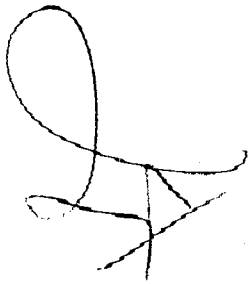
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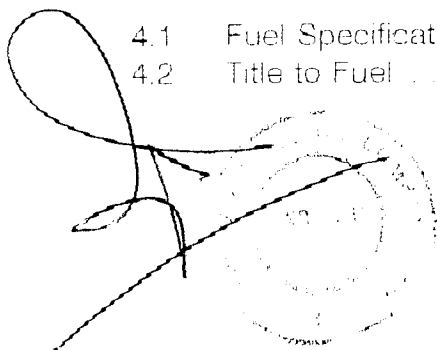
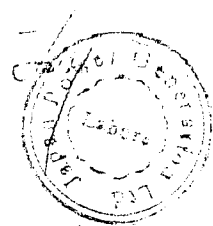
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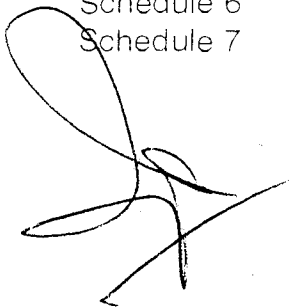
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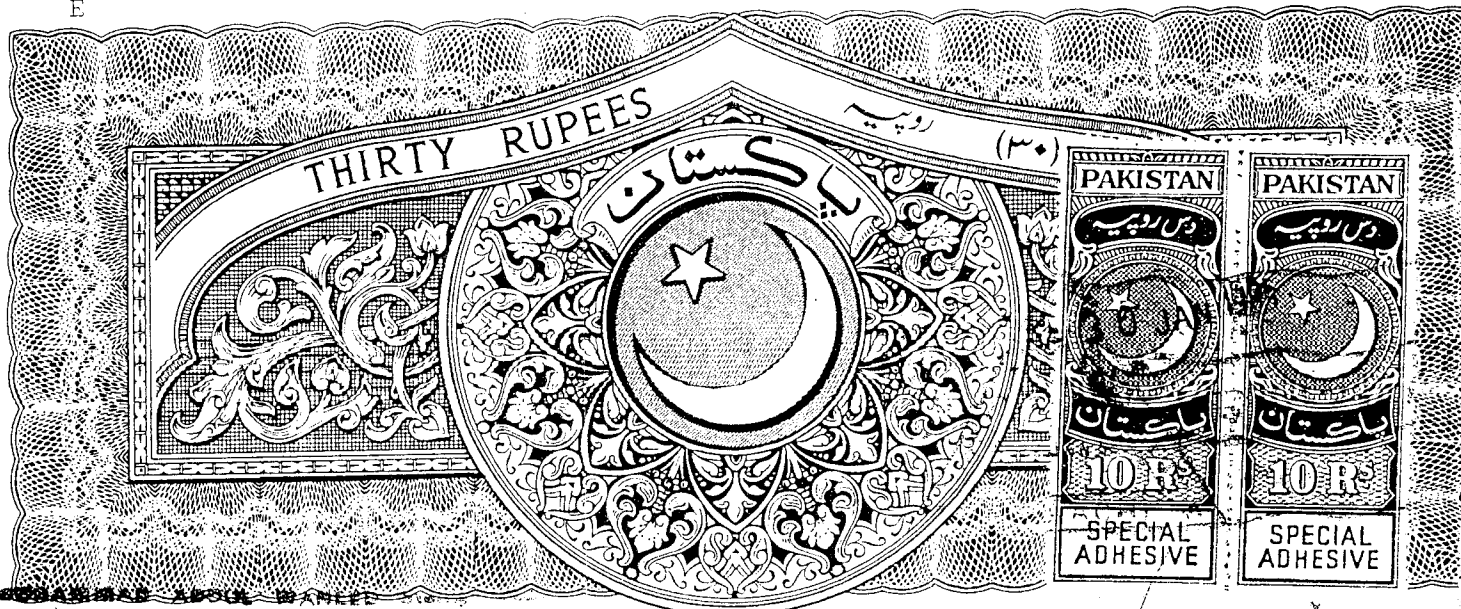
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U.S. No-72 C/o. Nadeer Soni Near Pakistan Consulate
Opp: Block No-38, Shahr-e-Iraq, Sector, Feroz

S. No-6387 DATE 31-1-89

TOUR TO VISIT ADDRESS: JAPAN Power GENERATION
THROUGH WITH ADDRESS: CHITRA
PURPOSE: CTD
VALUE RS. 30/-
WATER VENDOR: S. No-6387

Additional Department of Customs
Group Office, City Centre
Karachi, Pakistan

30 JAN

FUEL SUPPLY AGREEMENT

THIS FUEL SUPPLY AGREEMENT (the "Agreement") is made at Karachi as of the 01st February, 1995
BETWEEN

PAKISTAN STATE OIL COMPANY LIMITED; a company incorporated under the Laws of Pakistan with its registered office located at Karim Chamber, Mereweather Road, Karachi, (the "Fuel Supplier", which term shall include its successors and permitted assigns) of the first part;

AND

Japan Power Generation Limited; a company incorporated under the laws of Pakistan, with its registered office located at 26-Peshawar Block, Fortress Stadium, Lahore Cantt. (the "Company", which term shall include its successors and permitted assigns) of the other part.

The Fuel Supplier and the Company are referred to individually as a "Party" and collectively as the "Parties".

WHEREAS:

- (A) The Company intends to design, finance, construct, and operate a power generation facility with a capacity of approximately 120 megawatts (120 Mws) situated at Jia Bagga, Raiwind Road, Lahore, in the Province of Punjab, Pakistan.
- (B) The Fuel Supplier sells Fuel, Diesel Oil, Greases, Lubricants and Additives (as defined herein), and is desirous of selling Fuel, Diesel Oil, Greases, Lubricants and Additives to the Company, pursuant to the terms of this Agreement.
- (C) The Company is desirous of purchasing its requirements of Fuel, Diesel Oil, Greases, Lubricants and Additives from the Fuel Supplier at the Complex for use in generating electricity at the Complex on the terms and conditions contained herein.
- (D) The Company has entered into an Implementation Agreement with the Government of Pakistan pursuant to which GOP has guaranteed certain of the Fuel Supplier's obligations to the Company under this Agreement.

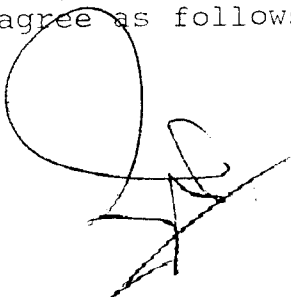


(E)

In this connection the Company has also entered into a Power Purchase Agreement with the Pakistan Water and Power Development Authority WAPDA for the sale and purchase of dependable capacity from the Complex and energy produced by the Complex as and when despatched by WAPDA.

N O W T H E R E F O R E :

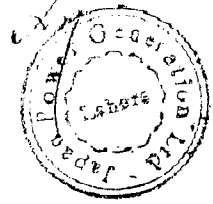
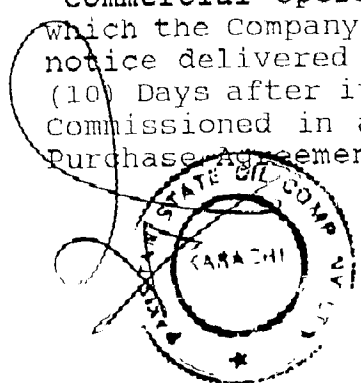
In consideration of the mutual benefits to be derived and the representations and warranties, conditions, and promises contained herein, and intending to be legally bound hereby, the Parties enter into this Agreement in order to record the terms and conditions upon and subject to which the Company is to purchase and the Fuel Supplier is to supply Fuel, Diesel Oil, Greases, Lubricants and Additives for the Complex and agree as follows:



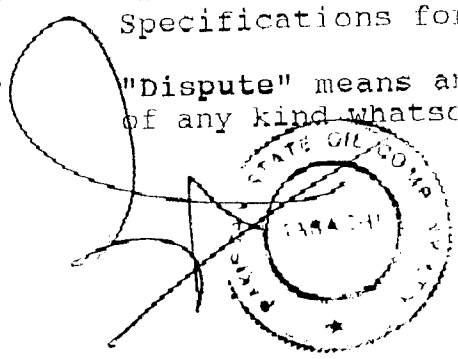
ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

As used in this Agreement, the following words and expressions shall (unless the context otherwise requires) have the following meanings:

- 1.1 "Agreement" means this Fuel Supply Agreement, dated as of the date first entered above between the Company and the Fuel Supplier, as may be amended in writing from time to time.
- 1.2 "Agreement Year" shall have the same meaning as in the Power Purchase Agreement.
- 1.3 "Base Compensation Rate" means an amount calculated on the basis of the then yield per annum of GOP Treasury Bills of 180 Days maturity ("Treasury Bills") plus six percent (6%). If Treasury Bills are discontinued by the Federal Government the base compensation rate shall be the rate mentioned on the face of any securities issued by the Federal Government in substitution for Treasury Bills.
- 1.4 "Business Day" means any Day that banks in Lahore, Pakistan are legally permitted to be open for business.
- 1.5 "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, 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.
- 1.6 "Commercial Operations Date" means the date, following which the Company notifies the Fuel Supplier in a written notice delivered to the Fuel Supplier not more than ten (10) Days after its occurrence, that the Complex has been Commissioned in accordance with the terms of the Power Purchase Agreement.

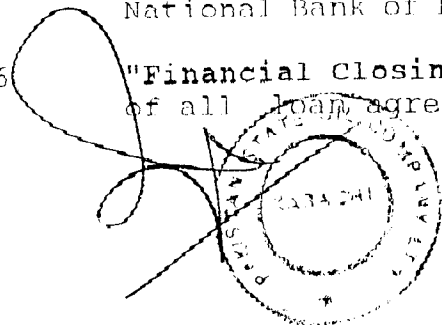


- 1.7 "Commissioned" shall have the same meaning as in the Power Purchase Agreement.
- 1.8 "Commissioning" means testing the Complex in accordance with the Power Purchase Agreement.
- 1.9 "Complex" means the approximately 120 megawatt 120 (gross) Diesel Engineers Generating Power Station constructed (or to be constructed), owned and operated by the Company at Jia Bagga, Raiwind Road, Distt. Lahore, Province of Punjab, Pakistan.
- 1.10 "Consents" means all 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 of the Implementation Agreement 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 Implementation Agreement.
- 1.11 "Contractors" means the construction contractor and the O&M Contractor (each as defined in the Implementation Agreement) and any other direct contractors of the Company and any of their direct subcontractors integrally involved in the Project.
- 1.12 "Coordinators" means each of the Operational Coordinators, Regional Coordinators and Principal Coordinators further described in Article XVI hereof.
- 1.13 "Day" means a period of twenty-four (24) hours commencing at Midnight Pakistan Standard Time, and "Daily" shall be construed accordingly.
- 1.14 "Delivery Point" means the respective delivery points for deliveries of Fuel, Diesel Oil, Greases, Lubricants and Additives as set out in Section 5.1.
- 1.15 "Despatch" has the meaning attributed thereto in the Power Purchase Agreement.
- 1.16 "Diesel Oil" means diesel oil conforming to the Specifications for diesel oil in Schedule 1.
- 1.17 "Dispute" means any dispute, difference or disagreement of any kind whatsoever between the Fuel Supplier and the



Company in connection with or arising out of this Agreement as further described in Article XVII.

- 1.18 "Engineer" means the independent consulting engineer or engineering company of international repute acceptable to WAPDA, the Company and the Lenders for the purposes of monitoring the construction and certifying the results of Commissioning, as notified to the Fuel Supplier by the Company in writing.
- 1.19 "Equipment" means all of the pipes, storage tanks, unloading facilities, equipment, and materials, including, but not limited to, the Pipeline and the Fuel supply meter that the the Complex must install to supply Fuel and/or Diesel Oil from the Fuel Supplier to Company pursuant to the terms of this Agreement.
- 1.20 "Equipment Investment" means the cost of the Equipment plus the cost of installation of the Equipment and all other related and associated costs, including, but not limited to, [the cost of acquiring land for the Pipeline, and] all financing costs incurred through to the Initial Delivery Date.
- 1.21 "Expected Commercial Operations Date" means the date, which the Company notifies the Fuel Supplier by a written notice delivered to the Fuel Supplier, not less than sixty (60) Days prior to its occurrence that the Complex is expected to be Commissioned in accordance with the terms of the Power Purchase Agreement.
- 1.22 "Expert Adjudication" means the procedure for the resolution of disputes by expert adjudication conducted in accordance with Article XVII hereof.
- 1.23 "Expert Adjudicator" means an expert appointed for the purposes of Expert Adjudication in accordance with Article XVII hereof.
- 1.24 "Expiry Date" means the date falling 22 (twenty two) Agreement Years after the Commercial Operations Date.
- 1.25 "Federally-Controlled Entity" means any Public Sector Entity subject to the overall control or direction as to matters of policy, of the GOP or which is otherwise under or controlled by the GOP which includes, without limitation, but only for so long as such entities are under the control of the GOP, WAPDA, the Fuel Supplier, National Bank of Pakistan and the State Bank of Pakistan.
- 1.26 "Financial Closing" means (a) the execution and delivery of all loan agreements evidencing the financing for the



completion of the Complex, all other parts of the financing documents executed at the time of executing of the load agreements and (b) the receipt of commitments for such equity as is required by the Company to satisfy the requirements of the Lenders and the Letter of Support dated July 27, 1994 from the Ministry of Water & Power to the Company (as modified or amended)].

- 1.27 "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.
- 1.28 "Forced Outage" has the meaning as provided in the Power Purchase Agreement.
- 1.29 "Force Majeure" has the meaning defined in Article XIII hereof.
- 1.30 "Foreign Investor" means shareholders of the Company who are foreigners or non resident Pakistanis holding dual nationalities.
- 1.31 "Fuel" means residual fuel oil conforming to the Specifications for Fuel in Schedule 1.
- 1.32 "Gross Margin" means the distributors' margin of the oil marketing companies as notified by the Government of Pakistan, Ministry of Petroleum and Natural Resources from time to time or, if not so notified, the amount mutually agreed between the Parties as the Fuel Supplier's margin or otherwise fixed in terms hereof.
- 1.33 "GOP" means the Government of the Islamic Republic of Pakistan and its successors.
- 1.34 "Guarantee" means the guarantee by the GOP of (i) the payment obligations of WAPDA under the Power Purchase Agreement, (ii) the payment obligations of the Fuel Supplier under this Agreement, and (iii) the performance obligations of the State Bank of Pakistan under the Exchange Risk Insurance (as defined in the Implementation Agreement) or such other similar scheme acceptable to the Company and the Lenders, substantially in the form set out in [Schedule 3] to the Implementation Agreement, as may be amended from time to time by agreement of the parties thereto.
- 1.35 "Implementation Agreement" means the agreement entered into between GOP and the Company on Oct 10, 1994

relating to the financing, construction and operation of the Complex.

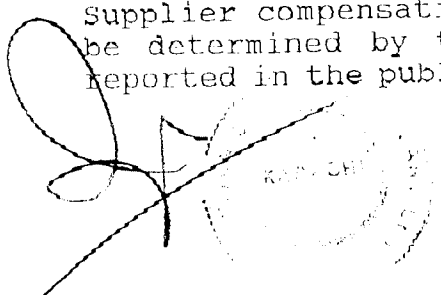
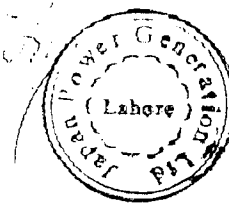
- 1.36 "Initial Delivery Date" means the date on which the Fuel Supplier shall be required to begin the delivery of Fuel to the Delivery Point pursuant to Section 6.2(a).
- 1.37 "KESC" means the Karachi Electric Supply Corporation, a public limited company incorporated under the laws of Pakistan with its principal office located at Karachi, Pakistan together with its successors and permitted assigns.
- 1.38 "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, in each case, materially and adversely affects the Company's ability to perform its obligations under any document included within the Security Package, in each of the above instances despite the Company's compliance in all respects with the procedural and substantive requirements as applied in a "non-discriminatory" manner as defined in [Section 16.4] of the Implementation Agreement.
- 1.39 "Laws of Pakistan" means the Federal, Provincial and local laws of Pakistan and all orders, rules, regulations, statutory revisionary orders, executive orders, decrees, Policies, judicial decisions, notifications, or other similar directives issued by any executive legislative, judicial, or administrative entity pursuant thereto, as any of them may be amended from time to time.
- 1.40 "Lenders" means the lenders party to the Financing Documents, together with their successors and assigns.
- 1.41 "Greases", "Lubricants" and "Additives" mean respectively greases, lubricants and additives as the Company may require for the operation of the Complex and which meet the agreed Specifications.
- 1.42 "Maintenance Months" means the Months of August, September, October and November or any other four (4) Months in a Year, at least three (3) of them consecutive Months designated by WAPDA in accordance with the Power Purchase Agreement.
- 1.43 "Month" means a calendar month beginning on the first Day of each month, and "Monthly" shall be construed accordingly.

- 1.44 NEPRA : National Electric Power Regulatory Authority.
- 1.45 "Net Electrical Output" shall have the meaning ascribed to it in the Power Purchase Agreement.
- 1.46 "O&M Contractor" means the company which the Company may from time to time appoint to operate and maintain the Complex, in conformity with the terms of the Implementation Agreement.
- 1.47 "Other Force Majeure Events" has the meaning ascribed thereto in Section 13.1(c).
- 1.48 "Pakistan Political Force Majeure Events" has the meaning ascribed thereto in Section 13.1(a).
- 1.49 "Partial Derating" shall have the meaning attributed thereto in the Power Purchase Agreement.
- 1.50 "Pipeline" means the pipeline to be constructed by the Fuel Supplier in accordance with Section 5.3 and Schedule 2, if applicable.
- 1.51 "Policies" means such policies of any Public Sector Entity as have been published in writing or otherwise publicized and are generally available.
- 1.52 "Power Purchase Agreement" means the agreement dated Oct 24, 1994 between the Company and WAPDA for the purchase of and sale of electric power and capacity generated or made available by the Complex.
- 1.53 "PPIB" : Private Power and Infrastructure Board.
- 1.54 "Project" means the development, design, engineering, manufacturing, financing, construction and completion, insurance, operation and maintenance of the Complex and all activities incidental thereto.
- 1.55 "Provincial Government" means the Government of the Province of Punjab and its successors.
- 1.56 "Public Sector Entity" means the GOP and the Provincial Government and any subdivision of either, any local governmental authority with jurisdiction over the Company, the Project, or any parts thereof, courts or tribunals in Pakistan and any department, authority, instrumentality, or judicial body of the GOP, the Provincial Government, or such local governmental authority and including, without limitation, and so long as they are Federally-Controlled Entities, WAPDA, the Fuel Supplier, Pakistan Insurance Corporation, National Insurance Corporation, the National Bank of Pakistan and the State Bank of Pakistan, but excluding the Private



Sector Energy Development Fund and National Development Finance Corporation.

- 1.57 "Rupee" or "Rs." means the lawful currency of Pakistan.
- 1.58 "Security Package" means the agreements that are entered into in furtherance of the construction, financing, operation and maintenance of the Complex or forming part of the security afforded to the Lenders, as such agreements are identified in [Section 1.69] of the Implementation Agreement.
- 1.59 "Site" means the land, spaces, waterways, roads, 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 seaward access if applicable).
- 1.60 "Specifications" for Fuel and Diesel Oil means the specifications for Fuel and Diesel Oil as set out in Schedule 1 and for Greases, Lubricants and Additives means reasonable specifications for that grade of the product concerned or as may be mutually agreed between the Parties.
- 1.61 "Terminal" means the Fuel and/or Diesel Oil storage point approved by the GOP and its loading and unloading, handling and decanting facilities for road and/or rail from or through which supplies of Fuel [and Diesel Oil] are to be made by the Fuel Supplier.
- 1.62 "Tonne" means, for liquid Fuels, 1,000 kilograms of residual fuel oil being the weight in air determined by multiplying the density of residual fuel oil by the measured volume thereof corrected to a standard temperature of 15 C (fifteen degrees centigrade).
- 1.63 "Ullage" means empty space, excluding dead stock, in the Fuel storage tank(s) at the Complex.
- 1.64 "Volume Charge" shall mean the amount of Rs. 10 per Tonne of Fuel and/or Diesel Oil indexed to inflation in Pakistan charged to the Company to provide the Fuel Supplier compensation for lost volume. Inflation shall be determined by the Consumer Price Index (IFS CPI), reported in the publication of the International Monetary

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International Monetary Fund entitled "International Financial Statistics" for Pakistan using the date of this Agreement as the base date.

1.65 "WAPDA" means the Pakistan Water and Power Development Authority, a statutory corporation established pursuant to the Pakistan Water and Power Development Authority Act of 1958, with its principal office located at Lahore, Pakistan, together with its successors and assigns permitted under the Power Purchase Agreement.

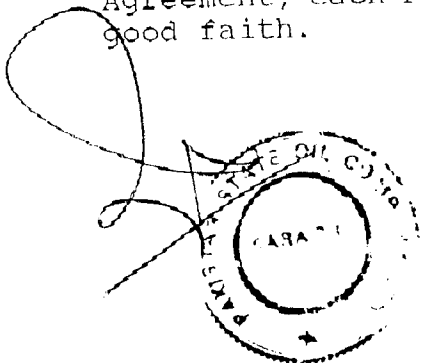
1.66 "Week" means a period of seven (7) consecutive Days beginning at midnight Pakistan Standard Time falling between a Friday and a Saturday, and "Weekly" shall be construed accordingly.

1.67 "Year" means a period of twelve (12) consecutive Months beginning at midnight Pakistan Standard Time falling between December 31 and January 1.

1.68 **Rules of Interpretation**

In this Agreement:

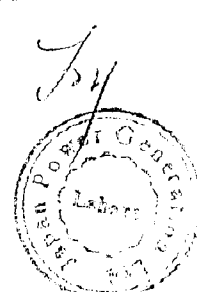
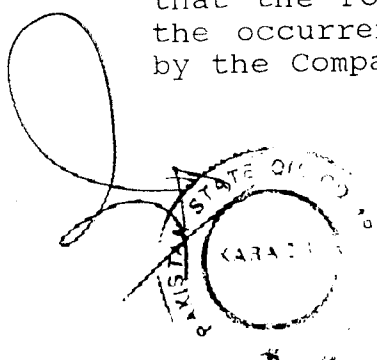
- (a) Engineering units and abbreviations thereof, shall be defined in accordance with the customs, practices and definitions of American Petroleum Institute ("API") and / or American Standards Testing for Materials ("ASTM"). Where a certain issue is not addressed by API [or ASTM], the standard and practice of the oil industry of Pakistan will be applicable.
- (b) References to Articles, Sections, and Schedules are, unless the context otherwise requires, references to Articles, Sections and Schedules in or to this Agreement.
- (c) The headings are for convenience only and should be ignored in construing this Agreement.
- (d) The singular includes the plural and vice versa.
- (e) Unless otherwise provided herein, wherever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed; and
- (f) In carrying out its obligations and duties under this Agreement, each Party shall have an implied obligation of good faith.



ARTICLE II
COMMENCEMENT AND TERM OF AGREEMENT

2.1 This Agreement shall commence and be effective upon signing and shall continue until the Expiry Date, unless:

- (a) this Agreement is terminated prior to the Expiry Date in accordance with its terms; or
- (b) the Power Purchase Agreement and/or the Implementation Agreement is terminated as a result of a default thereunder by the Company, and the Fuel Supplier, in its sole discretion, terminates this Agreement; or
- (c) the Expiry Date is extended by the number of Days that the Power Purchase Agreement is extended by the occurrence of a force majeure event declared by the Company thereunder.



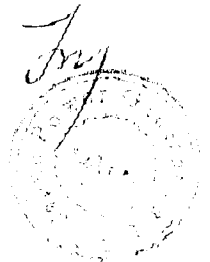
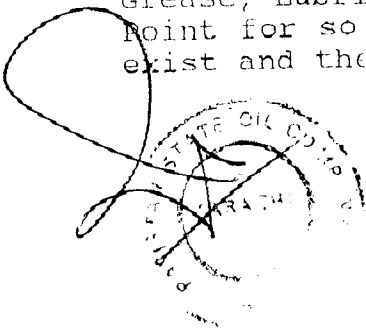
ARTICLE III
PURCHASE AND SALE OF FUEL

3.1 Purchase and Sale of Fuel

Subject to the terms and conditions of this Agreement, from and after the Initial Delivery Date, the Company shall purchase from the Fuel Supplier, and the Fuel Supplier shall sell to the Company, all the Company's requirements for Fuel, Diesel Oil, Greases, Lubricants and Additives for the Complex during the term of this Agreement.

3.2 Supply and Delivery of Fuel

The Fuel Supplier shall supply and deliver Fuel or Diesel Oil to the Delivery Point by Pipeline, rail or road and shall supply and deliver Diesel Oil, Greases, Lubricants and Additives by rail or road. The Company shall notify the Fuel Supplier of its requirements for Fuel in accordance with Article VI and shall pay the Fuel Supplier prices determined in accordance with Article VII, provided, that if at any time PSO cannot deliver Fuel, Diesel Oil, Grease Lubricants or Additives to the relevant Delivery Point by any means because of a Force Majeure Event or Events reasonably beyond PSO's control, then notwithstanding anything herein contained, PSO shall be under no obligation to pay any damages or indemnity payments to the Company or to deliver Fuel, Diesel Oil, Grease, Lubricants or Additives to the relevant Delivery Point for so long as such Force Majeure Event or Events exist and their effects continue.



ARTICLE IV
QUALITY

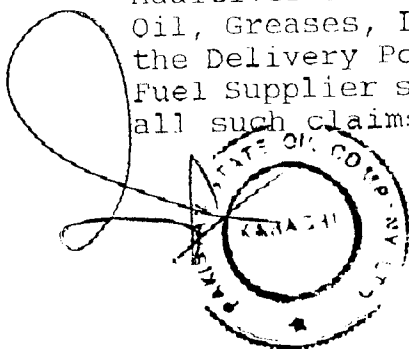
4.1 Fuel Specifications

All Fuel and Diesel Oil delivered to the Company in satisfaction of the Fuel Supplier's obligations under this Agreement shall satisfy the Specifications except where waived by the Company. The Company's acceptance of a delivery of fuel oil or diesel oil not meeting the Specifications shall constitute such waiver and upon acceptance shall be treated as if meeting the Specifications. However, the Company reserves the right to test Greases, Lubricants and Additives at any time prior to usage and if found not up to Specifications or deficient in any way in light of its intended usage or function, will advise the Fuel Supplier in writing to replace all such quantity of Greases, Lubricants and Additives and the Fuel Supplier shall be bound to replace all such supplies at its own cost within 10 (ten) Business Days of such written advice.

Subject to any waiver by the Company by taking delivery of any fuel and/or diesel oil or of any greases, lubricants or additives, if any fuel, diesel oil, greases, lubricants and additives sampled and tested in accordance with the provisions hereof do not comply with the Specifications, the Company may, in its discretion, exercised reasonably, reject such non conforming supplies.

4.2 Title to Fuel

The Fuel Supplier warrants and represents to Company that the Fuel Supplier shall, at the time of delivery to the Company at the Delivery Point, have good and marketable title to the Fuel, Diesel Oil, Greases, Lubricants and Additives to be sold to Company and that the Fuel, Diesel Oil, Greases, Lubricants and Additives when delivered to the Delivery Point shall be free and clear of liens. The Fuel Supplier shall indemnify the Company against any and all such claims or liens.



ARTICLE V
FACILITIES AND POINTS OF DELIVERY

5.1 Delivery Point

(a) The Delivery Point for Fuel and Diesel Oil shall be:

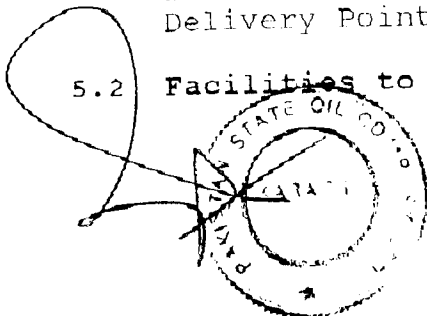
- (i) for deliveries of Fuel and/or Diesel Oil by Pipeline (owned and operated by the Fuel Supplier) the point at the Complex end of the Pipeline through which Fuel and/or Diesel Oil is delivered to the Company;
- (ii) for deliveries of Fuel and/or Diesel Oil by pipeline (owned and operated by the Company or any third party) the point at the Terminal end of the Pipeline through which Fuel and/or Diesel Oil is delivered to the Company;
- (iii) for deliveries of Fuel and/or Diesel Oil by rail, the railway unloading point where a representative of Pakistan Railways is present at the decanting facilities provided by the Company at the Complex at which deliveries of Fuel and/or Diesel Oil are taken by the Company and such Fuel and/or Diesel Oil is unloaded from the train(s);
- (iv) deliveries of Fuel and/or Diesel Oil by road, the point at the decanting facility located at the Complex through which Fuel and/or Diesel Oil is delivered by truck to the Company.

(b) The Delivery Point for Greases, Lubricants and Additives shall be:

- (i) for deliveries of Greases, Lubricants and/or Additives by rail, the railway terminal at the Complex upon off loading at such terminal premises;
- (ii) for deliveries of Greases, Lubricants and/or Additives by road, the entrance to a warehouse of the Complex.

Title and risk of loss of Fuel, Diesel Oil, Greases, Lubricants and Additives delivered hereunder shall pass from the Fuel Supplier to the Company at the relevant Delivery Point(s).

5.2 Facilities to be Provided by the Company



(a)

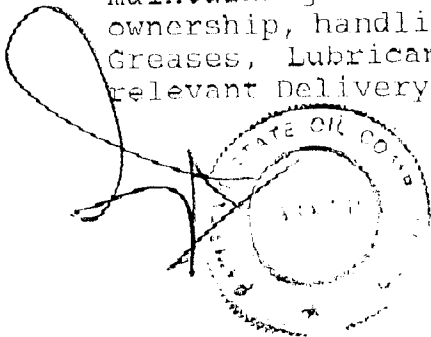
The Fuel Supplier's sole obligation under this Agreement is to deliver Fuel, Diesel Oil, Greases, Lubricants and Additives to the relevant Delivery Point(s) in conformance with the terms and provisions of this Agreement. The Company shall, at its own cost and expense, and not later than the Initial Delivery Date, design, construct, install and maintain such facilities as are necessary for the purpose of receiving, storing, and using of Fuel, Diesel Oil, Lubricants, Greases and Additives supplied by the Fuel Supplier pursuant to this Agreement.

These facilities shall include:

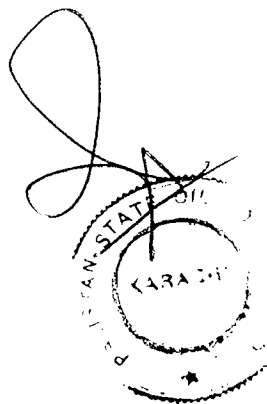
- (i) a rail terminal with all requisite sidings, offloading gantry/facilities (including, without prejudice to the generality of the foregoing, pipelines and pumps and decanting apparatus) able to accommodate at any time at least one special train comprising 70 (seventy) four wheeler tank wagons and able to decant the said seventy wagon special train within the allotted lay time;
- (ii) a truck decanting facility located at the Complex capable of receiving deliveries of Fuel and Diesel Oil;
- (iii) storage tanks for Fuel and Diesel Oil capable of storing at least thirty (30) days requirement of Fuel and Diesel Oil for the Complex (based on the Complex running at 100% (one hundred percent) of capacity or as otherwise specified by the Fuel Supplier in its letter of commitment.
- (iv) adequate and proper warehouses and storage tanks for the storage of the Complex's requirements of Diesel Oil, Greases, Lubricants and Additives; and
- (v) all requisite pipelines, pipeline termination flange(s) as specified by the Fuel Supplier.

(b)

The facilities constructed, installed and maintained by the Company to receive, store, and use Fuel, Diesel Oil Greases, Lubricants and Additives delivered pursuant to this Agreement shall be constructed and maintained in accordance with internationally accepted fuel oil industry standards. The Company is responsible for maintaining the safety of the Complex and for the ownership, handling, storage, and use of Fuel, Diesel Oil Greases, Lubricants and Additives after it passes the relevant Delivery Point(s). All facilities to be provided

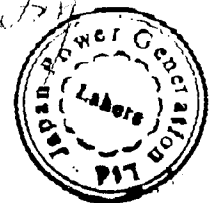
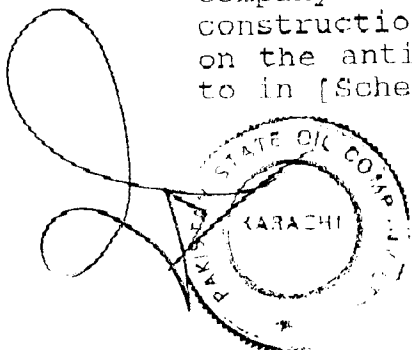


by the Company shall conform to the provisions of the Petroleum Act, 1934 and the Rules made thereunder.



5.3 Facilities to be Provided by the Fuel Supplier.

- (a) The Fuel Supplier may effect supplies through pipe line to the Complex if forced economical and feasible on internally agreed terms.
- (b) The Fuel Supplier shall at its own cost and expense design, construct, install and maintain all facilities and Equipment as are necessary to deliver Fuel to the Delivery Point in the quantities required by the Company pursuant to this Agreement.
- (c) The Fuel Supplier undertakes that subject to the provisions of this Agreement the facilities to be constructed and Equipment to be provided by it under this Section 5.3 shall be constructed and maintained in accordance with internationally accepted fuel oil industry engineering standards [and the specifications set out in Schedule 2] and shall be completed and available for use by the Initial Delivery Date in order to allow the first delivery of Fuel hereunder to be made immediately thereafter subject to notification by the Company pursuant to Section 6.2; provided, however, that the Initial Delivery Date shall not be earlier than twenty-six (26) Months from the Financial Closing and the Fuel Supplier shall have the said period of twenty-six (26) Months from the Financial Closing for the completion of construction of the facilities to be provided by the Fuel Supplier under this Section 5.3 of this Agreement. This period shall not be subject to any downward adjustment but shall be extendable on account of Force Majeure Events or by leave of the Company; provided, further, that subject to the twenty-six (26) Months requirement above, in no event shall the Initial Delivery Date be later than one hundred twenty (120) Days prior to the scheduled Commercial Operations Date designated by the Company to WAPDA pursuant to the Power Purchase Agreement, notice of which shall be provided by the Company to the Fuel Supplier.
- (d) (i) Within thirty (30) Days of Financial Closing, the Company will provide the Fuel Supplier with a schedule for the construction of the Complex showing the commencement of Commissioning and the Scheduled Commercial Operations Date (under the Power Purchase Agreement) of the Complex.
- (ii) Not later than six (6) months from Financial Closing, the Fuel Supplier shall deliver to the Company a detailed schedule for the design and construction of the [Pipeline and] Equipment based on the anticipated Initial Delivery Date referred to in [Schedule 3].



(iii) During the construction and installation of the Equipment, the Parties will provide each other with quarterly reports showing progress of construction of their respective facilities and the Complex against the schedules provided pursuant to (i) and (ii) above.

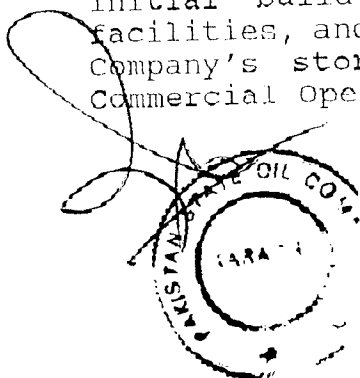
(e) Subject to the period of construction allowed to the Fuel Supplier under Section 5.3(c) above, six (6) Months prior to the Initial Delivery Date, the Fuel Supplier shall provide the Company with a commissioning programme and a schedule of commissioning tests for the Pipeline. The schedule of tests shall provide detailed test procedures including reference to: (i) Commissioning and test-run of Fuel and/or Diesel Oil forwarding and Fuel heating facilities, (ii) testing of Fuel and/or Diesel Oil flushing or line emptying system.

The Principal Coordinators shall ensure that the Commissioning and test procedures are agreed between the Parties, but in the event that the Principal Coordinators are unable to agree on such procedures, they shall refer the matter for resolution under Article XVII.

(f) The Company and the Fuel Supplier shall agree on the route and placement of all Equipment to be installed by Fuel Supplier on property owned by the Company, and once so agreed the Company shall grant to the Fuel Supplier all necessary easements and rights-of-way to install, operate, maintain, replace and/or remove such Equipment.

(g) No later than six (6) Months prior to the Initial Delivery Date the Company shall provide the Fuel Supplier with a Commissioning programme and a schedule of Commissioning tests for the Complex.

The schedule of tests shall provide detailed procedures including requirements of Fuel for testing purposes and initial build-up of Fuel in the Company's storage facilities, and a preliminary schedule for filling of the Company's storage facilities in anticipation of the Commercial Operations Date.



ARTICLE VI
QUANTITIES OF FUEL TO BE DELIVERED - SCHEDULING

6.1 Estimates for Future Deliveries

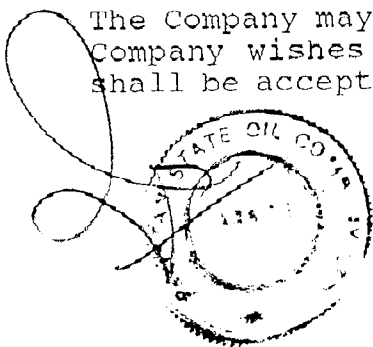
The Parties shall consult from time to time to develop estimates of future requirements of Fuel, Diesel Oil, Greases, Lubricants and Additives for the Complex, to be delivered by the Fuel Supplier with the goal of providing the Fuel Supplier with the best available estimates of future Fuel, Diesel Oil, Greases, Lubricants and Additives delivery requirements which will be based on WAPDA Despatch levels.

6.2 Initial Delivery Date and Year Ahead Estimates

- (a) The Company shall provide at least sixty (60) Days notice to the Fuel Supplier of the Initial Delivery Date, which anticipated date is specified in [Schedule 3] hereto.
- (b) Without limiting the generality of Section 6.1 the Company shall at least sixty (60) Days prior to the Initial Delivery Date and thereafter at least ninety (90) Days prior to the beginning of each Year (following consultations with the Fuel Supplier and WAPDA, provide the Fuel Supplier with estimates for each quarter in the following Year of the requirements for delivery of Fuel and Diesel Oil to the Complex.

6.3 Notification of and Adjustment to Fuel and Diesel Oil Requirements

- (a) The Company shall, sixty (60) Days prior to the commencement of each calendar quarter after the commencement of deliveries of Fuel and/or Diesel Oil hereunder, provide the Fuel Supplier with a firm order to purchase such quantity of Fuel and/or Diesel Oil for such quarter as would be required by the Complex for power generation. The order shall be broken down into Monthly figures based on Monthly estimates of Despatch levels for the relevant succeeding calendar quarter provided to the Company by WAPDA under the Power Purchase Agreement.
- (b) At least once in each Month the Operational Coordinators shall meet to review the probable usage of Fuel and Diesel Oil by the Complex for the succeeding Month and calendar quarter.
- (c) The Company may give notice to the Fuel Supplier that the Company wishes to amend the firm order. Such amendment shall be accepted by the Fuel Supplier without penalty to



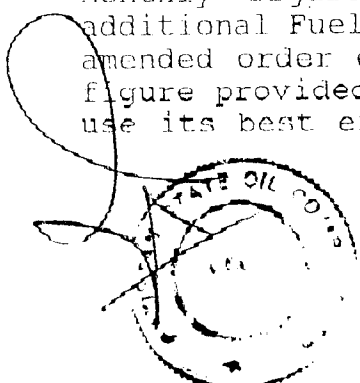
the Company if the cumulative effect of such amendment is to reduce the Monthly figure by 10% or less; the Company shall be obliged to purchase only that quantity of Fuel and/or Diesel Oil, requested by it in such amended order; Provided, however, that if WAPDA Despatch levels of the Complex are so changed that the Company has to amend the order as a result thereof or otherwise amends the order and the cumulative effect of such an amendment is to reduce the Monthly figure by more than ten percent (10%) (or twenty percent (20%) if at least forty five (45) Days prior written notice of such change has been given to the Fuel Supplier by the Company), the Company shall:

- (i) be obliged to take any consignment of Fuel and/or Diesel Oil whether by Pipeline, rail or road already in transit for the Complex to the extent Ullage is available at the Complex, failing which the Company shall pay any freight charges for the consignment of Fuel and/or Diesel Oil to the Complex or the Terminal, railway demurrage charges, road halting charges and diversion charges therefrom to the decantation point at the facility of the alternative buyer; and
- (ii) if the cumulative effect of such amendment(s) results in a reduction of twenty percent (20%) or more of the Monthly figure the Company shall also pay in Rupees to the Fuel Supplier, the tanker demurrage charges as are incurred by the Fuel Supplier and are attributable to such amendment(s) made by the Company.

Without prejudice to its rights of recovery from the Company hereunder, the Fuel Supplier acknowledges the understanding that pursuant to the Power Purchase Agreement such penalties will be passed through to WAPDA as part of the Capacity Payments as defined in the Power Purchase Agreement and shall be subject to audit by WAPDA or the Company.

All penalties and charges under Section 6.3(c) shall be subject to third party audit.

- (d) In the event the Company gives notice to the Fuel Supplier of an amendment to the order, the cumulative effect of which is up to ten percent (10%) more than the Monthly figure, the Fuel Supplier shall supply the additional Fuel and/or Diesel Oil to the Company. If the amended order exceeds ten percent (10%) of the Monthly figure provided by the Company, the Fuel Supplier shall use its best efforts to meet such amended order to the



extent it exceeds ten percent (10%) but shall be under no obligation to do so.

6.4 Month Ahead Estimates.

The Company shall, fourteen (14) Days prior to the commencement of the Month in which deliveries of Fuel commence, and of each Month thereafter, provide the Fuel Supplier Weekly estimates of the requirements for Fuel and Diesel Oil by the Company for the relevant succeeding Month.

6.5 Maintenance of Fuel and Diesel Oil Levels

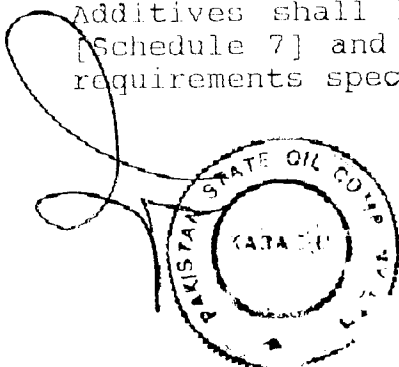
At all times after the Commercial Operations Date the Company will, based on projections of Despatch (as defined in Power Purchase Agreement) received from WAPDA pursuant to the Power Purchase Agreement order deliveries of Fuel calculated to maintain at the Complex a quantity of Fuel equivalent to thirty (30) Days' supply at full load provided, however, that this requirement shall in no way limit the entitlement of the Company hereunder to refuse to accept any attempted delivery of fuel oil for failure to meet the Specifications. If at any time after the Commercial Operations Date the stock of Fuel and/or Diesel Oil stored at the Complex falls below sixty (60%) percent of the capacity of Fuel and/or Diesel Oil storage tanks, the Company shall promptly inform the Secretary, Ministry of Petroleum and Natural Resources and the Secretary, Ministry of Water and Power of such fact. Such Fuel and/or Diesel Oil storage tanks shall have a capacity equal to at least thirty (30) Days of operation of the Complex at one hundred percent (100%) of the Estimated Dependable Capacity of the Complex, (as defined in the Power Purchase Agreement).

6.6 Daily Report

At an agreed time each Day, the Company shall provide the Fuel Supplier with a Daily report detailing stock levels and consumption of Fuel and/or Diesel Oil for the previous Day.

6.7 Greases, Lubricants and Additives

Firm orders for Diesel Oil Greases, Lubricants and Additives shall be placed in the manner specified in [Schedule 7] and in accordance with the advance notice requirements specified therein.



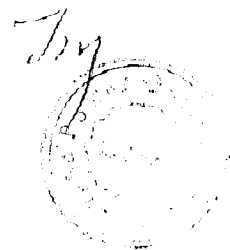
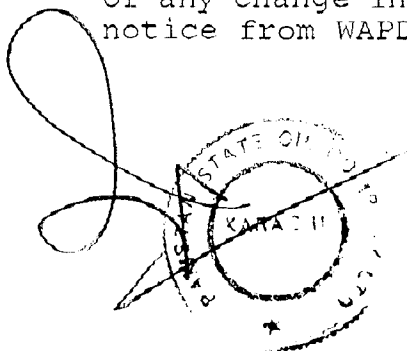
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6.8 Scheduled Outages

Pursuant to the Power Purchase Agreement, the Complex may be shut down for an annual maintenance period or periods (a "Scheduled Outage") of not more than thirty (30) Days in the aggregate per Year and not more than sixty (60) Days in any fifth (5th) Year following the Commercial Operations Date. The Scheduled Outage shall occur during the Maintenance Months, and will be scheduled as follows:

Company shall develop a schedule of the desired Scheduled Outage period and shall then submit the schedule to WAPDA. The Company shall give the Fuel Supplier at least sixty (60) Days advance written notice of the beginning date and the duration of the Scheduled Outage allowed by WAPDA. Such schedule shall be subject to change by WAPDA in accordance with the Power Purchase Agreement. The Fuel Supplier shall be notified in writing by the Company of any change in the schedule immediately upon receiving notice from WAPDA.



ARTICLE VII
PRICE OF FUEL

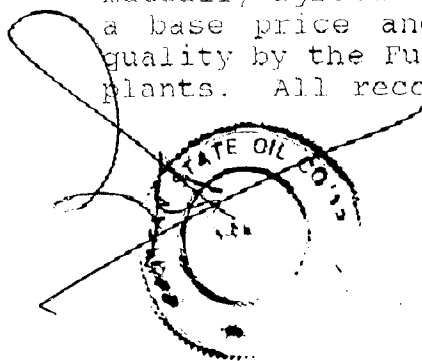
7.1 Price Established by GOP

The price the Company shall pay for Fuel and Diesel Oil delivered at the Delivery Point shall be the price of Fuel (expressed in Rupees per Tonne) and Diesel Oil (expressed in Rupees per Litre) established from time to time by the GOP under the Petroleum Products (Development Surcharge) Ordinance 1961 or any statutory modification or re-enactment thereof and the Rules made thereunder. The price so fixed comprises various components which may include the following: fixed selling price, Gross Margin, refinery price, inland freight margin, Development Surcharge, duties and Taxes. The Fuel Supplier shall notify the Company of any or actual or proposed change in the price so established as soon as reasonably practicable after becoming aware of it. Such notice shall state the new price and the date and time of the change.

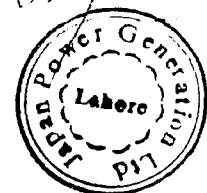
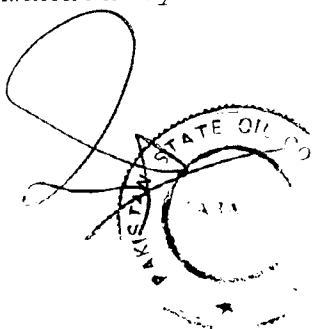
Notwithstanding the above, if there is any increase in any of the components of the price for Fuel and/or Diesel Oil and any and all Taxes (as defined in Section 7.6 below) then the said increase shall be recoverable by the Fuel Supplier from the Company against a written demand and the Company shall pay the relevant amount to the Fuel Supplier within five (5) Business Days of the receipt of such demand.

7.2 Price Established by Fuel Supplier and Company

If the GOP does not establish a price for Fuel or Diesel Oil, or any component of such price in accordance with Section 7.1, and the Fuel Supplier at any time or times demands an increase in the existing price, a representative of WAPDA and the Principal Coordinators of the Fuel Supplier and the Company shall meet to agree upon an appropriate price for future deliveries at the Delivery Point (including the amount of the Gross Margin) which shall be based on the price charged (or proposed to be charged) to all other customers of the Fuel Supplier (for like commodities) taking into account the relevant variable factors (including, but not limited to location of the Complex and distance from the Terminal/Depot) plus mutually agreed upon charges, if any and may, consist of a base price and an index or factor, used for like quality by the Fuel Supplier to other thermal generating plants. All reconciliation payments shall be made with



effect from the date the relevant increase was first demanded by the Fuel Supplier.

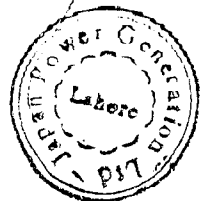
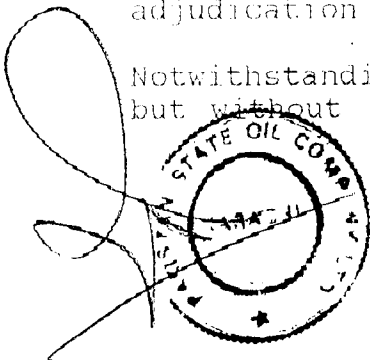


7.3 Failure to Agree on Price

If the Principal Coordinators of the Fuel Supplier and the Company and WAPDA fail to agree on a price for Fuel Oil or Diesel Oil, or to an alternate index or factor or to any component of such price (including the Gross Margin) pursuant to Section 7.2 within ninety (90) Days of the date upon which the GOP ceases to publish the price referred to in Section 7.1 or from the date an upward revision is sought by the Fuel Supplier, the Company or the Fuel Supplier may at any time thereafter refer the matter to an Expert Adjudicator pursuant to Article XVII. The Expert Adjudicator will nominate an alternate base price and an alternate index or factor, as the case may be, taking into account the relevant variable factors including, but not limited to location of the Complex and distance from the Terminal/Depot that shall be binding on the Company, the Fuel Supplier and WAPDA. In lieu of referral of the matter to an Expert Adjudicator, the Company and the Fuel Supplier may agree to refer the matter to the National Electric Power Regulatory Authority (hereinafter referred to as "NEPRA", which term shall, until such time as NEPRA is duly constituted and functioning be deemed to be a reference to the Private Power and Infrastructure Board, the "PPIB"). The Expert Adjudicator or NEPRA shall be requested to make a final determination within ninety (90) Days of the referral of the matter to the Expert Adjudicator or NEPRA. Without prejudice to its rights hereunder, the Fuel Supplier recognizes that it is the Company's intention to pass the cost of Fuel and/or Diesel Oil on to WAPDA and accordingly, the Fuel Supplier hereby consents to WAPDA participation in such Expert Adjudication/adjudication by NEPRA to state its case and the final determination of the Expert Adjudicator or NEPRA, as the case may be, shall be final and binding on the Company, the Fuel Supplier and WAPDA as regards price.

The Expert Adjudicator or NEPRA as the case may be will establish a base price and an index based on one or more factors (taking into account the relevant variable factors including, but not limited to location of the Complex and distance from the Terminal/Depot), and shall fashion a provision by which either of the Parties can reopen the price or indecision mechanism, the Parties will then renegotiate and, if such negotiations are not successful either Party can initiate an Expert adjudication (or NEPRA adjudication).

Notwithstanding any other provision of this Agreement, but without prejudice to the rights of the Parties to



refer the matter to Expert Adjudication or adjudication by NEPRA hereunder, if at any time or times the Fuel Supplier demands any increase(s) in the price of Fuel and/or Diesel Oil (whether by reason of the deregulation of the price of such commodity or increase in any component of the price or otherwise howsoever), then, the Company shall subject to the next following paragraph of this Section 7.3 regarding the effective date of the price increase pay the increased price demanded by the Fuel Supplier from the fifteenth (15th) Day after the relevant increase in price is demanded by the Fuel Supplier each time any such increase is demanded and regardless of the existence of any disagreement regarding the price (or any component thereof) or any Dispute or the fact that the matter has been referred to, or is pending before, the Expert Adjudicator or NEPRA.

Notwithstanding the foregoing, if the dispute relates only to the element of Gross Margin upon deregulation by the GOP, the interim Gross Margin payable by the Company (as a part of the price) shall be the higher of the last Gross Margin fixed by the GOP or ten percent (10%) of the price.

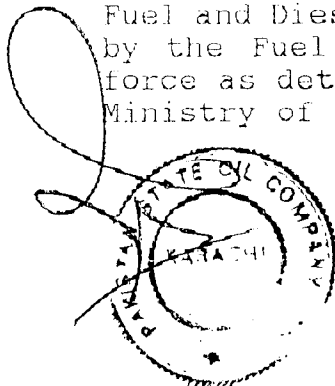
Any reconciliation payments for Fuel or Diesel Oil that may be necessary as a result of a variation in the price of Fuel or Diesel Oil as determined by mutual agreement between the Parties or by the Dispute resolution procedure shall be made with effect from the date the relevant increase was first demanded by the Fuel Supplier and shall be made within fourteen (14) Days of the determination together with the Base Compensation Rate.

7.4 Price for Greases, Lubricants and Additives

The price for Greases, Lubricants and Additives shall be mutually agreed between the Parties based on the Fuel Supplier's then current trade price lists and the price charged for like quality and specifications by the Fuel Supplier to other thermal generating plants and modifications thereto agreed between the Parties.

7.5 Transportation Costs

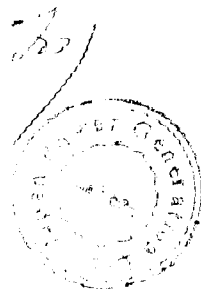
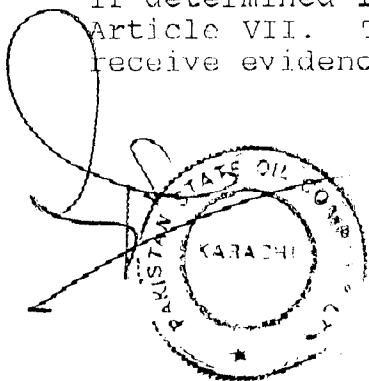
The Pipeline tariff/thruput charge and road and rail transportation costs (the "Transportation Costs") for Fuel and Diesel Oil are expected to be recovered in full by the Fuel Supplier under the Freight Pool Rules in force as determined and notified by the GOP through the Ministry of Petroleum and Natural Resources. If for any



reason the Transportation Costs cannot be recovered in whole or part by the Fuel Supplier under the Freight Pool Rules because such Transportation Costs are not covered by the Freight Pool Rules or by reason of any change in or abandonment of the Freight Pool Rules, the Fuel Supplier and the Company will mutually agree the amount of the Transportation Costs (which agreed amount shall be added to the price). If such Transportation Costs are not mutually agreed by the Parties [or if they are not acceptable to WAPDA the matter will be referred to an Expert Adjudicator acceptable to both the Parties. The Expert Adjudicator shall make a final determination within ninety (90) Days of the Expert Adjudicator's appointment under Article XVII. From the fifteenth (15th) Day after any Transportation Costs (or increase thereof) are claimed by the Fuel Supplier (as part of the price) until the new Transportation Costs have been determined, the Transportation Costs will be paid by the Company as billed by the Fuel Supplier. Any reconciliation payments shall be marked up to the extent of the Base Compensation Rate. The Fuel Supplier hereby consents to WAPDA participation in the Expert Adjudication to state its case.

7.6 Taxes

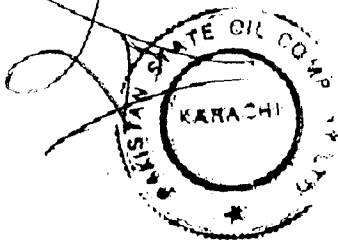
The price of Fuel, Diesel Oil, Greases, Lubricants and Additives as notified by the GOP pursuant to Section 7.1 or determined under Section 7.2, 7.3, 7.4 or 7.5 payable by the Company pursuant to this Article VII shall be inclusive of all duties, taxes, imposts, and dues of every description including octroi, whether imposed or to be imposed directly or indirectly on Fuel, Diesel Oil, Greases, Lubricants and Additives or on its production, manufacture, storage, import, ownership, use, handling, sale, delivery or transportation and whether assessed or to be assessed on or upon the buyer or seller thereof or on any person (together referred to as "Taxes" which term includes each and every such tax) but any new Taxes and any increase in any Taxes or any of them shall automatically result in a corresponding increase in the price charged to the Company by the Fuel Supplier and the Company shall be obliged to pay such increased price as if determined in accordance with the provisions of this Article VII. The Company shall however be entitled to receive evidence of such increase in Taxes.



ARTICLE VIII
INVOICING AND PAYMENTS

8.1 Payments

The Company will transfer through deposit into the agreed bank account of the Fuel Supplier an amount in Rupees equal to its fifteen (15) Days order for Fuel and Diesel Oil at least seven (7) Days prior to the commencement of such fifteen (15) Day period. Procedures for payment for Lubricants and Greases are set out in [Schedule 7]. The Fuel Supplier shall be under no obligation to deliver Fuel, Diesel Oil, Lubricants, Greases or Additives unless they have been paid for in the manner described above. Any Fuel, Diesel Oil, Lubricants, Greases or Additives not paid for in such manner but delivered at the Fuel Supplier's discretion shall be paid for promptly, with mark-up at the Base Compensation Rate calculated from the Day payment was due, but such delivery shall not constitute a waiver hereunder or oblige the Fuel Supplier to make any further or other deliveries otherwise than against advance payment.

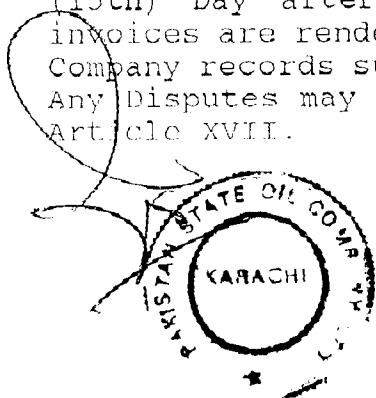


8.2 Invoicing

The Fuel Supplier will submit an invoice to the Company for the delivery of Fuel and/or Diesel Oil through Pipeline, rail and by truck lorries as the case may be under the provisions of [Schedule 6]. The Fuel Supplier shall submit an invoice for, Greases, Lubricants and Additives at the time of delivery at the Delivery Point.

8.3 Disputes

Where any discrepancy concerning the quantity of Fuel; Diesel Oil, Lubricants, Greases or Additives delivered to and accepted by the Company is alleged by the Company, the Company shall give written notice to the Fuel Supplier by the close of the fifth (5th) Business Day after the Company's receipt of the invoice; where any other discrepancy between payments made and Fuel, Diesel Oil, Lubricants, Greases or Additives delivered and accepted is alleged by the Company, the Company shall give written notice to the Fuel Supplier of the nature and amount of the discrepancy by the end of the fifteenth (15th) Day after the end of the Month in which the invoices are rendered to the Company along with relevant Company records supporting the claim of the discrepancy. Any Disputes may be referred for resolution pursuant to Article XVII.



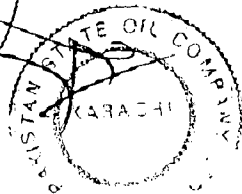
ARTICLE X
MEASUREMENT OF QUANTITY DELIVERED

10.1 Measurement of Pipeline Deliveries

Any consignment of Fuel or Diesel Oil to be delivered through the Pipeline/pipeline to the Complex shall be measured at the Fuel Supplier's Terminal by tank dipping prior to its delivery to the Pipeline/pipeline Delivery Point. After it passes the Delivery Point, the consignment of Fuel and/or Diesel Oil shall be measured again by tank dipping at the Complex. Measurement by tank dipping in both instances shall be carried out by a representative of the Company in the presence of a representative of the Fuel Supplier.

10.2 Measurement of Rail Deliveries

In the event delivery of Fuel and/or Diesel Oil is by rail, measurement shall take place by tank dipping at the Terminal at which such Fuel and/or Diesel Oil is loaded on the train and again at the delivery point at the complex. The railway receipt/certificate signed by the authorised representatives of both the parties as well as the authorised representative of Pakistan Railways shall be conclusive as regards such measurement between the Fuel Supplier and the Company.



10.3 Measurement of Truck Deliveries

In the event delivery of Fuel and/or Diesel Oil is by truck, each truck load shall be measured by tank dipping in the truck, in each instance to be carried out by a representative of the Company in the presence of each truck driver.

10.4 Verification of Quantity

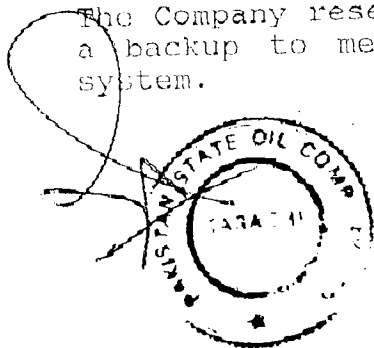
Where delivery of Fuel and Diesel Oil is through Pipeline/pipeline, each measurement of tank dipping will be recorded and any variation noted on the Fuel Supplier's standard form and countersigned by a representative of the Company. The invoice shall be based on the tank dipping measurement at the Complex.

Where delivery of Fuel and/or Diesel Oil is by rail, measurements on the relevant railway receipt signed by authorised representatives of both the parties and of Pakistan Railways shall be compared at the Complex to determine any shortfall in quantity and quality; and a certificate issued by the Railways to this effect. This certificate will be conclusive for claiming such shortfalls, from the Railways. In case of any shortfall in quantity upon arrival at the Complex, the Company may take up the matter with the railway authorities but shall have no claim against the Fuel Supplier for any such shortfall.

Where delivery of Fuel and/or Diesel Oil is by truck, each measurement of tank dipping and the variation therein, if any, shall be recorded on the reverse side of each invoice, which recording shall be duly signed jointly by a representative of the Company and the respective truck driver.

10.5 Meter Systems

The Company reserves the right to use a meter system as a backup to measure quantity for its own accounting system.



ARTICLE XI
MAINTENANCE AND REPAIR

11.1 Inspection and Maintenance Programme

Subject to Section 11.3, the Fuel Supplier and the Company shall consult each other prior to the required Commercial Operations Date (under the Power Purchase Agreement) and thereafter prior to the commencement of each Year for a coordinated inspection and operational maintenance programme of the facilities constructed in accordance with the requirements of the Complex and the Company's maintenance obligations under the Power Purchase Agreement.

11.2 Revisions to Inspection and Maintenance Programme

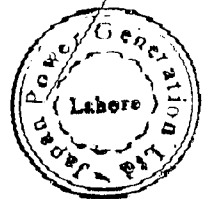
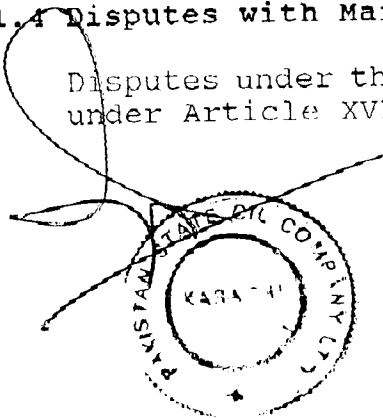
The Fuel Supplier and the Company shall meet from time to time as may be necessary to revise the programme settled pursuant to Section 11.1.

11.3 Unscheduled Maintenance or Repair

The Fuel Supplier and the Company shall immediately consult in the event of any unscheduled maintenance or repairs required to be done on all Fuel delivery or receipt facilities to ensure the minimum possible disruption to the operation of the Complex.

11.4 Disputes with Maintenance Programme

Disputes under this Article may be referred to resolution under Article XVII.



ARTICLE XII
DAMAGES

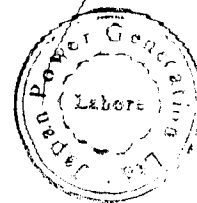
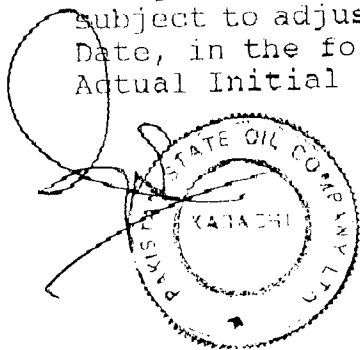
12.1

Failure by the Fuel Supplier to commence Delivery of Fuel

Except when the failure of the performance of the Fuel Supplier is excused under the terms of this Agreement, the Fuel Supplier shall indemnify the Company for any costs, damages, losses or penalties (including reasonable legal expenses) directly caused by the failure of the Fuel Supplier to commence delivery of required quantities of Fuel pursuant to firm orders placed by the Company in accordance with this Agreement by the Initial Delivery Date, provided such date is at least twenty-six (26) months from the Financial Closing; provided, however, that the Fuel Supplier shall not be liable to indemnify the Company for any cost, damage, loss or penalty suffered by it regardless of the Fuel Supplier's failure to the extent that the Fuel Supplier's failure is due to the failure of the Company to meet its obligations under this Agreement or to the extent that the Company would have suffered such cost, damage, loss or penalty even if the Fuel Supplier had performed. Notwithstanding anything to the contrary contained herein above, nothing in this Clause 12.1 shall apply to any costs, damages, losses or penalties to the extent that the Company is compensated for such costs, damages, losses or penalties pursuant to any policy of insurance held by the Company or which the Company was required to obtain and maintain pursuant to the terms of the Power Purchase Agreement. All subject to the foregoing, the Fuel Supplier's indemnification of the Company under this Clause 12.1 shall include the following:

- (a) the additional costs becoming payable to the Construction Contractor by the Company due to the inability of the Company or the Construction Contractor to commence testing and Commissioning of the Complex;
- (b) the Capacity Payments (as defined in the Power Purchase Agreement) or any part thereof which the Company would have been entitled to receive from WAPDA under the Power Purchase Agreement but which the Company cannot receive because the Complex has not been completed testing and is not Commissioned.

Damages paid pursuant to this Section 12.1 shall be subject to adjustment following the Commercial Operations Date, in the following circumstances and manner: If the Actual Initial Dependable Capacity ("AIDC") is less than



the Estimated Dependable Capacity ("EDC") (all terms as defined in the Power Purchase Agreement), and the Fuel Supplier has paid the Company pursuant to (b), above, on the basis of the EDC, then the Fuel Supplier shall be entitled to, and the Company shall pay, a refund for the difference in kilowatts times the Monthly liquidated damages (pro-rated, as appropriate) times the number of Months of delay caused by the Fuel Supplier; and if the AIDC is greater or lesser than the EDC, and the Fuel Supplier has paid the Company pursuant to (c), above, on the basis of the EDC, then the Fuel Supplier shall owe and shall pay to the Company an additional payment (if the AIDC is greater) or the Company shall owe and pay to the Fuel Supplier a refund (if the EDC is greater), in each case for the difference in kilowatts times the Capacity Payment (pro-rated as appropriate) times the number of Months of delay caused by the Fuel Supplier.

12.2 Failure of the Fuel Supplier to Deliver Fuel

- (a) If the Company orders a delivery of Fuel under Article VI hereof and the Fuel Supplier fails to make such a delivery, then notwithstanding such failure, but subject to the provisions of Article VI, the Company shall not be obliged to modify in any way its generating operations in order to conserve Fuel.
- (b) To the extent the Fuel Supplier fails to deliver Fuel which it was required to deliver pursuant to this Agreement in response to a firm order placed by the Company for delivery on or after the Initial Delivery Date for the delivery of Fuel properly made under Section 6.3 and to the extent such unexcused failure directly causes the Company (i) to lose Capacity Payments or any part thereof from WAPDA under [Section 9.1(b)] of the Power Purchase Agreement, the Fuel Supplier shall pay to the Company on a Monthly basis the Capacity Payments the Company would have received from WAPDA, or (ii) to incur liquidated damages under [Section 9.4] of the Power Purchase Agreement, the Fuel Supplier shall pay to the Company an amount equal to the difference between the total amount of liquidated damages incurred by the Company to WAPDA under [Section 9.4] of the Power Purchase Agreement in any Month or Agreement Year (as defined in the Power Purchase Agreement) in which the Fuel Supplier so fails to deliver Fuel and the total amount of such liquidated damages that the Company would otherwise have paid in such Agreement Year (taking into account the credit against liquidated damages under [Section 9.4] of the Power Purchase Agreement for lost Capacity Payments under [Section 9.1(b)] thereof, but

only if the Fuel Supplier has reimbursed the Company for such lost Capacity Payments), in each case but for such unexcused failure by the Fuel Supplier to deliver Fuel; provided, however, that this Section 12.2(b) shall not apply to any firm order for Fuel placed before the Initial Delivery Date; and provided further that if the Fuel Supplier suffers an Other Force Majeure Event as described in Section 13.1(c) of this Agreement and for this reason cannot resume deliveries within twenty-one (21) Days and the Company fails to declare to WAPDA that it has suffered a Force Majeure in circumstances where it is entitled to do so pursuant to [Section 13.1(d)] of the Power Purchase Agreement, the Fuel Supplier will not be liable to the Company except for Capacity Payments lost as a result of an Other Force Majeure continuing beyond twenty one (21) Days.

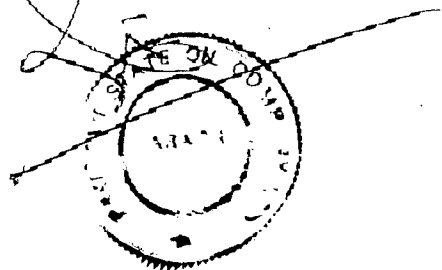
Without prejudice to any provision of this Agreement and without giving rise to any liability whatsoever on the part of the Company or the Fuel Supplier therefor, it is here stated that, for information purposes only, one (1) Tonne of Fuel is normally approximately equivalent to four (4) Megawatt hours of Net Electrical Output.

- (c) The Fuel Supplier shall indemnify the Company against all costs, claims, damages, penalties, liabilities and losses (including reasonable legal expenses) directly attributable to the delivery to the Delivery Point, of Fuel, Diesel Oil, Greases, Lubricants and Additives that do not conform to Specifications (except where such commodities have been accepted by the Company) and for unexcused failure to deliver Fuel, Diesel Oil, Greases, Lubricants and Additives under this Agreement against firm order placed by the Company. For the purposes of, without limitation, 12.1(b)(i) and (ii), above, and Section 6.5 the Fuel, Diesel Oil, Greases, Lubricants and Additives proffered for delivery that do not meet the Specifications and that are not accepted by the Company shall be treated as though they had not been proffered for delivery.

12.3 Failure by the Company to Accept Delivery

If:

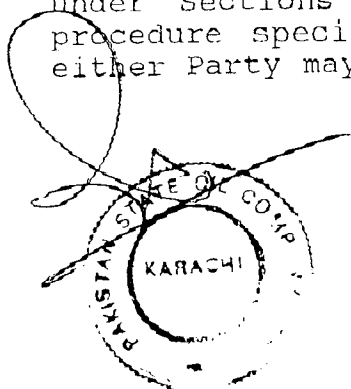
- (a) the Company places a firm order, as may have been amended pursuant to Section 6.3(c), to the Fuel Supplier to make a delivery of Fuel, Diesel Oil, Lubricants, Greases and Additives; and



- (b) the Company refuses upon tender thereof to accept delivery for any reason other than as a result of (i) an event of Force Majeure, (ii) or as a result of a change in WAPDA Despatch (in which case the provisions of Section 6.3 shall apply), or (iii) the failure of the fuel proffered for delivery to meet the Specifications, the Company shall indemnify the Fuel Supplier for any costs, damages, losses or penalties (including reasonable legal expenses) incurred by the Fuel Supplier as a direct consequence of the Company's refusal or failure to accept delivery of any quantity (or part thereof) of Fuel as the Company ordered the Fuel Supplier to deliver.

12.4 Claims for Compensation

- (a) All costs, damages, losses and penalties for which payment is sought by either Party under Sections 12.1 to 12.3 shall be certified, with reasonable supporting documentation, by such Party's auditors at the time of the presentation of a claim for indemnification hereunder, which certification shall be within a reasonable period following the occurrence of the event for which compensation is payable hereunder.
- (b) Each Party shall be entitled to submit a claim for payment under Sections 12.1 to 12.3 as soon as such Party incurs any costs, damages or penalties for which it is entitled to be compensated hereunder by the other Party and to submit further claims for compensation arising from another event giving rise to the right to compensation as and when such Party incurs any costs, damages or penalties hereunder.
- (c) Any claims for compensation submitted to one Party by the other shall, in the absence of a Dispute therein, be paid within fourteen (14) Days of presentation.
- (d) If there shall be a Dispute relating to compensation, under Sections 12.1 to 12.3 the Dispute resolution procedure specified in Article XVII shall apply, and either Party may refer the matter thereto.



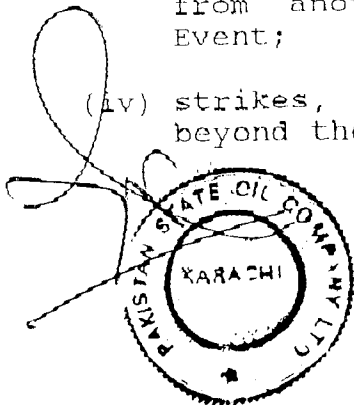
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ARTICLE XIII
FORCE MAJEURE

13.1 Definition

A "Force Majeure Event" shall mean any event or circumstance or combination of events or circumstances beyond the reasonable control of a Party that, on or after the date of Financial Closing, materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement, provided that such material and adverse effect has not occurred due to the failure of the Company or the Fuel Supplier to design, construct, operate or maintain the Complex or the delivery facilities (including, without limitation, the Equipment), respectively, to internationally accepted Fuel and Electric Generation Industry Engineering standards and provided further, that such material and adverse effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts and activities to protect the Complex and the Equipment (and the other facilities used by the Fuel Supplier in performing its obligations under this Agreement) which are reasonable in light of the likelihood of such event, the probable effect of such event if it should occur, and the likely offering of the protection measures. "Force Majeure" hereunder shall include each of the following events and circumstances 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 or campaign of terrorism, or sabotage;
 - (ii) a Lapse of Consent;
 - (iii) radioactive contamination or ionizing radiation originating from a source in Pakistan or resulting from another Pakistan Political Force Majeure Event;
 - (iv) strikes, works to rule or go-slows that extend beyond the Complex or the Fuel Supplier's delivery



facilities, as the case may be, are widespread or nationwide or that are of a political nature, such as, by way of example and not limitation, labour actions associated with or directed against a Pakistan political party, or those that are directed against the Company (or its Contractors) as part of a broader pattern of labour actions against companies or facilities with foreign ownership or management; and;

(v) a nationwide shortage of Fuel that prevents the Fuel Supplier from providing adequate deliveries of Fuel to the Complex, as certified by the Director-General, Oil, Ministry of Petroleum and Natural Resources; and

(vi) a declaration by WAPDA of a Pakistan Political Force Majeure Event under the Power Purchase Agreement as a result of which WAPDA is unable to receive power from the Complex;

(b) Changes in Law;

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

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

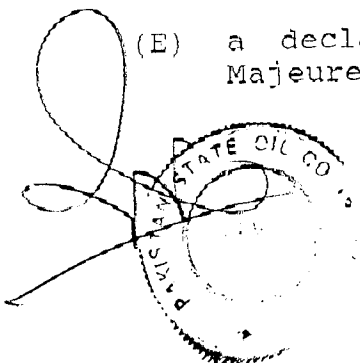
(A) lightening, earthquake, tsunami, flood, storm, cyclone, typhoon, or tornado;

(B) fire, explosion, or chemical contamination (other than resulting from an act referred to in section 13.1(a), in which case it will be a Pakistan Political Force Majeure Event);

(C) epidemic or plague;

(D) prior to the Commercial Operations Date (as defined in the Power Purchase Agreement), a delay beyond the thirtieth (30th) Day after the scheduled receipt date of the receipt at the Site of a major price 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 of transportation; and

(E) a declaration by WAPDA of an Other Force Majeure Event under the Power Purchase



Agreement as a result of which WAPDA is unable to receive power from the Complex.

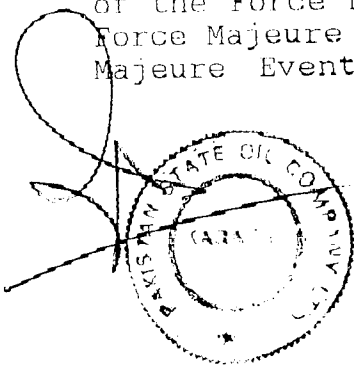
(ii) political events that occur outside Pakistan and do not directly involve Pakistan including, but not limited to:

- (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 with Section 13.1(a)(iii); and
- (C) strikes, works to rule or go-slows that are widespread or nationwide;
- (D) any other event or events at the load Port which may restrict the availability of the product.

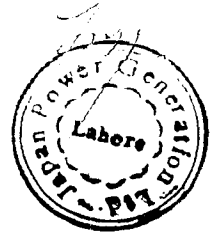
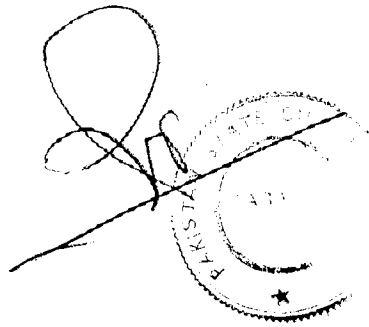
(d) Force Majeure Events shall expressly not include the following conditions, except and to the extent that they result directly from a Force Majeure Event:

- (i) except as provided in Section 13.1(c)(i)(D), late delivery of machinery, equipment, materials, spare parts or consumables for the Project;
- (ii) a delay in the performance of any Contractor; and
- (iii) normal wear and tear in materials and equipment or breakdown in equipment.

With respect to this Section 13.1(d), the event affecting performance, the acts and activities of the Contractor or the supplier, and the acts and activities of the Company or the Fuel Supplier, as the case may be, with respect to the conditions identified in clauses (i) and (ii), above, must in all respects satisfy the requirements in Section 13.1 for the failure of performance by the Company (due to a failure of performance by a Contractor or supplier) to be excused pursuant to Section 13.4. If the conditions of this Section 13.1(d) are satisfied, the classification of the Force Majeure of the Company (i.e. a Political Force Majeure Event, a Change in Law, or an Other Force Majeure Event) shall be determined by applying the

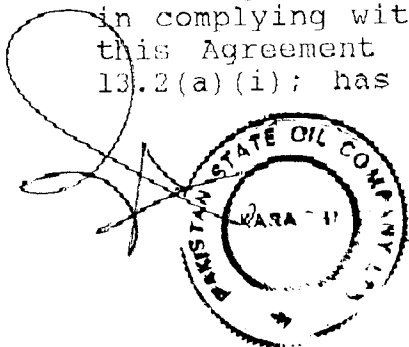


provisions of Section 13.1(a) through (c) to the event experienced by the Contractor or supplier.

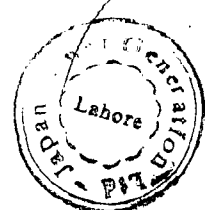


13.2 Notification Obligations

- (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 Force Majeure Event(s) or six (6) hours after the resumption of any means of providing notice between the Company and the Fuel Supplier 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, each notice to be given 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) hour period required by Section 13.2(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 13.4 for any failure or delay in complying with its obligations under or pursuant to this Agreement until the notice required by Section 13.2(a)(i); has been given. If such notice is given



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within the forty-eight (48) hour period or six (6) hour period as required by Section 13.2(a)(i), the affected Party shall be excused for such failure or delay pursuant to Section 13.4 from the date of commencement of the relevant Force Majeure Event.

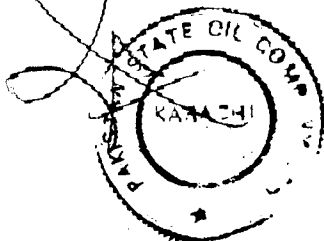
13.3 Duty to Mitigate

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 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.

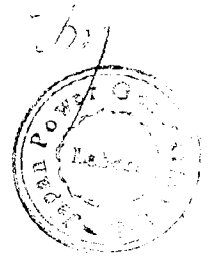
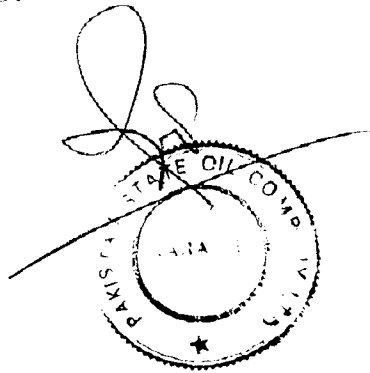
13.4 Delay Caused by Force Majeure

So long as the affected Party has at all times since the occurrence of the Force Majeure Event complied with the obligations of Section 13.2 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 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 13.4 to the extent that such failure or delay would have nevertheless been experienced by the affected Party had the Force Majeure Event not occurred; and provided, further, that the Fuel Supplier will be excused for a failure to perform by virtue of the article for only twenty-one (21) Days except in the case of (a) a Pakistan Political Force Majeure Event, (b) a Change in Law [and (c) an Other Force Majeure Event affecting the Fuel Supplier such that the Fuel Supplier cannot deliver Fuel to the Complex by any road or rail route, and provided, further, that, in the case of a Force Majeure Event which damages the Complex, in no event shall the obligations of the affected Party under this Agreement to meet performance deadlines be extended beyond the Restoration Period (as defined in the Implementation Agreement).

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 XIX or for payment pursuant to Article XV, 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.



ARTICLE XIV
REPRESENTATIONS, WARRANTIES AND COVENANTS

14.1 Representations, Warranties and Covenants of the Company

(a) Corporate Representations and Warranties

The Company represents and warrants to the Fuel Supplier that (i) the Company is duly incorporated, existing and in good standing under the Laws of Pakistan and has, so far as is material to the Fuel Supplier, complied fully with all requirements of the Companies Ordinance of 1984, as amended, and all other applicable Laws of Pakistan and has all requisite power and authority to conduct its business, to own its properties and to execute, to deliver and to perform its obligations under this Agreement; (ii) that there are no proceedings pending, or to the best of its knowledge, threatened for the liquidation of the Company or that could adversely affect the performance by the Company of its obligations under this Agreement, the Implementation Agreement or the Power Purchase Agreement; (iii) this Agreement has been duly authorized, executed and delivered by it and constitutes the legal, valid and binding obligation of it; and (iv) as far as it is of this Agreement, subject to the granting and maintenance of the Consents, does not and will not constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction applicable or relating to it, its assets or its business.

(b) Company Covenants

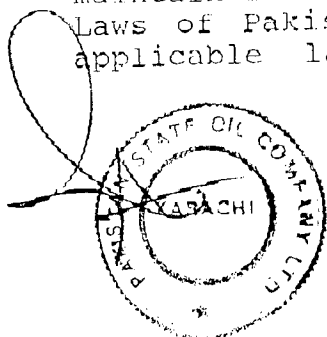
The Company hereby covenants as follows:

(i) Operation and Maintenance of the Complex

The Company shall operate and maintain the Complex in accordance with, so far as material to the Fuel Supplier's rights and obligations hereunder, all applicable Laws of Pakistan and the Consents, and sound engineering practices and Prudent Utility Practices as defined in the Power Purchase Agreement.

(ii) Applicable Laws

The Company covenants that it shall (a) at all times maintain its corporate existence in compliance with the Laws of Pakistan, (b) at all times, comply with all applicable laws, ordinances, rules and regulations



applicable to it, (c) give all required notices and procure and maintain all Consents and inspections necessary for its performance of this Agreement, and (d) pay all prescribed fees in connection therewith;

(iii) Consents

The Company shall, at its own cost and expense, obtain and maintain all Consents required from time to time under the Laws of Pakistan to discharge its obligations to the Fuel Supplier hereunder and the Fuel Supplier shall render such assistance to the Company as is reasonable under the circumstance and is within its power to enable the Company to obtain all such Consents.

14.2 Representations, Warranties and Covenants of Fuel Supplier

(a) Fuel Supplier Representations and Warranties

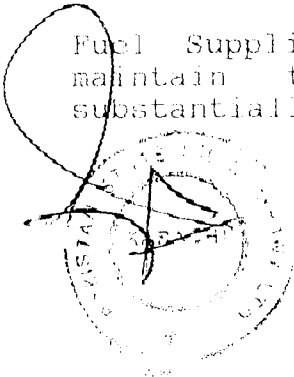
The Fuel Supplier hereby represents and warrants that: (i) it is duly incorporated, existing and in good standing under the Laws of Pakistan and has, so far as is material to the Company, complied fully with all applicable Laws of Pakistan, and that there are no proceedings pending, or to the best of its knowledge, threatened, for the dissolution of Fuel Supplier or that would adversely affect the performance by Fuel Supplier of its obligations under this Agreement; (ii) this Agreement has been duly authorized, executed and delivered by it and constitutes the legal, valid and binding obligation of it; (iii) to the best of its knowledge, the execution, delivery and performance of this Agreement does not and will not constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction applicable or relating to it, its assets or its business; and (iv) it has, as of the date hereof, all permits, licenses, and approvals required by all Public Sector Entities with jurisdiction over the Fuel Supplier to operate its business as it is presently operated.

(b) Fuel Supplier Covenants

Fuel Supplier hereby covenants as follows:

(i) Equipment

Fuel Supplier shall design, construct, operate and maintain the Equipment including the Pipeline substantially in accordance with Schedule 2 and, so far



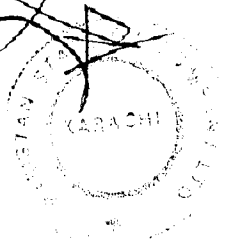
as is material to Company's rights and obligations hereunder, all applicable laws, rules, regulations and ordinances, and shall use its reasonable efforts to complete the Equipment on or before the Initial Delivery Date.

(ii) No Adverse Effect on Complex

The Fuel Supplier shall operate and maintain the Equipment, including the Pipeline, in such a manner so as not to have a material adverse effect on the Complex; provided, however, that the Fuel Supplier shall not be liable for any adverse effect on the Complex resulting from, with respect to the Pipeline, the Company's operation or maintenance of facilities on the Company side of the delivery flange and, with respect to delivery by truck, the operation and maintenance of the Company's decanting facilities or the actions of the Company's employees other than when such actions are taken at the express direction of the Fuel Supplier's employees, agents, or direct contractors; and

(iii) Consents

The Fuel Supplier shall, at its own cost and expense, obtain and maintain all Consents required from time to time under the Laws of Pakistan to discharge its obligations to the Company hereunder and the Company shall render all assistance to the Fuel Supplier as is within its power to enable the Fuel Supplier to obtain all such Consents.



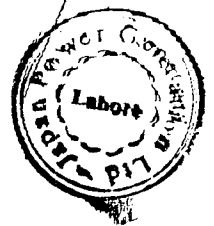
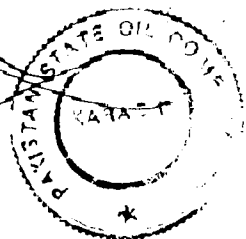
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ARTICLE XV
DEFAULT; TERMINATION

15.1 Termination by the Fuel Supplier for Company Default

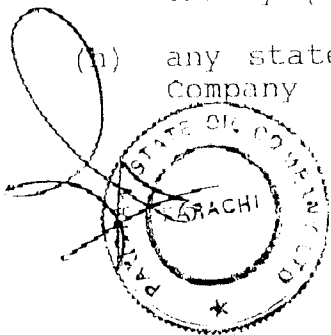
With the prior written consent of the GOP conveyed through the Private Power and Infrastructure Board, or as otherwise prescribed by the Rules of Business of the GOP, a copy of which shall be provided to the Company with any notice under this Section 15.1, the Fuel Supplier may give a notice of termination of this Agreement (a "Fuel Supplier Notice of Intent to Terminate") upon the occurrence of any of the following event(s) unless resulting from a Force Majeure Event or breach by the Fuel Supplier of this Agreement or by the GOP of the Implementation Agreement or the Guarantee ("Company Event of Default"):

- (a) the failure of the Company to achieve Financial close as per the time allowed to it under letter of support dated July 27, 1994 or as such date may be extended pursuant to the terms of Section [6.3(b)] of the Implementation Agreement;
- (b) the failure of the Company to achieve Construction Start (as defined in the Power Purchase Agreement within ninety (90) Days after Financial Closing;
- (c) the failure of the Company to achieve the Initial Delivery Date (as such Date may be extended by a Force Majeure Event under this Agreement) within twelve (12) Months after the Required Commercial Operations Date (as defined in the Power Purchase Agreement);
- (d) after the 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 the prior written notice to, and prior written consent of, the Fuel Supplier, 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 all reasonable efforts to regain control of the Complex or reinstate such construction;



- (e) after the Commercial Operations Date, the Abandonment (as defined in Power Purchase Agreement) by the Company of the Complex for a period of ninety (90) Days without prior written notice to, and the prior written consent of, the Fuel Supplier;
- (f) except for the transfer of the Complex and for assignment of Agreement in accordance with its terms (i) to the GOP pursuant to, or as otherwise permitted by and done in conformity with, the terms of the Implementation Agreement or, (ii) to or by, or to the order of the Lenders under the Financing Documents, as contemplated in Section 20.3, the assignment or transfer of the Company's rights or obligations in the assets constituting the Complex or this Agreement without the prior consent of the Fuel Supplier; or except as above for WAPDA right to operate the Complex under certain circumstances under the terms of the Power Purchase Agreement with at least 30 Days prior written notice to the Fuel Supplier, 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 Supplier
- (g) 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, except in accordance with the enforcement of security provided for under the Financing Documents, 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; or (iv) the making by a court with jurisdiction over the Company of an order winding up the Company which is not stayed or reversed by a court of competent authority within thirty (30) Days;

- (h) any statement, representation or warranty by the Company in this Agreement proving to have been



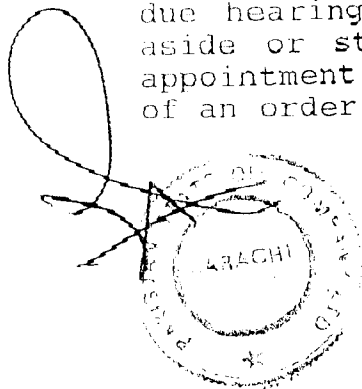
- (h) any statement, representation or warranty by the Company in this Agreement proving to have been incorrect, in any material respect, when made or when deemed to have been made and such failure or incorrect statement, representation, or warranty having a material and adverse effect on the Company's ability to perform its obligations under this Agreement; and
- (i) the termination of the Implementation Agreement by the GOP or the Power Purchase Agreement by WAPDA for a Company event of default thereunder;
- (j) any material breach by the Company of this Agreement or the Implementation Agreement such as would entitle the Fuel Supplier or the GOP (as the case may be) to treat that Agreement as having been repudiated by the Company, that is not remedied within ninety (90) Days of receipt of notice from the Fuel Supplier or GOP stating that a material breach of the Agreement which could result in the termination of the Agreement has occurred, identifying the material breach in reasonable detail, and demanding remedy thereof.

15.2

Termination by the Company for the Fuel Supplier Default

The Company may give a notice of termination of this Agreement (a "Company Notice of Intent to Terminate") upon the occurrence of any of the following event(s), unless resulting from a breach by the Company of this Agreement or the GOP of the Implementation Agreement (each a "Fuel Supplier Event of Default"). .

- (a) except for the purpose of amalgamation, reorganization or reconstruction that does not affect the ability of the amalgamated, reorganized 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 Fuel Supplier for the winding up of the Fuel Supplier; (ii) the voluntary filing by the Fuel Supplier of a petition of bankruptcy, moratorium, or other similar relief; (iii) the appointment of a provisional manager or liquidator in a winding up proceeding after notice to the Fuel Supplier and due hearing, which appointment has not been set aside or stayed within ninety (90) Days of such appointment; or (iv) the making by a court of law of an order winding up the Fuel Supplier;



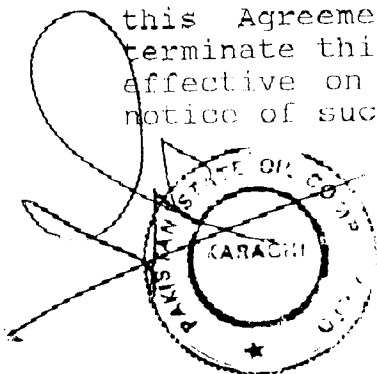
- (b) (i) the transfer, pursuant to a law, of either (A) the rights and/or obligations of the Fuel Supplier under this Agreement, or (B) all or substantially all of the assets or undertaking of the Fuel Supplier or (ii) the dissolution, pursuant to law, of the Fuel Supplier, except for an amalgamation, reorganization, reconstruction, or privatization of the Fuel Supplier where, in each instance, the GOP without interruption guarantees the performance of the succeeding entity or entities on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligation of the succeeding entity or entities that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee and all of the Fuel Supplier's obligations under this Agreement are assigned pursuant to law to, or contractually assumed, through a novation or otherwise, by one or more entities, each of which has the authority and capacity to perform such obligations;
- (c) any default by the Fuel Supplier in the making of any payment or payments required to be made by it hereunder within thirty (30) Days of the due date therefor and then, upon notice to the GOP, any default or defaults by the GOP in the making of any payment in accordance with the terms of the Implementation Agreement which continues unpaid for five (5) Business Days;
- (d) any failure by the Fuel Supplier to deliver Fuel to the Complex which is not excused in terms of this Agreement;
- (e) any material breach by the Fuel Supplier of this Agreement such as would entitle the Company to treat such Agreement as having been repudiated by the Fuel Supplier that is not remedied within thirty (30) Days of notice from the Company to the Fuel Supplier, stating that a material breach of the Agreement with the Fuel Supplier has occurred which could result in the termination of this Agreement, identifying the material breach in question in reasonable detail and demanding remedy thereof provided, however, that a breach which, with the passing of time or the fulfillment of any other condition specified in paragraphs (a) to (d) above, would constitute an event or circumstance falling within any such paragraph shall not be a Fuel Supplier Event of Default under this paragraph (e).

15.3 Termination for Default

- (a) Upon occurrence of an Event of Default by either Party that is not cured within the applicable period if any, the non-defaulting Party may, at its option, pursuant to Section 15.1 to 15.2, as the case may be, initiate termination of this Agreement by delivering a written notice (each a "Notice of Intent to Terminate") to the Party in default. The Notice of Intent to Terminate shall specify in reasonable detail the Company Event of Default or Fuel Supplier Event of Default, as the case may be, giving rise to the Notice of Intent to Terminate.
- (b) Anything in this Agreement notwithstanding, from and after the date of Financial Closing, the Fuel Supplier 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 by the Fuel Supplier under Section 15.3(a) to the Lenders, such notice to be coupled with a request to the Lenders to cure any such default within the same cure period as provided to the Company in this Agreement and such cure period to 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 Fuel Supplier 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, registered acknowledgement due, 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 15.3 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. The address and facsimile number for the Lender or Agent shall be provided to the Fuel Supplier by the Company at Financial Closing and thereafter may be changed by Lender or Agent by subsequent delivery of a notice to the Fuel Supplier at the address or facsimile number for the Fuel Supplier provided in Section 21 (or at such other address or facsimile number subsequently delivered to the Lender or the Agent in accordance with

this Section 15.3) and otherwise in accordance with the requirements of Section 21 and, notwithstanding any other provision in this paragraph, the Fuel Supplier shall have no obligation to notify any Lender or Agent of whom it has not been notified pursuant to this section.

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 a default within the cure period as provided to the Company in this Agreement, the Fuel Supplier 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 20.3, 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 Fuel Supplier 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 20.3(c) (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 20.3(c). If WAPDA has assumed the operation of the Complex and the Complex is being operated by WAPDA to the satisfaction of the GOP, the Fuel Supplier 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 20.3(c). In the event that the Lenders fail to cure any Company Event of Default required to be cured pursuant to Section 20.3(c) on or before the expiration of the Cure Period, as it may have been extended, the Fuel Supplier may exercise its rights and remedies with respect to such default set forth in this Agreement, the Fuel Supplier may immediately terminate this Agreement, and such termination shall be effective on delivery to the Lenders or the Agent of notice of such termination.



(c)

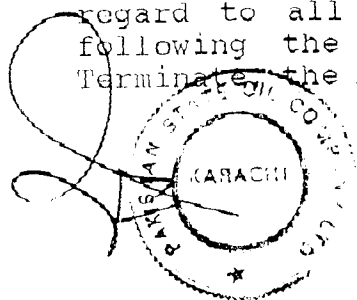
Notice to the GOP of Fuel Supplier's Default

Anything in this Agreement notwithstanding, the Company shall not seek to terminate this Agreement as a result of any default of the Fuel Supplier without first giving a copy of any notices required to be given to the Fuel Supplier under Section 15.3 to the GOP, such notices to be coupled with a request to the GOP to cure any such default within the same cure period as provided to the Fuel Supplier hereunder 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, registered or acknowledgement due, addressed to the GOP, at the address indicated in Section 23.1 of the Implementation Agreement (or such other address as the GOP may have specified by written notice delivered in accordance therewith).

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

(d)

Following the delivery of a Termination Notice, the Parties shall consult for a period commencing on such delivery date of up to forty-five (45) Days in the case of the failure of a Party to make payments when due and of up to ninety (90) Days (or such longer period as they may agree) as to what steps shall be taken with a view to mitigating the consequences of the relevant event giving regard to 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 Articles 15 and 21, then the non-defaulting Party shall have no right to terminate this Agreement in respect of such cured default.

- (e) Subject to the provisions of Sections 15.3(b) and (c) at the expiry of the said period and unless the Parties shall have otherwise agreed or the event giving rise to the Termination Notice shall have been remedied, the Party having given the Termination Notice may terminate this Agreement by giving written notice to the other party whereupon this Agreement shall immediately terminate.
- (f) The Company shall purchase and the Fuel Supplier shall supply all quantities of Fuel, Diesel Oil, Greases, Lubricants and Additives for the quarter in which termination is actually to take place as estimated pursuant to this Agreement in the manner set forth and in accordance with the provisions of this Agreement and this Agreement shall terminate only upon completion of such supplies.

15.4 Compensation Upon Termination Due to Company Event of Default

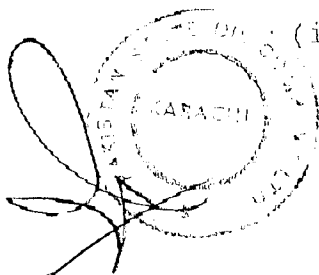
- (a) If this Agreement is terminated due to a Company Event of Default, Company shall pay to Fuel Supplier an amount equal to

$$[(A+B) \times E \times C] + D$$

Where:

- A = Fuel Supplier's Gross Margin on Fuel,
- B = the Fuel Supplier's Volume Charge as indexed to inflation in Pakistan,
- E = The average Daily Fuel supply over the previous Year,
- C = The lesser of
- (i) the number of Days remaining in the term of this Agreement (assuming no termination of this Agreement had occurred); or

(ii) 1500; or



(iii) the number of Days between the termination of this Agreement till the resumption of supplies to an alternative buyer.

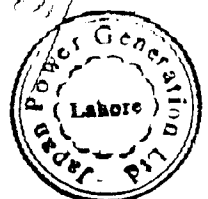
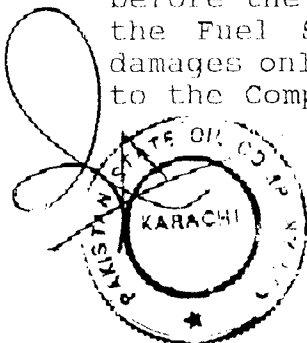
D = The unrecovered Equipment Investment as of the date of termination, unless, at least thirty (30) Days prior to the effective date of such termination, the Fuel Supplier, in its sole discretion, elects not to terminate this Agreement and notifies the Company in writing of its intention not to terminate this Agreement.

Such costs shall be subject to third party audit at the election and at the sole cost and expense of the Company.

(b) If at any time during the period for which damages have been paid pursuant to Section 15.4(a) above, the Fuel Supplier enters into an agreement for the sale of the Fuel to the Complex, then immediately upon the commencement of deliveries of Fuel to the Complex pursuant to such agreement, if the damages payable under Section 15.4(a) were paid in full, as and when required, the Fuel Supplier shall pay to the Company the amount of damages paid by the Company multiplied by the number of Days used to compute "C" in Section 15.4(a), less the number of Days from the date of termination of this Agreement until the date of commencement of deliveries of the Fuel to the Complex pursuant to the successor agreement and divided by the number of Days used to compute "C" in Section 15.4(a).

15.5 Compensation Upon Termination Due to Fuel Supplier Event of Default

If this Agreement is terminated due to a Fuel Supplier Event of Default then the Fuel Supplier shall pay to the Company damages on the same basis as set forth in Section 12.1 (if termination occurs prior to the Commercial Operations Date) or Section 12.2(b) (if termination occurs after the Commercial Operations Date), that (i) have accrued as of the effective date of termination of this Agreement and (ii) will accrue thereafter for a maximum period of ninety (90) Days, provided that if the Company has made alternative arrangements for the Fuel before the expiry of such ninety (90) Days period, then the Fuel Supplier shall be liable to pay liquidated damages only upto the Day on which supplies are commenced to the Company under such alternative arrangement.



15.6 Termination after Change in Law or Force Majeure Event

If the Implementation Agreement is terminated due to a Force Majeure Event as provided in Article XVII thereof, this Agreement shall terminate immediately with no further liability of either Party to the other except as provided in Section 15.8.

15.7 Failure to Obtain Consents

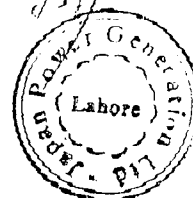
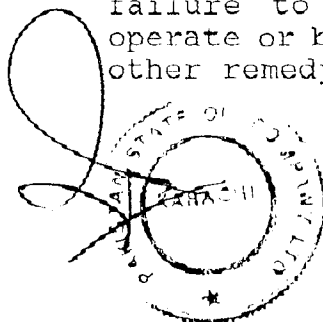
If the Company fails to obtain or have in full force and effect the consents listed in [Schedule 1] of the Implementation Agreement within the term period provided in [Section 6.3(b)] of the Implementation Agreement as such period may be extended by agreement between the Company and GOP. So long as the Company has complied with [Sections 6.2 and 6.3(b)] of the Implementation Agreement, the Company may terminate this Agreement with thirty (30) Days prior notice of termination to the Fuel Supplier and upon expiry of such notice period this Agreement shall terminate immediately with no further liability of either Party.

15.8 No Further Obligation

Upon any such termination pursuant to this Article XV and, if applicable, the payment of compensation as required by Section 12.2 or 15.4, the Parties shall have no further obligations hereunder except for obligations that arose prior to such expiration or termination and obligations that expressly arise upon or survive such expiration or termination pursuant to this Agreement.

15.9 Other Remedies

The rights of the Parties provided herein to terminate this Agreement do not preclude Parties from exercising other remedies that are provided herein, or are provided in the Implementation Agreement or may be available at law. Remedies are cumulative, and the exercise, or failure to exercise, one or some of them shall not operate or be construed as a waiver of such remedy or any other remedy available.



**ARTICLE XVI
COORDINATION**

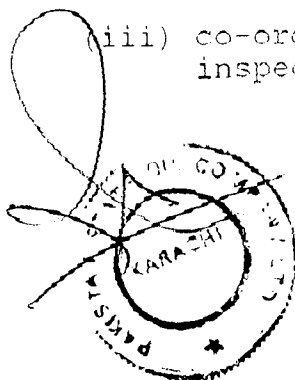
16.1 At least one hundred twenty (120) Days prior to the Initial Delivery Date, each of the Parties shall appoint several tiers of coordinators, whose duties are set out in Section 16.2, below:

- (a) Operational Coordinator (which, for the Fuel Supplier, based on its present organization, would be the Divisional Manager (Consumer), Lahore, and the plant Manager of the Complex for the Power Complex.
- (b) One Regional Coordinator each (which, for the Fuel Supplier, based on its present organization, would be the Central Zone Lahore Marketing Manager (Consumer) Central, Lahore General Manager Operation for Power Company; and
- (c) One Principal Coordinator (which, for the Fuel Supplier, based on its present form of organization, would be the Marketing Manager (Consumer) Coordination, Head Office and the Chief Executive of the Power Company.

The above Operational Coordinators, Regional Coordinators and Principal Coordinators (or any of them) may be substituted by the party appointing them prior written notice of one (1) Business Day.

16.2 The Operational Coordinators shall be generally responsible for the day to day implementation of all agreed operating procedures and all local matters not relating to policy and pricing. Without limiting the generality of the foregoing, the Operational Coordinators shall also be responsible for:

- (i) co-ordination of the respective programmes and procedures for the construction, commissioning and administration of the facilities for Fuel delivery and receipt to be provided by the Fuel Supplier and the Company under this Agreement;
- (ii) determination of the operational steps to be taken upon any shutdown of/or reduction of flow in the Fuel delivery facilities;
- (iii) co-ordination of scheduled maintenance and inspection programmes;



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- (iv) co-ordination of the operation of the Fuel delivery and measurement facilities with that of the Complex;
- (v) determining the local procedures to be used for operational communications;
- (vi) agreement on the detailed notification procedures to be instituted for delivery of the quantities of Fuel required under Article VI;
- (vii) consideration and, if so required, the determination of any other local matter of an operational nature relating to this Agreement but not involving policy or pricing or otherwise effectively resulting in any modification or amendment to or waiver of the terms of this Agreement.

(c)

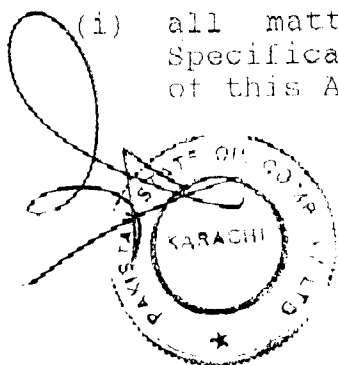
The Regional Coordinators shall be generally responsible for all matters arising at a district or regional level and affecting the operation and implementation of the terms of this Agreement including, without limiting the generality of the foregoing:

- (i) consideration of proposed or anticipated long-term changes in the levels of supply of or demand for Fuel, Diesel Oil, Lubricants, Greases and Additives;
- (ii) determining procedures to be used for overall operational communications;
- (iii) Co-ordination of agreement on detailed notification procedures to be instituted for delivery of Fuel under Article VI;
- (iv) resolution of disputes between Operational Coordinators; and
- (v) general consideration of matters of an operational nature not relating to policy for pricing.

(d)

The Principal Coordinators shall be responsible for supervising and coordinating all aspects of this Agreement and of dealing with all matters of policy and pricing, including without limitation to the generality of the foregoing:

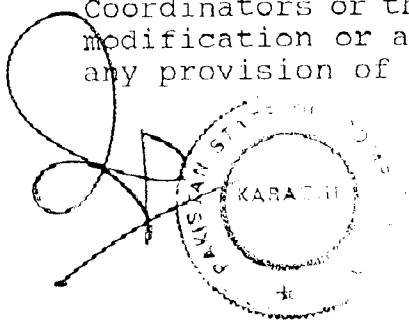
- (i) all matters relating to policy, pricing and Specifications and amendments to or modifications of this Agreement or any waivers hereunder;



- (ii) consideration of proposed or anticipated long-term changes in the levels of supply of or demand for Fuel, Diesel Oil, Greases, Lubricants and Additives;
- (iii) producing a schedule of procedures relating to:
 - (A) the sampling of Fuel prior to delivery to the Complex;
 - (B) the testing of Fuel samples so as to determine compliance of Fuel with the Specifications prior to its onward transmission to the Complex;
- (iv) determinations to be made under Section 7.2; and
- (v) resolution of disputes between Regional Coordinators and of the reserved matters referred to in Article XVII;
- (vi) coordination of policy planning;
- (vii) issuance of notices as permitted hereunder including and notices or communications in respect of Force Majeure Events, termination and damages; and
- (viii) producing an agreed manual of operating procedures for the purposes of implementing this Agreement based on the Fuel Supplier's existing systems.

16.3 The Operational Coordinators, the Regional Coordinators and the Principal Coordinators may each agree on their respective procedures for the holding of meetings, the taking of minutes and the appointment of alternates and of committees and sub-committees to deal with any issue or issues.

16.4 Nothing in this Article XVI shall entitle the Operational Coordinators or the Regional Coordinators to agree to any modification or amendment of this Agreement or to waive any provision of this Agreement.



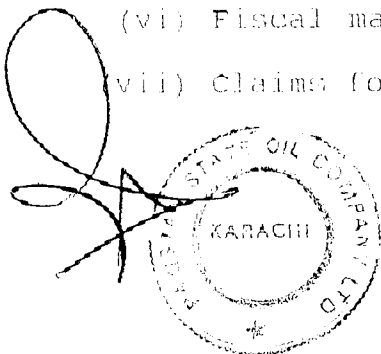
ARTICLE XVII
DISPUTE RESOLUTION

17.1 If any question or any dispute or difference arises in the interpretation or meaning of any provision of this Agreement or as to any matter in any way connected herewith or arising here from during the currency of this Agreement, such dispute or difference ("Dispute"), subject to Section 17.3 below, shall forthwith be referred to the Operational Coordinators or the Regional Coordinators for resolution. Such Coordinators shall promptly endeavour to resolve the Dispute by mutual discussion and agreement. The relevant Coordinators shall agree a decision on the Dispute within five (5) Business Days of the date on which the Dispute was referred to them. If they fail to reach a decision within the said five (5) Business Days, they shall within one (1) Business Day thereafter refer the Dispute to the Principal Coordinators for resolution.

17.2 The Principal Coordinators shall consult with each other with a view to reaching agreement on the resolution of the Dispute. If agreement is not reached by them within fifteen (15) Business Days, the Dispute shall be referred to Expert Adjudication in the manner provided in Sections 17.5 and 17.6 below.

17.3 Notwithstanding the provisions of Section 17.1 above, any Dispute involving any of the matters listed below (the "reserved matters") shall not be referred to the Operational Coordinators or Regional Coordinators for resolution but shall be directly referred to the Principal Coordinators for resolution in accordance with Section 17.2:

- (i) Price of Fuel or other pricing issues,
- (ii) Changes in policy,
- (iii) Changes in operational facilities required by the Company,
- (iv) Changes beyond or below 10% in the required levels of supply,
- (v) Changes in Specifications,
- (vi) Fiscal matters,
- (vii) Claims for compensation under Articles XII and XIX,



(viii) Notifications regarding events of Force Majeure under Article XIII,

(ix) Default and Termination under Article XV, and

(x) Disputed change of or amendment to any clause of this Agreement.

17.4 Any Dispute not resolved by the Operational Coordinators, Regional Coordinators or Principal Coordinators in the manner specified in the preceding sections of this Article XVII shall be referred to Expert Adjudication by an Expert Adjudicator appointed in the manner set out in Sections 17.5 and 17.6 below within ten (10) Business Days of the expiry of the time limit for resolution of such Dispute by the Principal Coordinators by issue of a Notice of Intention to Refer referred to Section 17.6 below (except that the Parties may agree to refer a Dispute directly to arbitration).

17.5 The Parties shall mutually agree on the identity of the Expert Adjudicator within ten (10) Business Days of the notice of Intention to Refer failing which they shall:

(i) If the matter is primarily of a technical or operational character request the Pakistan Engineering Council to appoint an Expert Adjudicator; or

(ii) If the matter is primarily financial or fiscal in nature request the Chairman of the Institute of Chartered Accountants to appoint the Expert Adjudicator.

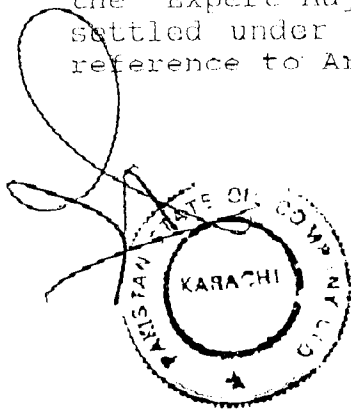
17.6

(a) If the Dispute cannot be resolved by the Operational Coordinators, Regional Coordinators or Principal Coordinators and either Party intends that the Dispute be referred to an Expert Adjudicator under this Agreement or the Parties mutually agree that the Dispute be directly referred to an Expert Adjudicator for determination, the Party specified in the relevant provision as having the right (or either Party if no single Party is so specified) shall give notice ("Notice of Intention to Refer") to the other Party of its intention to so refer the Dispute within ten (10) Business Days of the expiry of the time limit for resolution of such Dispute by the Principal Coordinators. The Party giving that notice is referred to herein as the "Applicant", and the Party to whom such notice is given is referred to herein as the "Respondent".

- (b) A Notice of Intention to Refer shall include, inter alia:
- (i) a description of the Dispute;
 - (ii) the grounds on which the Applicant relies in seeking to have the Dispute determined in its favour; and
 - (iii) all written material that the Applicant proposes to submit to the Expert Adjudicator; provided, however, that this paragraph shall not be construed so as to prevent the Applicant from using or producing further written material that comes into existence or comes to the Applicant's attention after the Notice of Intention to Refer is given, but in such event the Respondent shall be allowed a reasonable time to respond thereto.
- (c) The Respondent shall within fifteen (15) Business Days after service of the Notice of Intention to Refer, give to the Applicant a Notice of Intention to Defend which shall include, inter alia: the grounds upon which the Respondent relies in seeking to have the question determined in its favour; and all written material that the Respondent proposes to submit to the Expert Adjudicator, provided, that this paragraph shall not be construed so as to prevent the Respondent from using or producing further written material that comes into existence or comes to the Respondent's attention after its Notice of Intention to Defend is given, but in such event the Applicant shall be allowed a reasonable time to respond thereto.
- (d) If within fifteen (15) Business Days after service of a Notice of Intention to Refer, the Parties have agreed on an Expert Adjudicator or the Expert Adjudicator has been appointed under Section 17.5 above the Dispute shall be so referred;
- (e) Disputes subject to Expert Adjudication shall be determined in the following manner:
- (i) within seven (7) Business Days of the appointment of the Expert Adjudicator, the Expert Adjudicator shall nominate a time and place in Pakistan for a hearing of the Parties on the Disputes which time shall not be more than twenty-one (21) Business Days after the Expert Adjudicator's appointment;

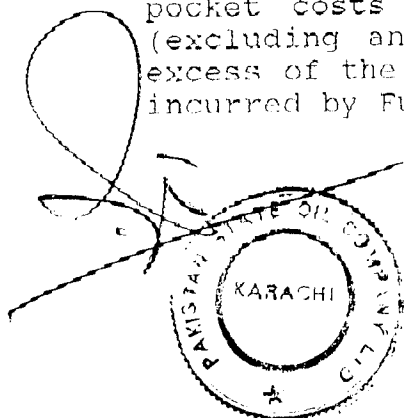


- (ii) the Parties shall not be entitled to apply for discovery of documents but shall be entitled to have access to the other Party's records and data;
 - (iii) at the time nominated for the hearing, each Party (or its duly authorised representative) must appear before the Expert Adjudicator and present its case;
 - (iv) the Expert Adjudicator must finalize his determination on the Dispute as soon as possible after completion of the hearing and must forthwith advise the Parties in writing of his determination and his reasons therefor;
 - (v) any evidence given or statements made in the course of the hearing may not be used against a Party in any other proceedings; and
 - (vi) the proceedings shall not be regarded as an arbitration and the laws relating to commercial arbitrations shall not apply; and
- (f) If the Expert Adjudicator does not arrive at a determination within a period of forty-five (45) Business Days of his appointment, or such longer or shorter period as the Parties may agree in writing, then either Party may, upon giving notice to the other, terminate the Expert Adjudicator's appointment, and a new Expert Adjudicator shall be appointed who shall resolve the Dispute in accordance with the provisions of this Article XVII.
- (g) The Costs of Expert Adjudication under this Article XVII shall be paid by the Parties as determined by the Expert Adjudicator.
- 17.7 If a Dispute requiring Expert Adjudication is not settled within forty-five (45) Business Days by the Expert Adjudicator or if Expert Adjudication is provided for and either Party is not satisfied by the decision of the Expert Adjudicator then the Dispute may be finally settled under the provisions of this Article XVII by reference to Arbitration hereunder.



17.8 Arbitration

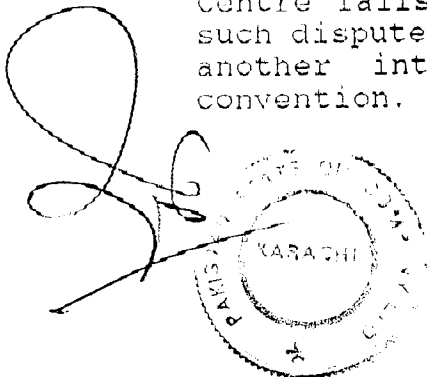
- (i) If the Dispute is not settled within forty-five (45) Days by mutual discussions and referral to an Expert Adjudicator is not required by this Agreement or agreed to by the Parties, then the Dispute shall be finally settled under the provisions of this Section 17.8.
- (ii) The rights and obligations of the Parties under or pursuant to this Agreement shall be governed and construed according to the Laws of England (without regard to conflicts of law rules).
- (iii) Except as hereinafter provided, any Dispute arising out of or in connection with this Agreement shall (regardless of the nature of the Dispute), be referred to Arbitration and finally settled in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "Convention") and the Rules of Procedure for Arbitration Proceedings of the International Centre for Settlement of Investment Disputes (the "Centre") established by the Convention (the "ICSID Rules") and the Parties hereby consent to Arbitration thereunder. Arbitration proceedings conducted pursuant to this Section 15.3(a) shall be held in Singapore. If the Company is majority Pakistan owned the Arbitration should be in Pakistan under the Provisions of Pakistan Arbitration Act and the Pakistan law should be governing law of the agreement.
- (iv) Notwithstanding the foregoing, unless and until the GOP has implemented the Convention by an Act or an Ordinance confirmed by an Act, the Dispute shall be finally settled by arbitration in Lahore, Pakistan, under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") by one or more arbitrators appointed in accordance with the ICC Rules, and each Party shall bear its own costs as and when incurred, unless the arbitrator(s) shall otherwise order. Notwithstanding the foregoing, if the company desires that arbitration be conducted outside Pakistan, the arbitration shall be conducted in Singapore and the Company shall pay all costs of the arbitration as and when incurred by Fuel Supplier, including the out of pocket costs of the arbitration of both Parties (excluding any award made by the arbitrator) in excess of the costs that would have been otherwise incurred by Fuel Supplier had the arbitration been



conducted in Islamabad, Pakistan. The arbitrator shall decide any disputes as to whether a cost would have been incurred in connection with the arbitration in Islamabad, Pakistan, (the "Base Costs") or was associated with the removal to Singapore (the "Incremental Costs"). Each Party shall bear its own Base Costs of arbitration as and when incurred, unless such costs are ordered by the Arbitrator to be paid by one Party, in which case they shall be paid by that Party. The Arbitrator shall order (i) that Fuel Supplier should bear its own Incremental Costs in full if he finds that Fuel Supplier's position in the Arbitration was frivolous, and Fuel Supplier shall reimburse the Company; or (ii) Fuel Supplier should bear its own Incremental Costs in part if he finds that Fuel Supplier should have settled the matter at an earlier stage, and Fuel Supplier shall pay the amount ordered. Notwithstanding the foregoing, if a matter in dispute involves a sum of five million Dollars (\$5,000,000), or a question of the validity or enforceability of this Agreement, or could result in the termination of this Agreement, arbitration shall, unless otherwise agreed by the Parties, be conducted in Singapore. Each Party shall pay its own costs of arbitration as and when incurred, unless such costs are ordered by the Arbitrator to be paid by one Party, in which case they shall be paid by such Party.

(v) The Parties agree that the Company shall be deemed a foreign controlled company for the purposes of Article 25(2)(b) of the Convention so long as not less than thirty percent (30%) of the shares of the Company are held by Foreign Investors. If the shareholding of the Foreign Investors shall fall below thirty percent (30%) of the shares of the Company, other than due to the purchase of shares by any of the Federally Controlled Entities, or the Provincial Government or any entity controlled by or under the influence of the Provincial Government, any Dispute of the Parties shall be arbitrated in Karachi under the Arbitration Act, 1940, of Pakistan.

(vi) If after GOP has implemented the Convention by an Act or an Ordinance confirmed by an Act, a request for arbitration is not registered by Centre, or if Centre fails or refuses to take jurisdiction over such dispute, the Parties shall agree to the use of another international arbitration tribunal and convention.



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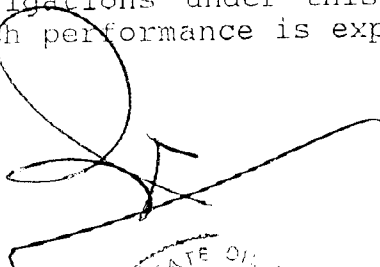


(vii) No arbitrator appointed pursuant to this Section 17.8 shall be a national of the jurisdiction of either Party to this Agreement or of the jurisdiction of any of the initial shareholders of the Company and when such shareholders are corporate shareholders, the country of their ultimate or intermediate control nor shall any such arbitrator be an employee or agent or former employee or agent of any such person.

(viii) The decision of the arbitrator(s) shall be final and binding.

17.9

The existence of any Dispute shall not excuse either Party from performing or continuing to perform its obligations under this Agreement except to the extent such performance is expressly excused hereunder.

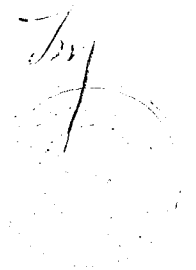
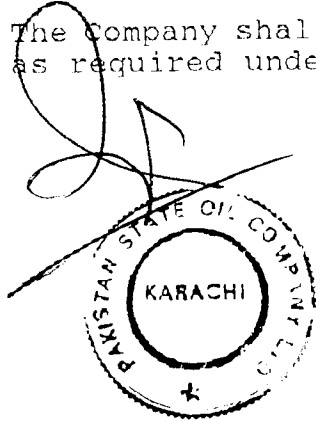


ARTICLE XVIII
INSURANCE

18.1

Insurance to be obtained by the Company

The Company shall obtain and maintain in effect insurance as required under the Power Purchase Agreement.



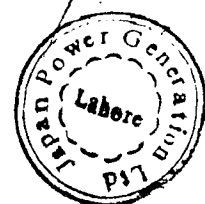
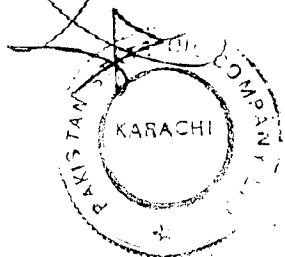
**ARTICLE XIX
INDEMNIFICATION**

19.1 Indemnification by Parties

- (a) The Fuel Supplier shall indemnify the Company against, and hold the Company and or its Contractors harmless from, at all times after the date hereof, any and all 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) (collectively, "Loss"), incurred, suffered, sustained or required to be paid, directly by, or sought to be imposed upon, the Company and/or its contractors for personal injury or death to persons or damage to property arising out of the Fuel Supplier's and/or its contractors intentional or reckless acts or omissions or its gross negligence. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 19.1(a) shall apply to any Loss in respect of which the Company is fully indemnified pursuant to the terms of the Implementation Agreement, the Power Purchase Agreement or under any policy of insurance.
- (b) The Company shall indemnify the Fuel Supplier against, and hold the Fuel Supplier and/or its contractors harmless from, at all times after the date hereof, any and all loss, damage, liability, payment and obligation (excluding any indirect or consequential loss, damage, liability, payment and obligation) and all expenses (including without limitation reasonable legal fees) (collectively "Loss") incurred, suffered, sustained or required to be paid, directly by, or sought to be imposed upon, the Fuel Supplier, for personal injury or death to persons or damage to property arising out of the Company's and/or its contractors' intentional or reckless acts or omissions or its gross negligence. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 19.1(b) shall apply to any Loss in respect of which the Fuel Supplier is fully indemnified pursuant to the terms of any policy of insurance.

19.2 Exceptions to Claims for Indemnification

Neither Party shall be entitled to assert any claim for indemnification until such time as all claims of such Party for indemnification under this Agreement exceed Rs. 10,000,000 (Rupees Ten Million) in the aggregate or such other amount as shall be agreed between the Parties



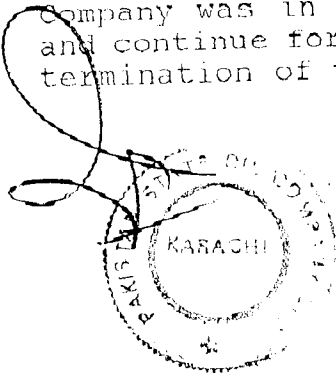
from time to time, or such amount which if not claimed would be barred by the relevant statute of limitation, at which time all claims of such Party for indemnification under this Agreement may be asserted; provided, however, that when such claims have been asserted the same rule shall apply in respect of future claims.

19.3 Rights to Legal Counsel

The indemnified Party shall have the right, but not the obligation to contest, defend and litigate, and to retain counsel of its choice in connection therewith, any claim, action, suit or proceeding by a third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any Loss for which it is entitled to be indemnified hereunder, and the reasonable costs and expense thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder; provided, however, that, if the indemnifying Party acknowledges in writing its obligations to indemnify the indemnified Party in respect of such Loss to the full extent provided by Section 19.1, the indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding at its expense and with counsel of its selection if it gives prompt written notice of its intention to do so to the indemnified Party and reimburses the indemnified Party for the reasonable costs and expenses incurred by the indemnified Party prior to the assumption by the indemnifying Party of the Defense. The indemnified Party shall not be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the indemnifying Party, which consent shall not be unreasonably withheld.

19.4 Survival

The rights and obligations of the Parties arising out of the actions which took place during the period the company was in occupation of the Complex shall survive and continue for a period of five (5) Years following the termination of this Agreement.



ARTICLE XX
MISCELLANEOUS

20.1 Limits of Agreements

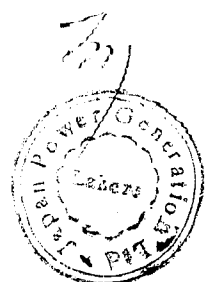
Except for the rights granted to the Lenders and the GOP under Section 15.3(b) and (c) respectively, this Agreement is intended solely for the benefit of the Parties. Except as noted above, nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a party to this Agreement.

20.2 Language

The language for the purpose of administering and interpreting this Agreement shall be English.

20.3 Assignment of Right, Title or Interest

- (a) 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 except as provided in Section 20.3(b), (c), (f) and (g), below.
- (b) Notwithstanding the foregoing, for the purpose of financing the Project, the Company may assign to, or grant a security interest in favour of, the Lenders in its rights and interests under or pursuant to (i) this Agreement on the same terms and conditions, (ii) any agreement or document included within the Security Package, (iii) the Complex, (iv) the Site, (v) the movable, immovable and intellectual property of the Company, or (vi) the revenues or any of the rights or assets of the Company.
- (c) Without prejudice to Fuel Supplier's right of recovery hereunder, the Lenders shall have no obligation to the Fuel Supplier under this Agreement until such time as the Lenders or their designs 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 designs shall assume liability for all of the Company's obligations under this Agreement, including payment of any amounts due and owing to the Fuel Supplier for payment defaults by the Company under this Agreement (other than damages or penalties incurred by the Company under Section 19.2(b) except for such damages and penalties arising while the Lenders, pursuant to their rights and remedies under the documents have assumed

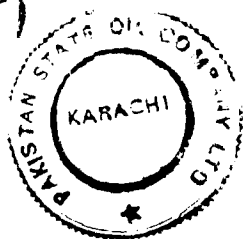


control of the Complex, and then only if the general liability insurance required by Section 11.1 of the Power Purchase Agreement is not in effect), provided that any liability of the Lenders or their designs shall be strictly limited to the Lenders' respective interest in the Complex. Except as otherwise set forth in the immediately preceding sentence, neither the Lenders (and their agent) nor their designs 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 give rise to any duties or obligations whatsoever on the part of any of the Lenders owing to the Fuel Supplier.

Upon notification by the Lenders or the Agent to the Fuel Supplier of the occurrence and continuance of an event of default under the Financing Document 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 under this Agreement as provided in Section 15.3. 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 Section 15.1 and no right will exist for the Fuel Supplier to terminate this Agreement based upon such Company Events of Default occurring prior to the delivery of the Lenders notice. Without the requirement of obtaining any further consent from the Fuel Supplier, upon the exercise by the Lenders or their designs 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 a Transferee acceptable to the GOP (hereinafter defined) so long as such Transferee shall assume in writing for the benefit of the Fuel Supplier all of the obligations of the Company under this Agreement.

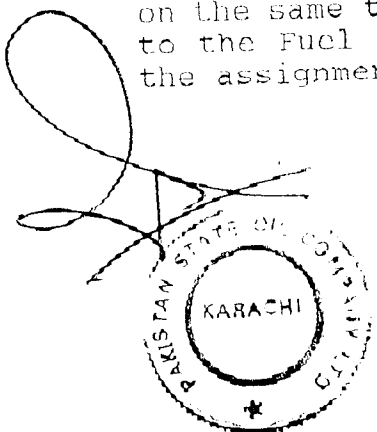
Upon such assignment and assumption, the Lenders shall be relieved of all obligations under this Agreement arising after such assignment and assumptions.

- (d) As used herein, a "Transferee" shall be a person who (i) either is an experienced power plant operator or who 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



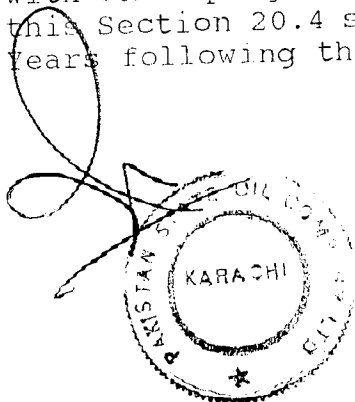
Fuel Supplier under this Agreement, and (iii) shall have expressly assumed in writing for the benefit of the Fuel Supplier the ongoing obligations of the Company under this Agreement.

- (e) At the request of the Company, delivered to the Fuel Supplier not less than thirty (30) Days in advance the Fuel Supplier shall execute and deliver at the Financial Closing, all such acknowledgements to the Lenders or their designs of any security created in accordance with this Section 20.3 as are reasonably requested by the Company and the Lenders in accordance with customary practices in transportation of this nature to give effect to the foregoing.
- (f) Notwithstanding the above, the Fuel Supplier shall have the right to assign this Agreement to any entity assuming all or part of the Fuel Supplier's rights and obligations in connection with the distribution of petroleum products provided, that 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 obligations of the succeeding entity that in the reasonable business judgment of the Company provides an adequate alternative to the Guarantee.
- (g) The Fuel Supplier hereby consents to the assignment of this Agreement by the Company to the GOP in the event that the Implementation Agreement and/or the Power Purchase Agreement is terminated due to a GOP or WAPDA event of default, and the assignment will be effective with the termination thereof. Upon assumption by the GOP, the Company shall be released from its further obligations under this Agreement.
- (h) Any exercise of the right of assignment by the Company pursuant to the provisions of this Section 20.3 shall be on the same terms and conditions and with written notice to the Fuel Supplier, specifying the effective date of the assignment.



20.4 Confidentiality

Each of the Parties shall hold in confidence all documents and other information whether technical or commercial, supplied to it by or on behalf of the other Party relating to the construction, operation, maintenance, management and financing of the Complex and the Fuel and/or Diesel Oil delivery facilities and shall not, save as required by law or appropriate regulatory authorities, prospective lenders or investors in the Company and the Fuel Supplier and their professional advisers, publish or otherwise disclose or use this information for its own purposes otherwise than as may be required to perform its obligations under this Agreement. Notwithstanding the above, nothing herein contained shall preclude the use of provisions similar to those contained in this Agreement and the other Agreements referred to herein in agreements prepared and issued in connection with other projects. The obligations of the Parties under this Section 20.4 shall survive for a period of three (3) years following the termination of this Agreement.



20.5 Binding Agreement

This Agreement shall be binding upon, and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

20.6 No Third Party Beneficiaries

Except as provided in Section 15.3(b) and (c), this Agreement shall not confer any right of suit or action whatsoever on any third party.

20.7 Affirmation

The Company and the Fuel Supplier declare and affirm that neither Party has paid nor has it undertaken to pay and that it shall in the future not pay any commission, bribe, pay-offs or any other illegal payment and that it has not in any other way or manner paid any sums, whether in Pakistani currency or foreign currency and whether in Pakistan or abroad, or in any other manner given or offered to give any gifts and presents in Pakistan or abroad to any person or company to procure this Agreement, and the Company and the Fuel Supplier undertake not to engage in any of these or similar acts during the term of and relative to this Agreement.

20.8 Entire Agreement

This Agreement supersedes any previous arrangements or arrangements between Parties in respect of the supply of Fuel to the Complex (whether oral or written) and represents the entire understanding between the Parties in relation thereto.

20.9 Waivers

- (a) No waiver by either Party of any default or defaults 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 or defaults whether of a like or different character; or
 - (ii) shall be effective unless in writing duly executed by a duly authorized representative of the Party.
- (b) The failure by either Party to insist on any occasion upon the performance of any term, condition or provision of this Agreement or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of such breach or the acceptance of any variation.

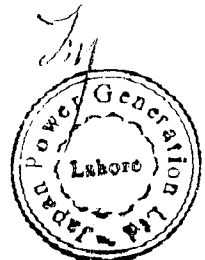
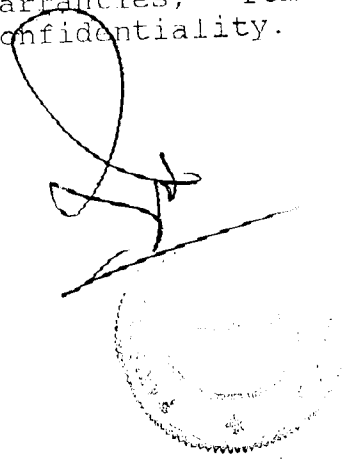


20.10 Double Jeopardy

A final, non-appealable order issued in a proceeding initiated by the GOP and based upon a claim of breach of the Implementation Agreement shall be with prejudice to any proceedings against the Company that the Fuel Supplier could otherwise bring for breach by the Company of substantially the same obligations under this Agreement. Nothing in this section shall prevent the Fuel Supplier and the GOP from separately initiating proceedings to terminate this Agreement and the Implementation Agreement, respectively, pursuant to Section 15.2 and 15.4 of this Agreement and Sections 19.1 and 19.3 of the Implementation Agreement.

20.11 Survival

Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including, without limitation, warranties, remedies, promises of indemnity and confidentiality.



20.12 Commercial Acts: Sovereign Immunity

The Fuel Supplier 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. In furtherance of the foregoing, the Fuel Supplier hereby irrevocably and unconditionally agrees that: (i) should any proceedings be brought against the Fuel Supplier or its assets, other than consular privileges under the 1978 Immunity Act of the United Kingdom or the 1976 Sovereign Immunities Act 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 Fuel Supplier 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 judgement 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.

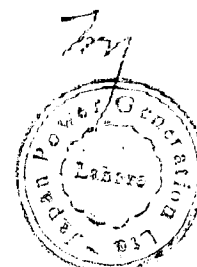
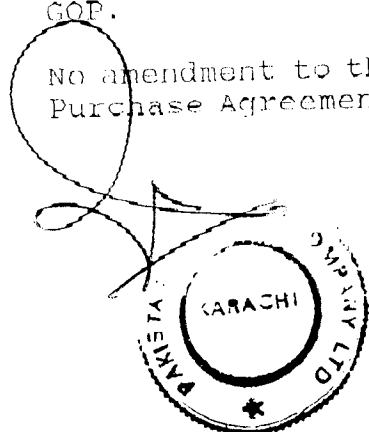
20.13 Conversion

Any amounts payable hereunder shall be paid in Rupees but where in respect of amounts incurred or payable in foreign exchange shall be calculated on the basis of the relevant TT & OD selling rate of exchange against the Rupee as notified by the State Bank of Pakistan on the date incurred or, if still to be incurred on the date of the Rupee Payment hereunder.

20.14 Amendment

This Agreement can be amended only by agreement between the Parties in writing. No amendment that increases or potentially increases materially the liability of the GOP under the Implementation Agreement or the Guarantee shall be effective without the prior written consent of the GOP.

No amendment to the Implementation Agreement or the Power Purchase Agreement which has a material adverse effect on

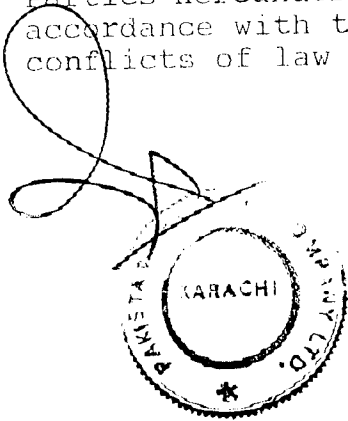


Fuel Supplier under this Agreement shall be made without the prior written consent, such consent not to be unreasonably withheld, of the Fuel Supplier and if made without such prior consent shall not to that extent, be binding on the Fuel Supplier.

The Fuel Supplier agrees that in the event that the GOP amends the Implementation Agreement or modified it through its counsel to assignment, as a result of which the Company requests the Fuel Supplier to make conforming changes to this Agreement so that the assignment and Lenders' cure rights and related provisions remain consistent with the Implementation Agreement, it shall not unreasonably withhold its consent to such amendment provided it has no material adverse effect on the Fuel Supplier.

20.15 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 (without regard to conflicts of law rules).



ARTICLE XXI
NOTICES

21.1 Addresses and Addressees.

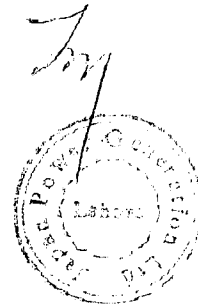
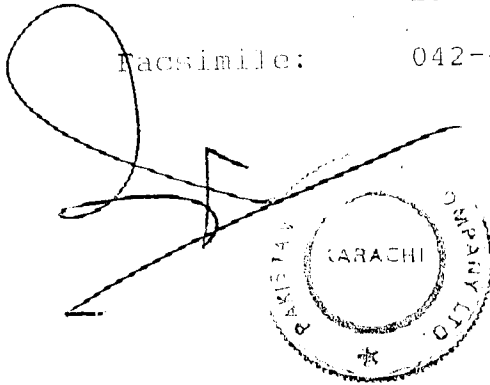
Except as otherwise expressly provided in this Agreement, all notices or other communications to be given or made hereunder shall be in writing, shall be addressed for the attention of the persons indicated below and shall either be delivered personally or sent by courier, registered or certified mail or facsimile. The addresses for service of the Parties and their respective facsimile numbers shall be:

If to the Company:

Attention: Mr. Zafar Mahmood
Chief Executive
Japan Power Generation Limited.

Address: 26-Peshawer Block, Fortress Stadium,
Lahore Cantt.

Facsimile: 042-6664349-6660086



If to Fuel Supplier

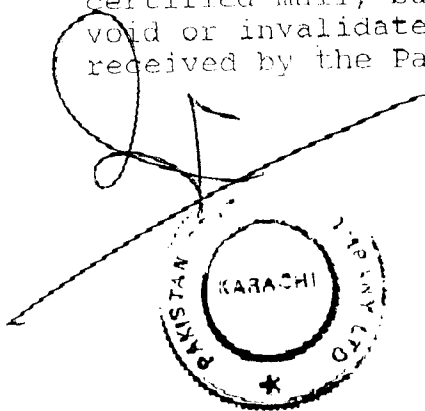
Attention: Managing Director
Pakistan State Oil Company Ltd.

Address: Dawood Centre, M.T.Khan Road, Karachi-4

Facsimile: 021-568-0215/520-456

with a copy to: Orr Dignam & Co.
Advocates
Building No. 1-B
State Life Square
I.I Chundrigar Road
Karachi, Pakistan.

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 a 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) Business 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 written notice delivered to the delivering Party at its address or facsimile number specified above in accordance herewith) or (d) five (5) Business 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 in accordance herewith). 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.



21.2 Changes of Address

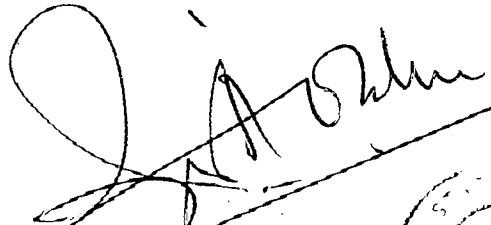
Any Party may by notice change the addressees and/or addresses to which such notices and communications to it are to be delivered or mailed.

IN WITNESS WHEREOF, this Agreement has been entered into the date first above written.

SIGNED

for and on behalf of

Pakistan State Oil Co. Ltd.
10th Floor, Dawood Centre,
Moulvi Tamizuddin Khan Road,
Karachi - 75530 (Pakistan)

By: 
Mr. Ijaz Ali Khan

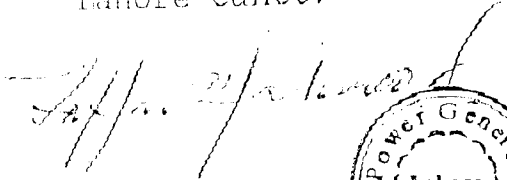
Title: Marketing Manager



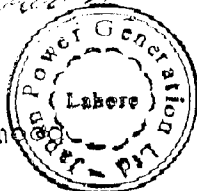
SIGNED

for and on behalf of

Japan Power Generation Ltd.
26-Peshawar Block,
Fortress Stadium,
Lahore Cantt.

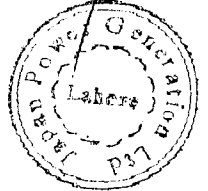
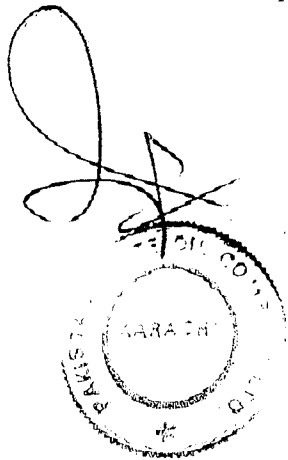
By: 
Mr. Zafar Mahmood

Title: Chief Executive



SCHEDULES

- Schedule 1: Specifications
- [Schedule 2: Pipeline] if applicable
- Schedule 3: Various Milestones
- Schedule 4: Testing Procedures for Fuel, Diesel Oil, Greases, Lubricants and Additives
- Schedule 5: Facilities to be constructed by the Company
- Schedule 6: Invoicing and Operational Procedures
- Schedule 7: Scheduling of Lubricants, Greases, Additives

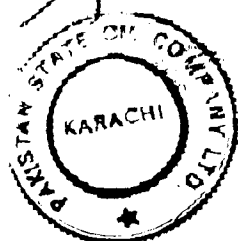


SCHEDULE 1
SPECIFICATIONS

1.1 **FUEL OIL**

Summer Grade: 180 cst

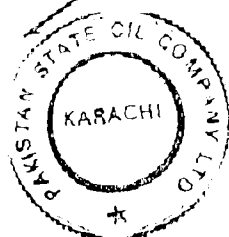
	UNITS	SPECS.	TEST METHOD
Acid Number, Strong	mgKOH/g	Max Nil	ASTM D 3242 OR D-974
Ash	% W	Max 0.10	ASTM D 482
Calorific Value, Gross	BTU/Lb.	Min 18200	Calc of USB D-240 Standard No.97
Carbon Residue, Conradson	% W	Max 12.0	ASTM D 189
Flash Point, PMcc	Deg. C	Min 66	ASTM D 93
Potassium	ppm	Max 50	IP 288 OR ASMT D-2788
Pour Point	Deg. F	Max 50	ASTM D 97
Relative Density @ 60/60	Deg. F	Max 0.980	ASTM D 1298
Sediment	% W	Max 0.15	ASTM D 473 OR IP-53
Sodium	ppm	Max 50	IP 288 OR ASTM D-2788
Sulphur	% W	Max 3.5	ASTM D 1551 or D-1266
Vanadium	ppm	Max 60	ASTM D-2788 OR IP 288
Calcium	ppm	Max 10	ASTM D-4628
Viscosity, Kinematic @ 50 Deg. C	cst	Max 180	ASTM D 445
Water	% V	Max 0.30	ASTM D 95



1.2 FUEL OIL

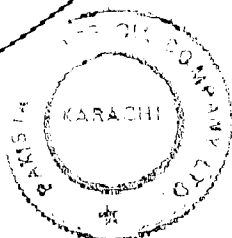
Winter Grade (November-March): 125 cst

	UNITS	SPECIFICATIO N	TEST METHOD
Acid Number, Strong	mgKOH/g	Max Nil	ASTM D 3242 OR D-974
Ash	% W	Max 0.10	ASTM D 482
Calorific Value, Gross	BTU/Lb.	Min 18200	ASTM D-240
Carbon Residue, Conradson	% W	Max 12.0	ASTM D 189
Flash Point, PMcc	Deg. C	Min 66	ASTM D 93
Potassium	ppm	Max 30	ASTM D 2788
Pour Point	Deg. F	Max 50	ASTM D 97
Relative Density @ 60/60	Deg. F	Max 0.980	ASTM D 1298
Sediment	% W	Max 0.15	ASTM D 473
Sodium	ppm	Max 30	ASTM D 2788 OR IP-288
Sulphur	% W	Max 3.5	ASTM D 1266 OR D-1551
Vanadium	ppm	Max 60	ASTM D 2788 OR IP-288
Calcium	ppm	Max 30	ASTM D 4628
Viscosity, Kinematic @ 50 Deg. C	cst	Max 125	ASTM D 445
Water	% V	Max 0.30	ASTM D 95



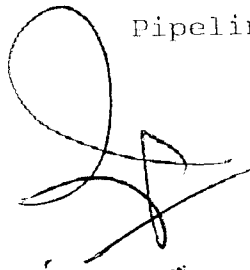
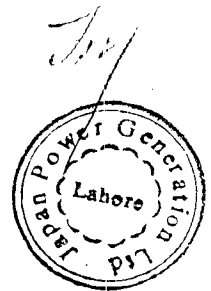
1.3 DIESEL OIL

TEST	TEST METHOD	SPECIFICATION LIMIT
Specific gravity 60/60°F	ASTM D 1298	Max. 0.870
Distillation 90% recovery, °C (°F)	ASTM D 86	Max. 363 (685)
Colour ASTM	ASTM D 1500	Max. 2
Flash point (PMCC), °C (°F)	ASTM D 93	Min. 54 (130)
Sulphur content, % wt.	ASTM D 1551/1266	Max. 1.0
Copper strip corrosion 3 hrs. at 50°C (122°F)	ASTM D 130	Max. 1
Viscosity Kinematic 37.8°C (100°F) cst	ASTM D 445	Min. 1.0 Max. 6.5
Cloud point, °C (°F)	ASTM D 97	Max. 6(43)
Pour point, °C (°F)	ASTM D 97	Max. 3(37)
Conradson carbon residue on 10% distillation residue, % wt.	ASTM D 189	Max. 0.2
Ash, % wt.	ASTM D 482	Max. 0.01
Sediment, % wt.	ASTM D 473	Max. 0.01
Water, % Vol.	ASTM D 95	Max. 0.05
Cetane number or Centane index	ASTM D 613 ASTM D 976	Min. 45 Min. 45
Strong acid number mg KOH/g	ASTM D 3242	Nil.
Total acid number mg KOH/g	ASTM D 3242	Max. 0.5
Calorific value BTU/Lb.	ASTM D 240	Min. 19000



SCHEDULE 2

Pipeline (If Applicable)

A handwritten signature in black ink, consisting of a large loop followed by a series of smaller, connected strokes.

SCHEDULE 3

VARIOUS MILESTONES

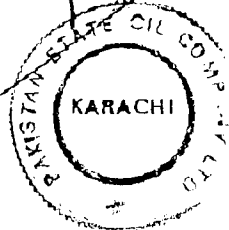
1. Initial Delivery Date	1st October, 1996
2. Completion of Decanting Facility	30th September, 1996
3. Anticipated Scheduled Commercial Operations Date (as per Power Purchase Agreement)	31st March, 1997

STORAGE FACILITY AT COMPLEX

HFO : 4 Storage Tanks x 5000 tonnes
i.e. Fuel Storage facility for 30 days as;
120 MW x 0.230 kg/kWh x 24 hrs x 30 days
= 19872 tonnes

HSD : 1000 tonnes

LO : 100 tonnes

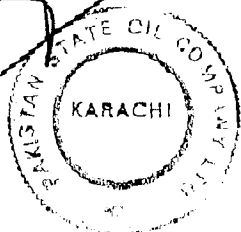


SCHEDULE 4

TESTING PROCEDURES

4.1 TEST METHODS FOR FUEL OIL

	TEST METHOD
Acid Number, Strong	ASTM D 3242 or ASTM D 974
Ash	ASTM D 482-74 or IP 4/75
Calorific Value, Gross	ASTM D 240
Carbon Residue, Conradson	ASTM D 189/88 or IP 13/87
Flash Point, PMcc	ASTM D 93 or IP 34/75
Potassium	IP 288 or ASTM D 2788
Pour Point	ASTM D 97 or IP 15/67
Relative Density @ 60/60	ASTM D 1298
Sediment	ASTM D 473 (extraction) or IP 375/90 (hot filtration)
Sodium	IP 288 or ASTM D 2728
Sulphur	ASTM D 1266 or 1551
Vanadium	ASTM D 2788 or IP 288 or IP 285 or X-Ray Flourescence
Calcium	ASTM D 4628
Viscosity, Kinematic @ 50 Deg. C	ASTM D 445/74 or IP 71/75
Water	ASTM D 95/70 or API 2560 or IP 74/70



4.2 TEST METHODS FOR DIESEL

TEST	TEST METHOD
Specific gravity 60/60°F	ASTM D 1298
Distillation 90% recovery, °C (°F)	ASTM D 86
Colour ASTM	ASTM D 1500
Flash point (PMCC), °C (°F)	ASTM D 93
Sulphur content, % wt.	ASTM D 1551/1266
Copper strip corrosion 3 hrs. at 50°C (122°F)	ASTM D 130
Viscosity Kinematic 37.8°C (100°F) cst	ASTM D 445
Cloud point, °C (°F)	ASTM D 97
Pour point, °C (°F)	ASTM D 97
Conradson carbon residue on 10% distillation residue, % wt.	ASTM D 189
Ash, % wt.	ASTM D 482
Sediment, % wt.	ASTM D 473
Water, % Vol.	ASTM D 95
Cetane number or Centane index	ASTM D 613 ASTM D 976
Strong acid number mg KOH/g	ASTM D 3242 OR D974
Total acid number mg KOH/g	ASTM D 3242 OR D974
Calorific value BTU/Lb.	ASTM D 240

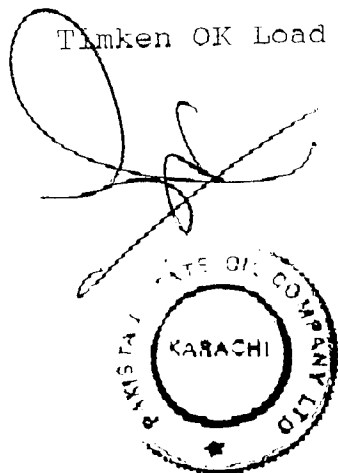


4.3 TEST METHODS FOR LUBRICANTS

<u>S.No.</u>	<u>Tests</u>	<u>Test Method</u>
1.	Specific Gravity @ 15°C	ASTM D-1298
2.	Color	ASTM D-1500
3.	Kinematic Viscosity @ 40°C & 100°C	ASTM D-445
4.	Viscosity Index	ASTM D-2270
5.	Flash Point (PMCC)C	ASTM D-93
6.	Pour Point °C	ASTM D-97
7.	Sediment %wt	ASTM D-473
8.	Water %vol	ASTM D-95
9.	Total Base Number mg KOH/g	ASTM D-2896
10.	Neutralization Number mg KOH/g	ASTM D-974 OR D3242
11.	Sulphated Ash %wt	ASTM D-874
12.	Foam Test	ASTM D-892

4.4 TEST METHODS FOR GREASES

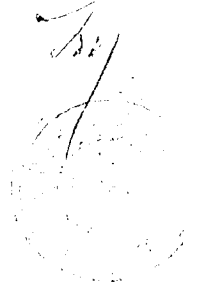
<u>S.No.</u>	<u>Tests</u>	<u>Test Method</u>
1.	Penetration (Worked) @ 25°C	ASTM D-217 OR IP-50
2.	Dropping Point °C	ASTM D-566
3.	Copper Strip Corrosion	IP-112
4.	Oil Separation at 40°C	IP-121
5.	EP Four Ball Test	ASTM D-2596/ IP-239
6.	Timken OK Load	ASTM D-2509



SCHEDULE 5

FACILITIES TO BE PROVIDED BY THE COMPANY

1. Fuel receiving facility.
2. Four (4) Fuel receiving tanks with total capacity of 20,000 tonnes including tank level measurement facility and tank heating and recirculation and sampling points.
3. Such other facilities and equipment as shall be necessary to construct and operate the Complex Storage Facilities.



SCHEDULE 6

INVOICING AND OPERATIONAL PROCEDURES

The INVOICING PROCEDURE for the Company involves the following documents:

6.1. FORM SLS-05 (IN QUADRUPLICATE) COMPANY PRODUCT REQUISITION
(Specimen attached)

This form acts as an indent for supplies and is filled in by the Company. It contains information regarding type of product, quantity, payment instrument, etc.

This form in quadruplicate is submitted to the Incharge PSO supply point i.e. Japan Power Generation Limited.

On receipt of this form, from the Company, action is taken by the Incharge PSO supply point as per 6.1(a) and an Invoice is issued.

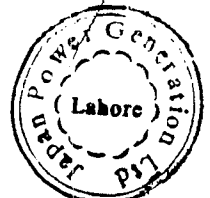
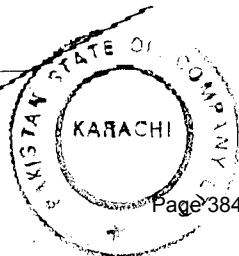
6.1(a) ACTION BY THE DEPOT

When the Company or his nominee presents the Company Product Requisition Form (original and duplicate) the Storage Point shall perform the following functions, over and above the normal checks that are generally done for effecting the deliveries:

Examine the undernoted date of the customer order form SLS-05 as shown against each item:

- Company's Code To be verified against updated Customer Master List
- Company's Name & Address
Destination Code
- Company Order No. It should fall within the series already supplied by the Division Office to the Company.
- Proposed Delivery Date

If all the above particulars are in order, the Storage Point



will process the invoice in accordance with the normal existing procedures. However the invoice number and the date will be recorded in the relevant columns on original and duplicate copy of the customer order form SLS-05.

6.2. FORM SLS-01 (IN SEXTUPLICATE) FUEL INVOICE (Specimen attached)

The invoice issued by the supply point contains following details:

Name, code and address of the company.
Name, code and quantity of the product sold.
Value (amount) of invoice including all relevant charges
Details of Bank Draft/Payorder/Bank Transfer
Name and code of cartage contractor and no. of truck lorry

6.3. Once the truck lorry has delivered the product at the desired location, the truck lorry driver will obtain the signature of the Company on the acknowledgement (record) copy of the invoice and will also record shortage, if any, on all the copies of invoices that is, Company's copy, record copy and cartage contractor's copy.

6.4. The Company's copy of the invoice will act as the receipt for the amount received for the product supplied. At the end of each month a statement of account will be issued to Company showing details of each supply made to the Company.

6.5 RECEIPT OF PRODUCT THROUGH PIPELINE

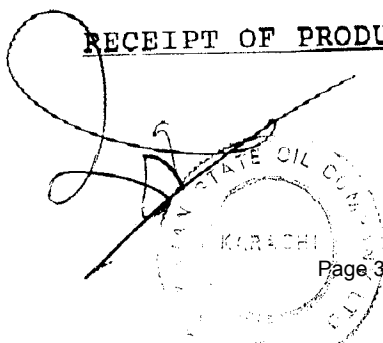
The following procedure will be adopted for receipt of Fuel through pipeline from Fuel Supplier storage tanks:

1. A weekly schedule of Fuel pumping will be prepared stating with size of parcel in M. Tons/Kls by the Operational Coordinators of Fuel Supplier and the Company.
2. Before pumping the product, the Fuel Supplier's representative will produce the Fuel quality certificate confirming that the Fuel meets the Specifications.
3. Fuel samples will be drawn at 3 levels i.e. Upper, Middle and Lower of Fuel Supplier storage tank and these samples will be sent to laboratory for quality confirmation.



4. The quality certificate from the laboratory will be matched with the certificate provided by the Fuel Supplier before pumping, if the samples meet the Specification prescribed in Schedule 1, the Fuel from that particular storage tank will be allowed for pumping to Company's storage tank.
5. Before pumping the Fuel, authorized representatives will take the following measures:
 - a. Designated tank for the scheduled Fuel parcel will be jointly gauged and the reading will be recorded on the joint dip certificate giving density/temperature/product dip and quantity dip (water) and both the authorized persons will sign the statement.
 - b. After taking dips, all the pipelines, outlets, inlets (except the valve through which the product is to be transferred) will be sealed by the Company's representative with their proper specified seals.
 - c. During pumping of Fuel a close coordination will be kept between Company and pumping source to avoid any mishap, overflow, pipeline leakage, etc.
 - d. A Mobile Team from Company side should be appointed to watch the pumping operation from pumping end to receiving storage tank.
 - e. Half hourly/hourly dips are taken of the storage tank to control overflow.
6. After pumping is completed a set time of interval is given according to size of parcel for settling of Fuel i.e. minimum 6 hours to 24 hours per meter per hour.
7. Finalization of tank is carried out by joint representatives of both Company and Fuel Supplier by gauging storage tank endorsing gross dip, water dip, temperature/density. The calculation of quantity will be with the help of approved calibration charts of the receiving tank.
8. Fuel Supplier should always ensure that pipeline using in the pumping operation is always primed with the Fuel. If pipeline is empty before pumping it should be primed by the Fuel Supplier up to the Company's manifold.

RECEIPT OF PRODUCT THROUGH RAILWAY TWS



Railway tankwagons which are generally in use have capacities of 23000 Litres (4 Wheeler) & 47000 Litres (8 Wheeler)

Following types of tankwagons are as under:-

1. TP/BTP

For the use of MS & HOBC

2. TV

For the use of Audible Oil

3. TK/BTK

For the use of White Oil

4. TJ/BTJ

For the use of Aviation Fuel.

5. TL/BTL

For the use of Black Oil

Since the TWS are placed by the Railways the following measures are to be taken:-

1. To check seals of TWS intact.
2. In case of any seal is found broken Immediately Railway authorities are informed for joint dip of the TW relating to the broken seals.

Join Dip Certificate is to be signed by all concerned as per specimen attached.

Original Joint Dip Certificate is sent to the supplier for lodging claim against short supply to the Railways.

3. TW dip is to be taken.
4. Temperature/density is to be taken.
5. To ascertain the quality of TW Dip Chart of the TW is to be consulted for correctness of the measurement (Photo copy of the Calibration Chart as per the Railway Diagram is enclosed).
6. When the product is found as per the specification & quantity as per RR then the TW is to be connected for decantation.
- 6.6 PROCEDURE FOR RECEIPT OF PRODUCT THROUGH TRUCK LORRIES

1. The Company will ensure that the Fuel Supplier's seals are intact and not tampered in between shipping and

receiving end and all the openings are properly sealed.

2. The Company will check the validity of calibration chart. In case the calibration chart is expired the truck lorry will not be decanted.
3. Samples will be taken after breaking the seal from the bottom valve in the presence of the driver/carriage representative.
4. In case there is a water in truck lorry it should be rejected due to water contamination. In case, quantity of water is small, it should be drained out first and then its dip is to be taken after ascertaining with water finding paste that there is no water therein and the actual dip is to be recorded.
5. The dip of product is taken with an approved dip rod by the Weights and Measure Department for ascertaining the volume of the container i.e. truck lorry chambers.
6. Temperature/density of Fuel will also be recorded.
7. In case of short dip the actual dip is to be written on all the invoices and the signature of the driver is obtained for short delivery.
8. Once the truck lorry is dipped, the quantity and quality is ascertained by the Company as per Specification in Schedule 1 and if satisfied the truck lorry's valves are connected to the decanting point.
9. After decantation of the truck lorry it will be properly checked that the truck lorry is completely emptied out and only then the acknowledgement copy is to be handed over to the carriage contractor.

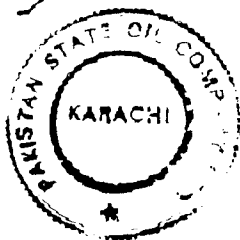
SCHEDULE 7

SCHEDULING OF LUBRICANTS AND GREASES

The Company will maintain an adequate inventory of all Lubricants and Greases to be arranged by the Fuel Supplier according to the delivery schedule agreed between the Company and the Fuel Supplier.

Fuel supplier will manufacture and submit samples of lubricants and greases for the approval of plant equipment manufacturer. Lubricants, greases and additives will be supplied only after such an approval has been received. If such manufactured lubricants, greases and additives are not found acceptable, then Fuel Supplier will supply imported lubricants, greases and additives of brands in the approved list of manufactures.

The prices of the lubricants greases and addittives shall be inline with products of similar quality.



FUEL INVOICE

SLS-01

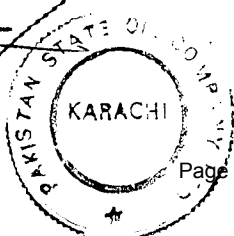
SOLD TO: JAPAN POWER GENERATION LTD.

No: _____

CASH		DATE PREPARED	
CREDIT			
CUSTOMER ORDER NO. & DATE			
CUSTOMER CODE	STORAGE POINT NAME & CODE	DELIVERY DATE	MODE OF TRANSP
PRODUCT NAME	CODE	QUANTITY	UNIT RATE
	GRP BRAND		
I confirm the product tested with detector solution and found free of adulteration of Kerosene.		AMOUNT	
		RS.	PS.
1. INVOICE VALUE			
2. FREIGHT PIPELINE CHARGES			
Signature Signature			
driver consignee			
TL No.	CARTAGE CONTRACTOR NAME & CODE		
DESTINATION & CODE		RAILWAY WAGON NO.	
R/R NO.	R/R DATE	RLY. INV. NO.	WEIGHT CHARGED
CREDIT INSTRUMENT NUMBER, BANKS & BRANCH		RS.	PS.
TANK NO.	THIS SEAL NO.	FINAL DIP	LITRES-READING FINISH
DENSITY AT 15°C	▼	PROD. DIP	▼
TEMP °C	▲		▲
PREV. SEAL NO.		LITRES-READING START	
LITRES DELIVERED			
PREPARED BY	APPROVED BY	RELEASED BY	CHECKED AT GATE BY
DRIVER'S SIGNATURE		SHORTAGE	
JPG JIA BAGGA REPRESENTATIVE SIGNATURE	VOLUME	DRIVER'S SIG.	JPG JIA BAGGA REP. SIGNATURE

ORIGINAL (Black) Customer

DUPLICATE (White) Collect: Seel Tech Control



Pakistan State Oil Company Limited

CONSUMER PRODUCT REQUISITION

SLS-05

NO: _____

Storage Point _____ Code _____ Date _____

Please delivery to JAPAN POWER GENERATION LTD. Code _____

Destination _____ Cartage Contractor _____

Payment Particulars:

S.No.	PRODUCT						PACKAGES		RATE	QTY. UNIT	QUANTITY	VALUE
	Description	Group		Grade				KIND				
		0	6	1	0	1						
TOTAL												

OTHER INSTRUCTIONS	Customer Name and Signature	Status	Prepared	Approved
		Name		
		Designation		
		SIGN.		

Original (White) : Storage Point
 Triplicate (Blue) : Credit Control Section

Duplicate (Pink) : CPM
 Quadruplicate (Yellow) : Sales Office

