

Model Power Purchase Agreement under REC framework only

in accordance with Commission's Order dated 01.08.2014 in case No.97 of 2014 applicable prospectively.

**'SHORT/MEDIUM TERM' POWER PURCHASE AGREEMENT FOR SHPs
(UNDER REC MECHANISM)**

FOR

(_____ SHP _____ MW), DISTT.....

This Short/Medium Term Power Purchase Agreement (the Agreement) entered into on this _____ day of the month of _____ in the year, _____ (Two Thousand _____).

BETWEEN

M/s _____, a Company which have signed Implementation Agreement with the Government of Himachal Pradesh and is having its registered office at (hereinafter referred to as "the Company", which expression shall, unless repugnant to the context or meaning thereof, also include their successors, permitted assigns legal representatives), through Sh. _____, who is duly authorized by the Company vide their resolution dated _____ (**Annexure-1**) to execute this agreement, of the **First Part**,".

AND

Himachal Pradesh State Electricity Board Ltd., a company framed and registered under the companies' Act, 1956 (1 of 1956) constituted under the Company Act, 1956 having its office at Vidyut Bhawan, Shimla-171004 (hereinafter referred to as "**HPSEBL**", which expression shall, unless repugnant to the context or meaning thereof, also include their successors, permitted assigns and legal representatives), through..... who is duly authorized by the HPSEBL vide their resolution dated (**Annexure-II**) to execute this Agreement, of the **Second Part**.

Whereas the Central Electricity Regulatory Commission (CERC), to promote renewable energy through Renewable Energy Certificate mechanism, has notified on 14th January, 2010 the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy Generations) Regulations, 2010; and

Whereas keeping in view the Section 86 of the Electricity Act, 2003, National Tariff Policy and the Central Electricity Regulatory Commission's, the Himachal Pradesh State Electricity Regulatory Commission (HPERC) has made Himachal Pradesh State Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010, interalia providing for power purchase by HPSEBL under REC framework on APPC; and

Whereas the Company has entered into an agreement dated _____ (hereinafter referred to as "**Implementation Agreement**"), with the Government of Himachal Pradesh, whereby the later has agreed to grant to the Company the right to establish, operate and maintain, at their cost, _____ Hydro Electric Project (hereinafter defined and referred to as Project) on _____, a tributary of _____ river in District _____ of Himachal Pradesh with an installed capacity of _____ MW ("Contracted Capacity"), in the private sector; and

Whereas the Government Supply, as defined hereinafter, as fixed by the State Government, in the shape of free power (energy) is deliverable at the Interconnection Point, by the Company, as per Implementation Agreement including subsequent Supplementary Implementation Agreements; and

Whereas the Company has agreed that it is eligible for sale of power under REC framework and accordingly to sell and the HPSEBL has agreed to purchase the entire electric energy (excluding the Government Supply as defined hereinafter) received from the Project at the Interconnection Point under REC Mechanism for a period of _____ years; and

Whereas Clause ____ and _____ of the Implementation Agreement, interalia, provides that a separate agreement specifying various modalities for the generation, evacuation of power, maintenance of the Project, supply of **free power**, metering etc. shall be executed and in pursuance thereof, this Agreement is being executed.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions setforth hereinafter, the Parties hereto hereby agree and this Agreement witnesseth as follows:

ARTICLE 2

DEFINITIONS AND INTERPRETATION

2.1 INTERPRETATION

- 2.1.1 The numbering of paragraphs are for convenience of reference only and shall be ignored in construing or interpreting this Agreement.
- 2.1.2 References to persons and words denoting natural persons shall include bodies corporate and partnerships, joint ventures and statutory and other authorities and entities within the meaning of Article 12 of the Constitution of India.
- 2.1.3 References to any enactment, ordinance or regulation or any provision thereof shall include any amendment thereof or any replacement in whole or in part.
- 2.1.4 Reference to Recitals, Articles, Schedules, Appendix, Clauses, Sub-Clauses or Annexures shall, unless the context otherwise requires, be deemed to include the Recitals, Articles, Schedules, Appendix, Clauses, Sub-Clauses or Annexures of this Agreement.
- 2.1.5 The words importing singulars shall include plurals and vice versa as may be necessary.
- 2.1.6 Terms beginning with capital letters and defined as per Clause 2.2 of this Agreement shall have the same meaning ascribed thereto herein and the terms defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.
- 2.1.7 The Annexures and Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- 2.1.8 Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Clause shall not operate so as to increase liability or obligation of any Party hereunder or pursuant hereto in any manner whatsoever.
- 2.1.9 Any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing and under the hands of duly authorized representative of such Party in this behalf and not otherwise.
- 2.1.10 Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates.
- 2.1.11 The words/expressions used in this Agreement but not defined herein, unless repugnant to the context, shall have the same meaning as assigned to them in the Implementation Agreement as amended from time to time. The words/expressions used in this Agreement but not defined herein or in the Implementation Agreement shall bear the same meaning as assigned to them in the context in which these have been used in the Agreement provided that the respective meanings, if any, assigned to such undefined words/expressions in the Electricity Act, 2003 shall also be taken into consideration for harmonious interpretation of the Agreement.

2.2 DEFINITIONS

The defined terms set forth in this Agreement will have the following meanings unless repugnant in the subject or context.

- 2.2.1 "**Active Power Output**" means the active power during a Demand Period in kW (kilowatts) or multiples thereof, obtained by dividing the Active Energy produced in kWh (kilowatt hours) or multiples thereof during that period by the time interval of the said demand in hours.
- 2.2.2 "**Active Energy/Energy**" means the electrical energy produced, flowing or supplied by an electrical circuit during a time interval, measured in units of kilowatt hours or standard multiples thereof.
- 2.2.3 "**Active Power**" means the product of voltage (Volts) and the in phase component of alternating current (Amperes), measured in unit of watts or standard multiples thereof.
- 2.2.4 "**Agreement**" means this agreement together with all the Annexures and Schedules hereto as amended from time to time in accordance with the provisions contained in this behalf in this agreement.
- 2.2.5 "**Approved DPR**" means the detailed project report for the Project, for which techno-economic approval or technical concurrence, as prescribed under the policy of the Government from time to time, is issued by the competent authority, read with the changes and conditions stipulated in the Implementation Agreement, techno-economic approval, technical concurrence, feasibility approval, techno-economic appraisal and the Governmental Authorisations, as applicable. Any change(s) in the detailed project report after the Effective Date shall however not affect the capital cost and/or tariff under this Agreement.
- 2.2.6 "**Auxiliary Consumption**" means Energy consumed in the various auxiliaries of the Project during generation of electricity but shall exclude the power supply to colony and its water pumping system etc. Auxiliary consumption shall be deemed to be 0.5% of the energy generated for the purpose of computation of Net Saleable Deemed Generation.
- 2.2.7 "**Available Capacity**" means the power station's available capacity in each settlement period and the "available capacity" shall be equal to the declared capacity in that settlement period, less any capacity reduction attributable to a capacity failure affecting the power station in that settlement period.
- 2.2.8 "**Billing Month**" means each of the following:
- a) the period commencing on the Synchronization of the Unit(s) and ending on (and including) the last day of the calendar month in which the Synchronization of the Unit(s) occurs; or
 - b) each calendar month thereafter.
- 2.2.9 "**Buy-Out Option**" means any written option exercised by the HPSEBL that causes the Company to sell the Project to the HPSEBL, in accordance with the terms of the Agreement.
- 2.2.10 "**Check Meter**" means any meter(s) or metering devices of accuracy class equivalent to that of the corresponding Main Meter installed and maintained by the HPSEBL at the Interconnection Point for checking the corresponding Main Meter.
- 2.2.11 "**Commercial Operation of the Unit/Project**" means the state of a Unit/Project when it is capable of delivering Active Power and Reactive Power on a regular basis after having successfully met the requirements of the Commissioning Tests.
- 2.2.12 "**Commercial Operation Date (COD) of Unit/Project**" means the date(s) on which the Unit(s) or the Project achieves the Commercial Operation.
- 2.2.13 "**Commission**" means the Himachal Pradesh Electricity Regulatory Commission.

- 2.2.14 "**Company**" means M/s _____, which have signed Implementation Agreement with Government of Himachal Pradesh and is having its registered office at..... and shall, unless repugnant to the context or meaning thereof, also include their successors, permitted assigns and legal representatives”.
- 2.2.15 "**Company Event of Default**" means occurrence and continuation of any of the events listed in Section 10.3 unless any such event occurs as a result of Force Majeure or breach by the HPSEBL of its obligations under the Agreement.
- 2.2.16 "**Company Termination Notice**" means a notice given by the Company to the HPSEBL pursuant to Section 10.6(a).
- 2.2.17 "**Commissioning Tests**" means the applicable tests as detailed in relevant standards.
- 2.2.18 "**Control Centre**" means the State Load Despatch Centre located at Shimla, or such other control centre designated from time to time (but not more than one at a time) wherefrom Despatch Instructions to the Station/Company shall be issued.
- 2.2.19 "**Date of Payment/Date of Reimbursement**" bears the meaning as set out in Section 8.7.
- 2.2.20 "**Date of Presentation of Bill**" bears the meaning as set out in Section 8.1.
- 2.2.21 "**Deliverable Energy**" means the electrical Energy generated by the Project, as measured at the Interconnection Point.
- 2.2.22 "**Deemed Generation**" bears the meaning as set out in Section 6.4.
- 2.2.23 "**Demand Period**" means the period of time, over which the Active and Reactive Power Outputs are integrated to obtain the respective active and reactive electrical outputs. In this Agreement the Demand Period shall be thirty (30) minutes or a shorter period as may be decided by the HPSEBL as per the Prudent Utility Practices from time to time.
- 2.2.24 "**Despatch**" means to schedule and control the generation of the Project in order to commence, increase, decrease or cease the electrical output as delivered to the Grid System in accordance with the instructions from the Control Centre in conformity with the Agreement and Prudent Utility Practices.
- 2.2.25 "**Despatch Instruction**" means an instruction issued by the Control Centre to the Company for the Despatch of power by message to be confirmed in writing/fax by Control Centre in accordance with the Operating Procedures developed by the Parties to operate the Project in accordance with the terms of the Agreement, Technical Limits and Prudent Utility Practices including:
- (a) an instruction to target Active/Reactive Power to be maintained by the Project;
 - (b) an instruction to Synchronize or de-Synchronize the Unit(s) at a particular time;
 - (c) an instruction to defer or cancel a Scheduled Outage or Maintenance Outage subject to provision of Article 5; and
 - (d) an instruction for backing down the Active/ Reactive Power due to Grid conditions.
- 2.2.26 "**Dispute**" means any material dispute or material difference of any kind whatsoever between the Parties to the Agreement in connection with or arising out of the Agreement.
- 2.2.27 "**Due Date of Payment**" means with respect to any bill, the date by which the amount of such bill is required to be paid. This date shall in case of any monthly bill for any Billing Month and/or supplementary bill, be sixty (60) days from the Date of Presentation of the Bill by the Company to the HPSEBL or vice versa. If such due date happens to be a holiday, the next working day shall be treated as the Due Date of Payment.
- 2.2.28 "**Effective Date**" means the date of signing of the Agreement.

- 2.2.29 **"Financial Agreement"** means the loan agreements, notes, indentures, security agreements, letters of credit and other documents relating to the construction and financing (including refinancing) and over run finance, if any, for the capital cost, or any part thereof, of the Project as the same may be executed, amended, supplemented or modified from time to time.
- 2.2.30 **"Financial Year/Year"** means a period of 12 months beginning April 1, and ending March 31.
- 2.2.31 **"Force Majeure"** bears the meaning set out in Article 12.
- 2.2.32 **"Forced Outage"** means an interruption in the generating capacity of the Project that is not the result of:
- (a) request by the HPSEBL in accordance with the Agreement;
 - (b) a Scheduled Outage or a Maintenance Outage;
 - (c) an event or occurrence of Force Majeure; and
 - (d) a condition caused solely by the HPSEBL or by the HPSEBL's Grid System.
- 2.2.33 **"Generating Company"** means any company or body corporate or a association or a body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station.
- 2.2.34 **"Generating Unit/Unit"** means one turbine generator set and the associated equipment/ancillary thereto.
- 2.2.35 **"Governmental Authorizations"** means all such permits, licenses and sanctions etc., as may be required to be obtained by the Company from the Government/GOI/governmental agencies for implementation of the Project.
- 2.2.36 **"GOI"** means the Government of India.
- 2.2.37 **Government/Govt."** means the Government of Himachal Pradesh.
- 2.2.38 **"Government Supply/Govt. Supply"** means the quantum of electrical energy which will be supplied by the Company, free of cost, at the Interconnection Point to the HPSEBL, as per the Implementation Agreement and also includes the free power to be provided towards the Local Area Development Fund as per the instructions of the Government.
- 2.2.39 **"Grid/Grid System"** means the network of power system interconnecting different power generating stations, transmission lines and sub-stations for transmitting the electrical output from the Interconnection Point upto main load centre(s).
- 2.2.40 **"HPSEBL"** means Himachal Pradesh State Electricity Board Ltd., a company incorporated and registered under the Companies Act, 1956, having its Head Office at Vidyut Bhawan, Shimla-171004, which is also a successor entity of the erstwhile Himachal Pradesh State Electricity Board, as per sub-Section (2) of Section 131 of the Electricity Act, 2003, and shall, also include their successors, permitted assigns and legal representatives.
- 2.2.41 **"HPSEBL Event of Default"** means occurrence and continuation of any of the events listed in Section 10.4 unless any such event occurs as a result of Force Majeure event or breach by the Company of its obligations under this Agreement.
- 2.2.42 **"HPSEBL Termination Notice"** means a notice given by the HPSEBL to the Company pursuant to Section 10.6(a).
- 2.2.43 **"Implementation Agreement"** means the agreement dated entered into between the Company and the Government for implementation of _____Hydroelectric Project and also includes the Supplementary Implementation Agreement and subsequent modifications thereto.

- 2.2.44 **"Independent Engineer"** means the independent consulting engineer or consulting firm or group that is jointly qualified by the Company and the HPSEBL for the purposes of this Agreement who shall be appointed three months before the COD.
- 2.2.45 **"Installed Capacity"** means summation of the name plate kilowatt capacity(ies) of the Generating Unit(s) of the Project.
- 2.2.46 **"Interconnection Facilities"** means all the facilities which shall include, without limitation, switching equipment, protection, control and metering devices etc. for the incoming bay(s) for the Project Line(s), to be installed and maintained by the HPSEBL at existing/proposed kV sub-station at _____, at the cost of the company to enable evacuation of electrical output from the Project in accordance with the Agreement.
- Explanation:** For the purpose of this clause, the expression "cost" shall include "other expenditure borne by the company like re-organisation of bays at interconnecting sub-station and associated civil works along with related operation and maintenance cost.
- 2.2.47 **"Interconnection Point"** means the physical touch point where the Project Line(s) and the allied equipment forming a part of the Interconnection Facilities are connected to the existing/proposedkV pooling sub-station of the HPSEBL at _____.
- 2.2.48 **"Law"** means any act, rule, regulation, notification, directive, order or instruction having the force of law enacted or issued by any competent legislature, Government, GOI or statutory authority of India.
- 2.2.49 **"Main Meter"** means all meter(s) and metering devices owned by the Company and installed at the Interconnection Point for measuring and recording the delivery and receipt of Energy and other parameters as per Section 7.2.
- 2.2.50 **"Maintenance Outage"** means an interruption or reduction in the generating capability of the Project that:
- (a) is not a Scheduled Outage;
 - (b) has been scheduled and allowed by HPSEBL in accordance with Article 5; and
 - (c) is for the purpose of performing work on specific components, which work could be postponed by atleast two (2) days but should not, in the reasonable opinion of the Company, be postponed until the next Scheduled Outage.
- 2.2.51 **"Net Saleable Deemed Generation"** means the saleable component of the Deemed Generation, as set out in Section 6.4, after deducting therefrom, on deemed basis, the corresponding quantum of the Govt. supply, auxiliary consumption, transformation losses, and the Project Line Losses. The Deemed Generation and the Net Saleable Deemed Generation shall be reconciled and signed by the designated officers of the Parties on monthly basis in accordance with Section 7.16. The determination of Energy quantum qualifying for payment(s) by the HPSEBL to the Company on account of Net Saleable Deemed Generation shall be strictly done in accordance with the stipulations under Section 6.4.
- 2.2.52 **"Net Saleable Energy"** means the electrical Energy in kWh, delivered by the Company at the Interconnection Point, less the Government Supply.
- 2.2.53 **"Notice of Default"** means the notice served by one Party on the other Party pursuant to Section 10.5(a).
- 2.2.54 **"Operating Committee"** bears the meaning as set out in Section 5.6.

- 2.2.55 **"Operating Procedures"** means the operating procedures adopted by the Operating Committee from time to time pursuant to Section 5.6.
- 2.2.56 **"Party"** means the HPSEBL or the Company when referred to individually.
- 2.2.57 **"Parties"** means the HPSEBL and the Company when referred to collectively.
- 2.2.58 **"Pooled Cost of Purchase or Average Pooled Purchased Cost (APPC)"** means the weighted average pooled price, as determined by the Himachal Pradesh Electricity Regulatory Commission, at which the distribution licensee has purchased the electricity including the cost of self generation, if any, in the previous year from all the energy suppliers, long-term and short term, but excluding those based on renewable energy sources, as the case may be, or as specified from time to time.
- 2.2.59 **"Project"** means the _____ Hydro Electric Project of _____ MW capacity, proposed to be established on _____, a tributary of _____ river in Distt. _____ in Himachal Pradesh, India, as approved by the Government, including complete hydro power generating facility covering all components such as diversion, intake works, water conductor system, head race tunnel, adits, forebay, penstock, Station, switching, tailrace channel, Generating Unit(s), the Project Line(s), Interconnection Facilities and other connected facilities.
- 2.2.60 **"Project Line"** means kV Circuit electrical line from the Station to the existing/proposed kV pooling sub-station of the HPSEBL at _____ operated and maintained, as a part of the Project, by the Company for the purpose of evacuation of power from the Project. This shall however not include the Interconnection Facilities.
- 2.2.61 **"Project Line Losses"** means the difference of the electrical energy measured at the sending end and receiving end of Project Line (i.e. the Station and the Interconnection Point) and these Losses shall be deemed to be 0.7% of the Deemed Generation for the purpose of computing the Net Saleable Deemed Generation.
- 2.2.62 **"Prudent Utility Practices"** mean those practices, methods, techniques and standards as prevalent from time to time, that are generally accepted internationally for use in electrical utility industries (taking into account conditions in India) and commonly used in prudent electric utility engineering and operations to design, engineer, construct, test, operate and maintain equipment lawfully, safely, efficiently and economically as applicable to power stations of size, service and type as that of the Project and that generally conforms to manufacturers' operation and maintenance guidelines.
- 2.2.63 **"Reactive Energy"** means the electrical Energy produced, flowing or supplied by an electric circuit during a time interval, measured in units of kVARh or standard multiples thereof.
- 2.2.64 **"Reactive Power"** means the product of voltage and quadrature component of current, measured in kVAR, which the Project shall provide to or absorb from the Grid System.
- 2.2.65 **"Reactive Power Output"** means the Reactive Power during a Demand Period in kVAR or multiples thereof, obtained by dividing reactive energy produced in kVARh or multiples thereof during that period by the time interval of the said demand in hours.
- 2.2.66 **"Scheduled Commercial Operation Date of the Project/Scheduled COD of the Project"** means the date by which the Company shall achieve Commercial Operation of the Project in accordance with Article-4 and commence power supply from all the Unit(s) on regular basis. The same shall be the date falling fifteen days after the Scheduled Synchronization Date of the last Unit.

- 2.2.67 "**Scheduled Outage**" means a planned interruption of the generating capability of the Project or a Generating Unit.
- (a) for inspection, testing, preventive maintenance, corrective maintenance, repairs, replacements and improvement; and
 - (b) which is not a Maintenance Outage and has been scheduled and allowed by the HPSEBL.
- 2.2.68 "**Scheduled Synchronization Date/Scheduled Date of Synchronization**" means the date by which the Company schedules to Synchronize and connect the Unit, for the first time, with the Grid System as per the provisions of the Implementation Agreement.
- 2.2.69 "**Synchronization/Synchronize/Synchronizing**" means an act to cause paralleling of two A.C circuits/ systems when they are within the desired limits of frequency, phase angle and voltage.
- 2.2.70 "**Synchronization Date(s)/Date of Synchronization**" means with respect to each Unit, the date on which each such Unit is Synchronized and connected, for the first time, to the Grid System.
- 2.2.71 "**Station**" means the ____ MW _____Hydro Electric Power Station under the Project.
- 2.2.72 "**Technical Limits**" mean the limits and constraints and relating to the operation and maintenance of the Project, specified by the HPSEBL as per Schedule-II.
- 2.2.73 "**TOD**" means time of day for the purpose of metering.
- 2.2.74 "**Transformation Losses**" means the difference between
- a) the number of energy units supplied to the incoming terminals of step-up transformer(s) and
 - b) the number of energy units available at the outgoing terminals of the step-up transformer(s).
- The transformation losses shall deemed to be 0.5% of Energy generated for the purpose of computing the Net Saleable Deemed Generation.
- 2.2.75 "**Water Spillage**" means the amount of water spilled downstream of weir (without obtaining power generation benefits) on account of factors described in Section 6.4, but shall not include the minimum releases required to be ensured immediately downstream of the weir and shall also not include the water which would have spilled otherwise also even in absence of such factors.

ARTICLE 3

CONSTRUCTION STAGE

[Applicable for under-construction Project(s) only and if not applicable, delete the provision and write not applicable.]

- 3.1 The Company shall design and construct the Project in accordance with the Prudent Utility Practices, relevant technical standards and specifications and also in line with the provisions of Approved DPR, after obtaining all requisite approvals. The Company shall achieve Commercial Operation of the Project within Scheduled Commercial Operation Date as per the approved construction schedule, attached with this Agreement, and ensure that the Project is capable of being Despatched, delivering Active and Reactive Power as per Despatch Instructions and of being operated in parallel with the Grid System as per Prudent Utility Practices. The Company shall also ensure delivery of power at the Interconnection Point in a safe and reliable manner so as to avoid fluctuations and disturbances to the Grid System due to parallel operation. In the event of revision of construction schedule by the Company and approval thereof by the Government through supplementary Implementation Agreement (SIA), the Company shall sign Supplementary Power Purchase Agreement with the HPSEBL to make such SIA a part of this Agreement. However, there shall be no direct or indirect increase in the tariff payable by the HPSEBL on account of any such revision in the construction schedule.
- 3.2 For the purpose of this Article the construction period means a the period during which the Project is to be completed as per the construction schedule, attached as Schedule –I of this Agreement. The Company shall also furnish to the HPSEBL half yearly progress reports by 31st March and 30th September every year indicating achievement viz-a-viz the targets, spillages, if any, and the remedial actions intended to be taken.
- 3.3 The Company shall enter into a separate agreement with the HPSEBL and any other entities owning the System where connectivity is to be provided, within the timelines specified in the HPERC (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determinations) Regulations, 2012 or in three (3) months from the Effective Date, whichever is earlier, for execution, operation and maintenance of the Interconnection Facilities. The agreement shall inter-alia lay down the details of the Interconnection Facilities and also the charges and other terms and conditions for the execution, operation and maintenance of the Interconnection Facilities, duly taking into account the principles, if any, laid down by the Commission.
- 3.4 The Company shall provide at the Station, at its cost, suitable arrangements, compatible with the Grid System and as may be approved by the HPSEBL, for parallel operation with the Grid System as per Prudent Utility Practices and also for

automatic isolation of the Project from the Grid System in the event of any fault on the Grid System and ensure that no damage is caused to the Project due to aforesaid.

- 3.5 The HPSEBL shall provide adequate protection at the Interconnection Point, as a part of the Interconnection Facilities, to ensure that no damage is done to its system due to paralleling of the Station.
- 3.6 The HPSEBL shall, on receipt of application from the Company, expeditiously provide construction power to the Project at the cost of the Company in accordance with the provisions of the Electricity Act, 2003 and the Regulations made thereunder.

ARTICLE 4

COMMISSIONING AND ACHIEVING COMMERCIAL OPERATION

[Applicable only in project where CoD is not achieved and if not applicable delete these provision and write not applicable.]

4.1 SYNCHRONIZATION

4.1.1 The Company shall give the HPSEBL at least sixty (60) days advance written notice of the date on which it intends to Synchronize a Unit to the Grid System. In case the Company intends to Synchronize a Unit earlier than the Scheduled Synchronization Date for the first Unit, such notice shall be given at least 180 days in advance. If power cannot be evacuated smoothly under the regular arrangement envisaged in the Agreement, the Parties may mutually agree to an interim arrangement as per the provisions of Section 4.4.

4.1.2 Subject to Section 4.1.1, the Company shall declare a Unit to be ready for Synchronization with the Grid System when:-

- (i) it has been installed in accordance with the required technical specifications and Prudent Utility Practices;
- (ii) it meets all related conditions prescribed in applicable Indian Standard(s)/Code(s) then in effect and otherwise meets the provisions of the Electricity Act, 2003 and the Rules or Regulations framed thereunder, or any other requirements for Synchronization to the Grid System;
- (iii) it is capable of being operated safely and the Company has obtained the approval of the Chief Electrical Inspector of the Government for energisation; and
- (iv) the Company has entered into a separate agreement for execution, operation and maintenance of the Interconnection Facilities as per Section 3.3.

4.1.3 The Company shall notify the HPSEBL, as soon as the requirement of Section 4.1.2 have been met and the Unit is ready to be Synchronised to the Grid System in accordance with the Agreement.

4.1.4 The HPSEBL, and/or its authorised representative(s) shall inspect any Unit which the Company intends to Synchronize to the Grid System within five (5) days after being notified in writing by the Company pursuant to Section 4.1.3, to determine whether the requirements of Section 4.1.2 have been met. The Company shall provide the HPSEBL with such access to the Station as is reasonably required to make such determination.

4.1.5 If the HPSEBL is satisfied that the Unit is ready to be Synchronised in accordance with Section 4.1.2 and 4.1.4, it shall within three days of the completion of the inspection of the Unit(s) notify the Company to that effect and provide the Company with all reasonable assistance in Synchronizing the Unit and also for conducting Commissioning Test(s).

4.2 COMMISSIONING TESTS:

4.2.1 After a Unit has been successfully Synchronized with the Grid System, the Company shall further give atleast seven (7) days notice by fax followed by registered mail to

- the HPSEBL of the exact date(s) on which Commissioning Test(s) will commence. The HPSEBL shall designate its authorized representative to observe these test(s).
- 4.2.2 The Company shall conduct Commissioning Tests within fifteen (15) days from the Synchronization Date, in the presence of an Independent Engineer appointed by both the Parties and the authorized representative of HPSEBL. The Independent Engineer and the authorized representative of the HPSEBL shall submit a certificate of the Tested Capacity and necessary performance tests of the plant to the Chief Engineer (Commercial) HPSEBL, or to any other authority as may be designated by the HPSEBL. After successful completion of the Commissioning Tests, trial operation of the Unit(s) shall be carried out by the Company for a period of 15 days to establish the reliability and stability of the Generating Unit(s). The Company shall also furnish a copy of the Test results and the report regarding trial operation to the HPSEBL.
- 4.3 **COMMERCIAL OPERATION**
- 4.3.1 The Commercial Operation of a Unit shall have occurred as on the date such Unit successfully completes, after having passed Commissioning Test(s) as per Section 4.2.2, the fifteen days' trial operation as certified by the Superintendent Engineer (Design) Power House (Electrical), HPSEBL (or any officer as may be designated by HPSEBL) and accepted by the Chief Engineer (Commercial) HPSEBL, or any other Chief Engineer designated by HPSEBL for the purpose, under intimation to the Company.
- 4.3.2 In case the Company fails to achieve Commercial Operation of the Unit(s) within 180 days from the first Synchronization of the last Unit of the Project, the Company shall, to the satisfaction of the HPSEBL, take off such Unit from the Station bus bar till such time the defect is removed, failing which the HPSEBL shall be free to disconnect the Project Line(s) from its Grid System after giving an opportunity to the Company to explain its position.
- 4.4 **INTERIM ARRANGEMENT FOR EVACUATION OF POWER**
- In case power cannot be evacuated from the Project at the Interconnection Point due to non commissioning of the Project Line, non availability of evacuation system beyond the Interconnection Point or any other technical constraints, the Parties may mutually agree to an interim arrangement, alongwith the terms and conditions thereof, for evacuation of power from the Project till such time the same can be evacuated under the regular arrangement envisaged in the Agreement. However, the Deemed Generation benefit under Section 6.4 or any other provisions of the Agreement shall not be available to the Company for the period during which power is evacuated under such interim arrangement.

ARTICLE 5

PLANT OPERATION AND MAINTENANCE

5.1 Subject to the provisions of the Agreement, the Company shall organize operation and maintenance of the Project so as to ensure optimum utilization of the water potential and if required, affect improvement (within the overall scope of the Project implementation) in the Project in accordance with:

- (i) Prudent Utility Practices;
- (ii) all applicable Laws and directives;
- (iii) the manuals, instructions and manufacturers' guidelines supplied by construction contractors, manufacturers of equipments/suppliers etc;
- (iv) the Grid Technical Limits as described in Schedule- II;
- (v) Despatch Instructions; and
- (vi) rated capacity subject to normal derating/deterioration.

5.2 SCHEDULED OUTAGES

- (a) At least 45 days prior to the Scheduled Synchronisation Date of each Unit, the Company shall submit to the HPSEBL proposed plan of scheduled outage for that Unit for the balance period of the Year in which such date falls. Thereafter, by 15th February preceding each Year, the Company shall submit to the Control Centre its proposed plan of scheduled outages for Unit(s) of the Project for the following Year.
- (b) Within 30 days of submission of such Schedule by the Company, the Control Centre shall either notify the acceptance to the Company in writing or convey its views to the Company in writing. In case of non response by the Control Centre within the stipulated period, the Schedule submitted by the Company shall be deemed to be carrying the approval of the Control Centre. The plan of Schedule Outages shall then be finalised by the Operating Committee as per Prudent Utility Practices. The decision of the Control Centre with regard to scheduling of Scheduled Outages shall be final.

5.3 MAINTENANCE OUTAGES

When the circumstances warrant a Maintenance Outage, the Company shall inform the Control Centre of such circumstances and the proposed commencement and estimated duration of Maintenance Outage. The Control Centre shall grant the Company the right to schedule and conduct such Maintenance Outage at a time acceptable to the Parties. The decision of the Control Centre with regard to scheduling of Maintenance Outages shall be final.

5.4 OPERATION

The Control Centre may issue Despatch Instructions and the Company shall follow all such Despatch Instructions issued by the Control Centre as below:

- a) The Company shall keep the Control Centre informed about the Availability of the Project. Further, the Company shall be under obligation to inform the Control Centre within 30 minutes of any change in the Availability. The entire Availability would be deemed to be applicable unless a new declaration with respect to Availability is conveyed to the Control Centre.
- b) The operating staff of the Company shall carry out all switching operations as per the instructions of the Control Centre which are necessary to make the interconnection equipments/electrical lines dead for making them available for maintenance work during an outage.
- c) During an emergency, the Company shall act in accordance with the instructions of the Control Centre and the Power output increased/decreased subject to the 'Technical Limits' and the 'Water Availability.'

5.5 FORCED OUTAGES

In case of Forced Outage, the Company shall take all reasonable steps to bring back the equipment into service that is under Forced Outage, as early as may be reasonably practicable.

5.6 OPERATING COMMITTEE MEMBERSHIP AND DUTIES

- (a) The Parties shall immediately establish an Operating Committee comprising of four (4) members. The Company and the HPSEBL shall appoint two (2) members each. The HPSEBL shall appoint one of the members, who shall be of the rank of Superintending Engineer, as Chairman of the Operating Committee. The Operating Committee shall be responsible for the co-ordination of the operation of the Project with the Grid System. Without limiting the generality of foregoing, the duties of such committee shall include:
 - (i) the discussion on the steps to be taken on the occurrence of any event of Force Majeure, or the shutdown or reduction in capacity or any other event of concern, relating to the Project, Interconnection Facilities and/or transmission facilities affecting the evacuation of power from the Project;
 - (ii) the co-ordination of Scheduled Outages;
 - (iii) the development of Operating Procedures and their periodic review. The Company shall submit the draft for such Operating Procedures to the Operating Committee at least 120 days before the Scheduled Synchronisation Date of the first Unit;
 - (iv) safety matters affecting both the Parties or their contractors;
 - (iv) review of protection schemes and devices including relay settings etc.;
 - (v) matters relating to the co-ordination of the respective programmes of the parties for the operation and maintenance of the Project and the Interconnection system and other matters arising out of the PPA; and
 - (vii) any other mutually agreed matter(s) affecting the operation of the Project with the Grid System.
- (b) The Operating Committee may agree upon the timings and procedures for holding its meetings, the records of the meetings and appointment of sub-committees.

- (c) In case of matter(s) not resolved by consensus, the Committee or either Party may refer such matter(s) to the Chief Engineer (Commercial) of the HPSEBL or such authority designated by the HPSEBL for the purpose from time to time, to resolve the matter of disagreement.
- 5.7 For proper and prompt co-ordination and efficient load management, the Company shall provide and maintain adequate and reliable speech and online data communication systems between the Station andkV sub-station of the HPSEBL at _____ and also between the Station and the Control Centre.

5.8 MAINTENANCE OF RECORDS

Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of the Agreement. Among other records and data required hereby or elsewhere in the Agreement, the Parties shall maintain an accurate and up-to-date operating log at the Project/Interconnection Point as per Prudent Utility Practices including records of:

- (a) Active and Reactive Power production for each hour at all times and the Energy generated/received on hourly basis;
- (b) Scheduled Outages, Maintenance Outages and Forced Outages;
- (c) outage of the Generating Unit(s), other than the Scheduled Outage, Maintenance Outage and Forced Outage, but attributed to the following or any one of the following:-
 - i) HPSEBL Grid System failure.
 - ii) Non availability of evacuation system beyond the Interconnection Point.
 - iii) Receipt of backing down instructions from the Control Centre.
- (d) Hourly details of Water Spillage, if any.
- (e) any unusual condition observed during operation/ inspection(s).

All such records shall be maintained for a minimum of sixty (60) months after the creation of such record or data. Either Party shall have the right, upon reasonable prior notice to the other Party, and at reasonable times, to examine such records and data maintained by the other Party during the office hours only. Neither party shall dispose off or destroy any records after the period of preservation, without giving thirty (30) days prior written notice to the other party.

ARTICLE 6

SALE AND PURCHASE OF THE ENERGY

6. SUPPLY OF POWER

- 6.1 From the Date of Synchronization of the first Unit of the Project, or from the date of commencement of PPA, the Company shall supply the electrical energy from the Project at the Interconnection Point. The Government Supply shall be delivered by the Company to the HPSEBL at the Interconnection Point free of cost. The Company shall sell and the HPSEBL shall purchase at the Interconnection Point the Net Saleable Energy i.e. the energy received from the Project at the Interconnection Point less the Government Supply.

During such periods, as may occur from time to time, as the Project is partially or totally unable to operate, the Company may draw energy required for startup and maintenance of the Project from the HPSEBL's system, which shall be metered at the Interconnection Point and adjustment of energy drawn by the project against the net saleable energy shall be made in corresponding monthly bills and in case the draws exceeds the net saleable energy for that month, the exceeding draws be paid by the company at bulk supply tariff or at the rates as may be approved by the Commission from time to time.

6.2 TARIFF FOR NET SALEABLE ENERGY

The HPSEBL shall pay for the Net Saleable Energy delivered and sold to it, at the Interconnection Point, by the Company under REC Mechanism as per Section 6.1, at APPC, including the associated, terms and conditions, determined by the Commission from time to time or at any other rate as may be determined by the Commission from time to time for the purchase of energy by HPSEBL under REC Mechanism. These rates shall be firm and final and shall not be subject to any indexation, escalation, adjustment, review or true-up due to any reason whatsoever. The APPC rate for FY is Rs..... (Rupee) per kWh.

6.3 SUPPLY OF ACTIVE AND REACTIVE POWER

The Company will produce and supply Active and Reactive Power to the Grid in accordance with the Despatch Instructions from time to time within the technical parameters of the Unit(s), declared capacity, water availability and Grid conditions.

6.4 DEEMED GENERATION

- 6.4.1 After the COD of the Project, loss of generation at the Station on account of reasons attributed to the following, or any one of the following, shall count towards Deemed Generation and it shall be paid/accounted for each time, if only there is water spillage.

- (a) HPSEBL Grid System failure;
- (b) non availability and partial availability of evacuation system beyond the Interconnection Point; and
- (c) receipt of backing down instructions from the Control Centre as a result of merit order despatch.

Provided that the following shall not count towards Deemed Generation:-

- (i) the loss of generation at the Station due to the interruptions/outages attributed to the aforesaid factor(s) lasting for a period of less than 20 minutes at a time;
- (ii) the loss of generation at the Station on account of aforesaid factor(s) but attributed to the Force Majeure event(s);
- (iii) the loss of generation at the Station due to the interruptions/outages attributed to the aforesaid factor(s) during the period in which the total duration of such outages/ interruptions, other than those excluded under (i) & (ii) above, is within the annual limit of 480 hours in a Year; and
- (iv) the loss of generation at the Station that would have taken place otherwise also even in the absence of the aforesaid factor(s).

6.4.2 The period of outage/interruption on account of such factor(s) shall be reconciled on monthly basis and the loss of generation at the Station counting towards Deemed Generation after accounting for the events (i) to (iv) of Section 6.4.1 above, shall be computed on following considerations:-

- (i) if such period falls within the first twelve months after the COD of the Project, the generation envisaged for the month in which such period falls, based on inflows relating to 75% dependable year, as per the hydrological data contained in the Approved DPR; and
- (ii) if such period falls subsequent to the first twelve months after the COD of the Project, the generation actually achieved including the Deemed Generation, if any, in the corresponding month of the previous Year or the one envisaged in that month based on inflows relating to 75% dependable year as per the hydrological data contained in the Approved DPR, whichever is less.

6.4.3 The HPSEBL shall pay for the Net Saleable Deemed Generation, worked out on the basis of Deemed Generation on above lines, at a rate payable for Net Saleable Energy as per Section 6.2 above, on monthly basis.

Explanation: The provisions of this Section 6.4 shall not be applicable in respect of the period in which power from the Project is evacuated under an interim arrangement in accordance with Section 4.4.

ARTICLE 7

METERING STANDARDS AND TESTING

- 7.1 The Project Line(s) shall be constructed, operated and maintained by the Company as a part of the Project for evacuating power from the Project. The construction, operation and maintenance of the Interconnection Facilities shall be done by the HPSEBL at the cost of the Company for which a separate agreement will be entered into by the Company with the HPSEBL in accordance with Section 3.3.

For measuring the delivery/import of Energy by the Company at the Interconnection Point, one set of Main Meter (part of Interconnection Facilities) and Check Meter shall be provided by the Company and the HPSEBL respectively at the Interconnection Point. The general location of the metering equipment shall be communicated by the Company to the HPSEBL at least ninety (90) days prior to the Commercial Operation Date of the Project.

- 7.2 Main and Check Meters as per Section 7.1 shall be capable of measuring and recording the parameters for various time/frequency blocks as per Prudent Utility Practices and shall conform to the specifications and requirements based on the latest available technology as may be adopted by the HPSEBL from time to time. This shall, without limitations, include the following:-
- (i) Active Energy (kWh) and Reactive Energy (kVarh);
 - (ii) instantaneous voltage, current and power factor;
 - (iii) frequency;
 - (iv) maximum demand in kVA/kW for each Demand Period and for the total period since last reset;
 - (v) kWh/kVAh since last reading;
 - (vi) real time and time of day metering; and
 - (vii) number of resets;
 - (viii) features of ABT/Smart meters with interface for Advance Metering Infrastructure (AMI) as may be stipulated by HPSEBL; and
 - (ix) any other requirements as per Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006.

Meters will have facilities for reset. The metering system shall be independent of phase sequence reversal, C.T. polarity reversal and shall also give an indication in case of missing P.T. potential. The metering system shall also be capable to record export and import data separately. Accuracy class for Active Energy measurement shall be 0.2 as defined in applicable IEC/ Indian standards. For all other values, the accuracy class shall be as per Prudent Utility Practices.

In case HPSEBL, at any later stage, decides to install Advanced Metering Infrastructure (AMI) for online reading of the both the meters through Automatic

Meter Reading (AMR), and further connectivity to the SAP System at Data Center, Shimla for automatic billing and payment, the Company shall have no objection to the same.

- 7.3 The copies of certified results of the factory calibration tests for the Main Meter and the Check Meter conducted in accordance with Prudent Utility Practices shall be provided by each concerned Party to the other Party. The Company as well as the HPSEBL shall keep requisite sets of metering equipment, duly tested/calibrated, as spares, for replacement as and when required. Main Meter or Check Meter shall be replaced by spare set of meter with mutual consent of the Parties whenever the Main Meter or the Check Meter is required to be removed.

Meter installed after replacement shall be treated as Main Meter or Check Meter, as the case may be.

The Main Meter and Check Meter shall be interchanged after every six months i.e. Main Meter shall become Check Meter and vice versa.

- 7.4 The Main Meter and the Check Meter shall be maintained in accordance with Prudent Utility Practices. The meters installed at the Interconnection Point shall be jointly inspected and sealed on behalf of the Parties and shall not be interfered with by either Party except in the presence of the other Party or its accredited representative(s).

- 7.5 (a) The Main Meter and Check Meter shall be test checked for accuracy insitu at least fifteen (15) days before Synchronisation of the first Unit and every six months thereafter. The test for the main meter and the check meter shall be done with reference to a portable Sub Standard meter, which shall be of accuracy class compatible with the class of meter under test and as per the Prudent Utility Practices.

Further the Company shall at its own expense, have the Sub Standard meter tested, calibrated and certified by a recognised and independent Testing House/Laboratory, mutually acceptable to the Parties, once during every year (or more frequently upon the reasonable request of the Company or the HPSEBL) with reference to the relevant Indian standard or I.E.C. where Indian standard is not existing. Each such meter shall be deemed to be working satisfactorily so long as the errors are within the limits prescribed in the relevant Indian standard (or I.E.C where Indian standard is not existing) for meters of the said accuracy class. The consumption registered by a Main Meter alone will hold good for the purpose of billing as long as the error in the Main Meter is within the permissible limits.

(b) Any Party can request for additional metering test and the additional test shall be conducted within seven (7) days of receipt of such notice. The Parties shall agree to a mutually convenient time for such inspections or tests and the expense of any requested additional inspections or tests requested by a Party shall be borne by the Party requesting such additional test. However, if upon such testing, the metering equipment is found to register beyond the permissible limits of error, the expenses will be borne by the other party.

- 7.6 If during the half yearly test checks, the Main Meter is found to be within the permissible limits of error and the corresponding Check Meter is found to be beyond the permissible limits of error, then billing will be as per the Main Meter as usual. The corresponding Check Meter shall, however, be calibrated or replaced with spare tested calibrated meter, as may be necessary.
- 7.7 If during the half yearly test checks, the Main Meter is found to be beyond permissible limits of error but the Check Meter is found to be within permissible limits of error, then the billing for the month and upto the date and time of the calibration/replacement of the defective Main Meter, shall be as per the Check Meter. Such meter shall be immediately calibrated or replaced with the spare tested/calibrated meter, as may be necessary, whereafter billing shall be as per the Main Meter.
- 7.8 If during the half yearly test checks, the Main Meter and the Check Meter are both found to be beyond the permissible limits of error, then both the meters shall be immediately replaced with spare calibrated meters and the correction applied to the consumption registered by the Main Meter to arrive at the correct consumption of Energy for billing purposes for the period of two Billing Months prior to the month in which test check has been done and upto the time of calibration/replacement of the defective meter.
- 7.9 Corrections in billing, wherever necessary, shall be for the full value of the absolute error. For the purpose of the correction to be applied, the Main Meter shall be tested at (a) 100, (b) 50, (c) 20 and (d) 10 percent load at unity power factor as well as 0.9 power factor lagging. Of these eight values, the error at the load and power factor nearest to the average monthly load served through the meter at the Interconnection Point during the period shall be taken as the error to be applied for correction.
- 7.10 If, when the joint meter readings are taken, the difference between consumption as per Main Meter and the Check Meter exceeds the maximum permissible error for such meters, then both meters shall be tested in turn.
Pending such calibration of the Main Meter, billing and payment shall be provisionally based on the Energy recorded by the Check Meter and will be subject to adjustment on testing of the Check Meter.

If on such testing, the error in both the Main Meter and the Check Meter is found to exceed the maximum permissible error for a meter of that accuracy Class (0.2), the Energy figure recorded by such Main Meter for the previous Billing Month (i.e. the month for which final reading was taken as per first sub para of this Section) and upto the date of removal of such meter in the current month shall be corrected by applying correction factor as per Section 7.9

If on testing, error in the Main Meter is within accuracy limit and the Check Meter is beyond the accuracy limit, the Main Meter reading shall be used for billing and Check Meter shall be recalibrated.

If on testing, error in the Check Meter is within the accuracy limit and error in Main Meter is beyond accuracy limit, then Check Meter reading shall be used for billing purposes for the previous Billing Month (i.e. the month for which final reading was taken as per first sub para of this Section) and the Main Meter shall be recalibrated. Till calibration/replacement of the Main Meter is done, the meter reading of the Check Meter shall continue to be used for billing purposes.

If on testing, the Main Meter and the Check Meter are both found to be within the accuracy limits, the readings of the Main Meter shall continue to be adopted for billing purposes.

- 7.11 If the Main Meter and the Check Meter fail to record or if any of the PT fuses have blown out, then the Energy will be computed on a mutually agreeable basis between the Company and the HPSEBL for that period of defect. 7.12 All the tests on the Main and Check Meter shall be conducted in the presence of the authorised staff of the Parties and the results and correction so arrived at will be applicable and binding on both the Parties.
- 7.13 Any Dispute regarding measurement of Energy, which does not get resolved through discussions between the designated officials of the Parties as per Section 7.14, shall be addressed as per the provisions under Article 13. 7.14 For the purpose of taking joint meter readings and other activities in pursuance of this Article, the HPSEBL as well as the Company will designate their official(s) within 15 days after issuance of the notice by the Company under Section 4.1.1. Either Party shall be entitled to change the nomination of its designated official(s) by giving a notice of atleast fifteen (15) days to the other Party.
- 7.15 Monthly joint meter readings of the Main Meter and Check Meter installed at the Interconnection Point shall be taken by the designated officials of the two Parties on the Synchronization Date of each Unit as well as at 12.00 hours on the first day of the next month in which the first Unit is Synchronized and subsequently also at 12.00 hours of the first day of each month. The joint meter readings shall be recorded and signed by the authorised representative(s) of both the Parties on each of the above instances. If the authorised representatives of the HPSEBL and the Company are not available for recording the readings of Main/Check Meter at the Interconnection Point, at the said hour, the meter(s) shall be read jointly at 12.00 hours on the following day; failing which the meter(s) shall be read by the Party present at the site, who shall certify the meter readings. If the representative of the HPSEBL does not attend to the verifications and certification of the statement, the certificate of the Company alone shall be considered sufficient for release of payment in the interim. Registers shall be maintained by the Company and the HPSEBL separately for the joint meter readings recorded at the Interconnection Point. Separate joint meter readings shall also be taken at the time of removal/replacement of any of the Main Meter/Check Meter.
- 7.16 On the last day of each month, the Company shall prepare a statement in respect of Water Spillage and loss of generation, if any, at the Station to be considered for determination of Net Saleable Deemed Generation during the month. The above statement duly signed together with the copies of the relevant log book(s) and other supporting data shall be supplied at the time of recording of joint meter reading on first day of each month. This statement shall be reconciled and signed by the designated officers of the HPSEBL and the Company.
- 7.17 After recording the meter readings referred to in Section 7.15, the designated officers of the HPSEBL and the Company or the Party present, as per provisions of Section 7.15, shall work out the total Energy delivered/imported by the Company at the Interconnection Point, the quantum of Govt. Supply & the Net Saleable Energy. The

statement to this effect, shall be signed by said designated Officer(s) and will form the basis for preparation of monthly bills by the HPSEBL and the Company.

- 7.18 In case the meters are read remotely after installation of Automatic Meter Reading/ Advanced Metering Infrastructure, the Parties shall enter into a supplementary Agreement to provide for modalities to be followed for recording/reconciling the joint meter readings/meter readings.

[Note: In cases where the connectivity is to be provided at a System owned by an entity, other than HPSEBL, the relevant provisions of this Model PPA shall be suitably modified by taking into account the specific requirements in this regard.]

ARTICLE 8

BILLING AND PAYMENT

- 8.1 The Company shall prepare the monthly bills for the Net Saleable Deemed Generation and the Net Saleable Energy in accordance with the jointly signed statements as per Sections 7.16 and 7.17 respectively and shall furnish the same to the HPSEBL, in triplicate, on or after 5th day of each succeeding month. The bills for supply of Energy by the HPSEBL to the Company pursuant to Section 6.1 shall be prepared by the HPSEBL and served on the Company in the same manner.

The HPSEBL shall make payments of the bills raised on above basis within 60 days from the Date of Presentation of the Bill by the Company to the HPSEBL. The Date of Presentation of the Bill shall mean the date on which the bill is received by the office designated by the HPSEBL for the purpose from time to time. The payments shall be made through crossed cheques drawn on the banks acceptable to the Company and the HPSEBL.

As a backup arrangement for HPSEBL's payment obligation in respect of monthly bills under this Agreement, the HPSEBL shall also open and maintain, for the term of this Agreement, a confirmed irrevocable, revolving letter of credit (LC) in favour of the Company on any nationalized bank. This letter of credit shall be opened by the HPSEBL within a period of thirty days from the Commercial Operation Date of the Project. The charges for opening the LC shall be borne by the Company.

The value of the Letter of Credit due in the first year of operation shall be equal to the possible value of invoice based on the maximum generation in any one month, based upon the hydrological data provided in the DPR, relating to 75% dependable year. During subsequent years, however, the value of the Letter of Credit shall be equivalent of the highest invoiced amount in any one month during the previous years (say three years) of operation. Further, the cost of reinstatement of the Letter of Credit shall be borne by the HPSEBL. In case the payment is not released by the HPSEBL on the due date of payment, the Company shall, on the working day immediately after to the Due Date of Payment (scheduled date of operation of LC), claim payment from the concerned bank through the LC for the undisputed/unpaid amount of the bill.

In the event of operation of LC by the Company, the HPSEBL shall restore the amount of letter of credit within the scheduled date of payment through LC for the next monthly bill. Other detailed modalities regarding operation and maintenance of LC shall be mutually decided by the Parties.

- 8.2 **REBATE**

If the payment of bill is made before the Due Date of Payment, the HPSEBL shall be entitled for rebate on the amount paid before the Due Date of Payment at the following rate-

- i) where payment is made through letter of credit within 7 days of the Date of Presentation of Bill by the Company, rebate of 2% shall be applicable. For this purpose, the Parties may also mutually agree to a mechanism for payment of the Bill through letter of credit without waiting for expiry of the Due Date of Payment.
- ii) where the conditions as per (i) above are not met and payment is made within 30 days from the Date of Presentation of the Bill by the Company, rebate of 1% shall be applicable.

8.3 **LATE PAYMENTS**

In case the payment of any bill for charges payable under this Agreement is delayed beyond a period of 60 days from the Date of Presentation of the Bill, a late payment surcharge at the simple interest rate of 1.25% per month shall be charged by the Company for the actual number of days by which the payment is delayed.

8.4 **SUPPLEMENTARY BILLS**

The adjustments, if any, on account of errors and omissions in the billing for a month, shall be made through supplementary bills, which shall also be paid/adjusted on the above lines but through crossed cheques only.

8.5 **BILLING DISPUTES**

- (a) Notwithstanding any Dispute as to all or any portion of monthly bill/supplementary bill submitted by the Company to HPSEBL, the HPSEBL shall pay the undisputed amount of the bill by the Due Date of Payment, provided that the amount of the bills is based on joint meter readings/jointly signed statements and applicable tariff.
- (b) In case of dispute on any of the bills, the HPSEBL shall notify the Company of any disputed amount within 15 days of receipt of bills, and the Company shall rectify the errors/ shortcomings or otherwise notify its rejection of the disputed amount, with reasons thereto, within 5 days of the reference by the HPSEBL, failing agreement on which the provisions of Article 13 shall apply with respect to the disputed amount of such bill. If resolution of any dispute requires the Company or the HPSEBL to reimburse to the HPSEBL or to the Company, the amount to be reimbursed shall bear interest, for the number of days from the Due Date of Payment by the HPSEBL or by the Company upto the Date of Reimbursement, at the rate equivalent to the prevailing prime lending rate of State Bank of India.

Following observation(s) of auditors to the HPSEBL/Company, any error or discrepancy in any bill shall be referred to the other Party within a maximum period of three years from the Date of Presentation of that bill. The Company/HPSEBL shall rectify the error/shortcoming or otherwise notify its rejection of the claim with reasons thereto within thirty (30) days of reference by the HPSEBL/Company. Failing agreement on such claims, provisions of Article 13 shall apply.

8.6 BILLING BY THE HPSEBL

The amount against supply of excess Energy pursuant to Section 6.1 shall be billed by the HPSEBL and paid for by the Company through crossed cheques only but on similar lines as applicable for the bills raised by the Company, as per the above provisions of this Article.

8.7 DATE OF PAYMENT/DATE OF REIMBURSEMENT

For the purpose of this Article, the Date of Payment/Date of Reimbursement shall mean the date on which the crossed cheque is delivered in person to the representative of the Company or the HPSEBL, as the case may be, or the day immediately succeeding the day on which such a cheque is sent through the registered post. In case of payment by a Party through letter of credit or through RTGS etc., the date on which such amount is transferred to the account of the other Party shall be considered as the Date of Payment.

8.8 TOD/FREQUENCY LINKED ENERGY ACCOUNT

Subject to the provisions of Section 7.15, all the adjustments under the Agreement shall be made on monthly basis. However, in case the HPSEBL adopts the TOD and/or frequency linked Energy account/tariff for its consumers, the adjustment under the Agreement shall also be made on such time blocks matching with the TOD/frequency accounting. Detailed modalities in this regard would be mutually agreed between the Parties, at an appropriate time, and a supplementary agreement will be executed.

8.9 SET OFF OF AMOUNT

Any amount due to one Party by the second Party may be set off against the amount(s) due to the second Party by the first Party. However, such set offs of amounts due to a Party may not be applied against amounts that may become due at a future date to the second Party by the first Party.

ARTICLE 9
UNDERTAKINGS

9.1 COMPANY'S UNDERTAKINGS

The Company hereby covenants to and agrees with the HPSEBL to:

- (a) complete the execution of the Project within the scheduled time as per Section 3.1 and in accordance with the Agreement;
- (b) design, install and commission the Project including the Project Line upto Interconnection Point, as per Utility and the best Industry Practices and in accordance with the provisions of Approved DPR with materials and equipment that are new and of utility-grade quality, in such a manner that the useful life of Project is longer than the term of the Agreement;
- (c) work with and co-operate in good faith with the HPSEBL with respect to all of the HPSEBL's obligations and rights hereunder;
- (d) maintain the rated capacity throughout the term of the Agreement, subject to the normal derating/deterioration during the life of the Project;
- (e) provide such periodic reports on the progress of the development and construction of the Project as may be required by the HPSEBL;
- (f) operate and maintain the Project in accordance with (i) Despatch Instructions (ii) Prudent Utility Practices within the Technical Limits (iii) all applicable Laws, rules, regulations, permits and licences and (iv) recommendations of manufacturers of the principal equipment of the Project;
- (g) enter into a separate agreement for the implementation of Interconnection Facilities, within the timelines given in Section 3.3;
- (h) buy and keep alive, at its cost, the following insurance policies during the entire Agreement period and schedule-III to this effect is attached.
 - i) Third Party Insurance;
 - ii) Natural Peril Insurance;
 - iii) Construction Insurance;
 - iv) Risks encountered during construction and operation and maintenance of the Project;
 - v) Business Interruption Insurance;
 - vi) Marine Transit Insurance (if required);
 - vii) Statutory Workers Compensation Insurance;
 - viii) Employer Liabilities Insurance; and
 - ix) Any other insurance as appropriate.
- (i) not to transfer/dispose off the Project or otherwise alienate any asset of the Project without prior approval of the HPSEBL;
- (j) make its own arrangement for standby construction power, if considered necessary, for use during the period when the HPSEBL is unable to supply the same to the Company.

- (k) provide and maintain adequate and reliable speech and online data communication systems between the Station andkV sub-station of the HPSEBL at _____ and also between the Station and the Control Centre, for proper and prompt co-ordination and efficient load management.

9.2 THE HPSEBL'S UNDERTAKINGS

The HPSEBL hereby covenants to and agrees with the Company to:

- (a) expeditiously provide, on receipt of application from the Company, construction power to the Project at the cost of the Company in accordance with the provisions of the Electricity Act, 2003 and the Regulations made thereunder ;
- (b) provide such assistance and support as the Company may reasonably require in identifying and preparing the applications for Governmental Authorizations and in interfacing with governmental authorities in connection with obtaining Governmental Authorizations for the construction, completion and operation of the Project;
- (c) enter into a separate agreement with the Company as per Section 3.3 and make necessary arrangements to set up the Interconnection Facilities within the stipulated time schedule at the cost of the Company, subject to timely payment by the Company as per the payment schedules to be indicated by the HPSEBL from time to time;
- (d) work with and co-operate in good faith with the Company with respect to all of the Company's obligations and rights hereunder;
- (e) provide suitable transmission arrangements in its network beyond the Interconnection Point for evacuation of power generated at Project and endeavour to minimise the loss of generation at the Project on account of transmission bottlenecks; and
- (f) make timely payments to the Company as per the provisions of this Agreement.

9.3 MUTUAL COVENANTS

Each Party will duly pay all rents, taxes, cess, fees, revenues, assessments, duties, other outgoings and other amounts owing by it and will observe all the rules and regulations pertaining to the same, and will not do or omit to do or suffer to be done anything which could reasonably be expected to adversely affect or prejudice the interest and rights of the other Party in any manner whatsoever.

ARTICLE 10

TERM, EVENTS OF DEFAULT AND TERMINATION

10.1 TERM OF AGREEMENT

The Agreement shall become effective upon execution and delivery by the Parties hereto and unless earlier terminated pursuant to provisions of the Agreement, shall have a term from the date hereof until.....years after the Synchronization Date of the first Unit of the Project.

10.2 However this Agreement may be extended on mutually agreed basis.

10.3 COMPANY DEFAULT

The occurrence and continuation of any of the following events, unless any such event occurs as a result of Force Majeure event or a breach by the HPSEBL of its obligations under the Agreement, shall constitute a "Company Event of Default".

- (a) breach of Implementation Agreement by the Company;
- (b) if the Project is designed, constructed or completed:-
 - i) in a manner that materially deviates from the provisions of the Approved DPR of the Project; or
 - ii) in violation of any applicable Law of India; or
 - iii) in a manner which deviates materially from Prudent Utility Practices;
- (c) if the Company wilfully or recklessly fails in material respect to operate and maintain the Project in accordance with Prudent Utility Practices or as per the requirements of the Agreement;
- (d) abandonment of the operation of the Project or failure by the Company to operate Project for a continuous period of thirty (30) days (other than due to a Force Majeure Event, capital maintenance or HPSEBL Event of Default);
- (e) if the Company, taking into account prevalent Grid conditions, regularly refuses to comply with Despatch Instructions;
- (f) bankruptcy, liquidation or dissolution of the Company pursuant to Law, except for the purpose of a merger, consolidation or reorganisation that does not affect the ability of the resulting entity to perform all its obligations under the Agreement and provided that such resulting entity expressly assumes all such obligations;
- (g) the transfer, pursuant to Law, of either the rights and/or obligations of the Company hereunder or all or a substantial portion of the assets or undertakings of the Company, except where such transfer, in the opinion of the HPSEBL, does not affect the ability of the transferee to perform all its obligations under the Agreement and provided that such transferee expressly assumes all such obligations;
- (h) the Company commits material breach of the Agreement;
- (i) the Company assigns or purports to assign its rights and transfers its obligations under the Agreement or transfers or changes its assets, in violation of Section 15.10 and Clause (i) of Section 9.1;
- (j) failure of the Company to make any substantial payment (Rs. 10 lacs or above), due under the PPA after receipt of notice of non-payment;

- (k) failure of the Company to enter into Commercial Operation within 180 days of the Scheduled Date of Synchronization other than as a result of Force Majeure event or HPSEBL's Event of Default; and
- (l) transfer of equity of promoters in violation of the provisions of the Implementation Agreement or the State Hydro Policy of the Government without prior approval of the competent authority or without incorporating such changes in the Agreement by way of amendment thereto as per Section 15.1.

10.4 **HPSEBL DEFAULT**

The occurrence and continuation of any of the following events, unless any such event occurs as a result of Force Majeure event or a breach by the Company of its obligations under the Agreement, shall constitute the "HPSEBL Event of Default".

- (a) bankruptcy, liquidation or the dissolution, pursuant to Law, of the HPSEBL except for purposes of a merger, consolidation, privatisation or reorganisation that does not affect the ability of the resulting party to perform all its obligations under the Agreement and provided that the HPSEBL's successor under the Agreement expressly assumes the obligations of the HPSEBL under the Agreement;
- (b) the transfer, pursuant to Law, of either the rights and/or obligations of the HPSEBL hereunder or all or a substantial portion of the assets or undertakings of the HPSEBL except when such transfer does not affect the ability of transferee to perform all its obligations under the Agreement and provided that such transferee expressly assumes the obligations of the HPSEBL under the Agreement;
- (c) if the HPSEBL fails to make payment of undisputed amount of the monthly bill amounting to Rs. 10 (ten) lacs and above within three months after the Due Date of Payment for that monthly bill;
- (d) the HPSEBL commits material breach of the Agreement;
- (e) the HPSEBL assigns or purports to assign its rights and transfers its obligations under the Agreement or transfers or changes its assets, in violation of Section 15.10; and

10.5 **NOTICE OF DEFAULT**

- (a) Upon the occurrence of a Company's Event of Default or a HPSEBL's Event of Default, as the case may be, the HPSEBL or the Company, as the case may be, shall deliver a notice to the other Party ("Notice of Default") which shall specify in reasonable detail the Company Event of Default or the HPSEBL Event of Default, as the case may be, giving rise to the Notice of Default to the other Party.
- (b) Following the giving of a Notice of Default, the Parties shall consult each other for a period upto thirty (30) days having regard to all the circumstances as to what steps shall be taken with a view to mitigate the consequences of the relevant event. The Parties may also mutually decide the cure period within which the defaults shall be remedied provided that if no mutual agreement is arrived at with regard to the duration of cure period, the defaulting Party shall be entitled to get a cure period of three months from the date on which the consultation period expires. The cure period

shall be applicable only when there is an operational default in the Project which the Company/HPSEBL can cure. In the event of default where the Company/HPSEBL has transferred its rights and obligations to the third party and/or the Company/HPSEBL has been dissolved pursuant to law, bankruptcy etc. the consultation and cure period will not be applicable.

10.6 NOTICE OF TERMINATION

- (a) At the expiry of the cure period as per Section 10.5 (b) and unless the Parties shall have otherwise agreed or in the event of default giving rise to the Notice of Default having been remedied, the Party having given Notice of Default may give a termination notice (i.e. either a HPSEBL Termination Notice or Company Termination Notice, as the case may be) to the other Party stating that the Agreement shall stand terminated on the expiry of the notice period if the default is not remedied within that period. The period of notice in case of defaults shall be 30 (thirty) days. The notice period(s) can however be extended with mutual agreement.
- (b) If at any time after the Company is entitled to deliver a Company termination notice but has not done so, the Company shall be entitled to deliver to the HPSEBL a notice (a "Company Termination Notice").
- (c) If at any time after the HPSEBL is entitled to deliver a HPSEBL termination notice but has not done so, the HPSEBL shall be entitled to deliver to the Company a notice (a "HPSEBL Termination Notice").
- (d) Following the delivery of a "Company Termination Notice" in respect of the HPSEBL default described in Section 10.4 (c), the Company shall have the right to enter into agreements, with the approval of the HPSEBL (which permission will not be unreasonably withheld), to sell any portion of the Net Saleable Energy (ensuring Govt. Supply to HPSEBL) to any person to the extent permitted by law and so long as the HPSEBL Event of Default continues.

10.7 CONSEQUENCES OF TERMINATION

10.7.1 TERMINATION ON ACCOUNT OF HPSEBL EVENT OF DEFAULT

If the Agreement is terminated in accordance with Section 10.6 on account of HPSEBL's Event of Default as per Section 10.4, the Company shall have the option to enter into a power sale agreement with any other utility ensuring, however, Govt. Supply to the HPSEBL. For this purpose, the Company shall be entitled to sell power to any person to the extent permitted by Law at the rates agreed by the Company and such person. Electrical power shall be wheeled through the transmission system of the HPSEBL or other utilities on payment of wheeling charges. The term of such agreement for sale of power shall not, in any case, exceed the balance term of the Agreement.

10.7.2 TERMINATION ON ACCOUNT OF COMPANY EVENT OF DEFAULT

- (a) If the Agreement is terminated in accordance with Section 10.6 on account of Company Event of Default as per Section 10.3, the Company shall, at the HPSEBL's option, sell the Project to the HPSEBL, subject to the fulfillment of

undischarged liabilities for the past as well as balance period of the Agreement on mutually agreed basis and if the Parties are unable to arrive at a mutual agreement, the Dispute with respect to the undischarged liabilities, shall be addressed as per Article 13.

- (b) The HPSEBL may exercise such option (Buy-Out Option), subject to the lenders' rights under the Agreement, at any time within 120 days after the HPSEBL delivers the HPSEBL Termination Notice to the Company:

Provided that, if the Commission is satisfied that there is doubt with regard to the genuineness of the Company Event of Default, it may apply due diligence and prudence test or alternatively adjudicate upon the matter or refer the matter for arbitration, in order to arrive at just and fair conclusion with regard to the genuineness of the Event.

10.7.3 TERMINATION ON ACCOUNT OF TERMINATION OF IMPLEMENTATION AGREEMENT

The Agreement shall get terminated in the event of termination of Implementation Agreement without any liability to the either Party on this account. The Company shall however in such an event keep the HPSEBL informed of various stages of the process of termination of Implementation Agreement.

10.8 RIGHTS PRESERVED

- (a) The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by Law.
- (b) No action or failure to act by any Party shall constitute a waiver of any right or duty afforded to any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed to in writing.

ARTICLE 11

REPRESENTATION AND WARRANTIES

11.1 REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants that as of the date hereof:

- (a) the Company is a company duly registered and validly existing under the Laws of India and has all requisite legal power and authority to execute the Agreement and carry out the terms, conditions and provisions hereof;
- (b) the Agreement constitutes the valid, legal and binding obligation of the Company, enforceable in accordance with the terms hereof except as the enforceability may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or other similar Laws affecting creditors' rights generally and to the extent that the remedies of specific performance, injunctive relief and other forms of equitable relief are subject to equitable defence, the discretion of the court before which any proceeding therefor may be brought, and the principles of equity in general;
- (c) there are no actions, suits or proceedings pending or, to the Company's knowledge, threatened against or affecting the Company before any court or administrative body or arbitral tribunal that might materially or adversely affect the ability of the Company to meet and carry out its obligations under the Agreement;
- (d) the Company has duly paid all rents, royalties and all public demands, including provident fund dues, gratuity dues, employees' state insurance dues, income tax, sales tax, corporate tax and all other taxes and revenues due and outstanding and that no attachments or warrants have been served on the Company in respect of sales tax, income tax, Government/GOI revenue and other taxes; and
- (e) the execution and delivery by the Company of the Agreement has been duly authorized by all requisite corporate or partnership action, and will not contravene any provision of, or constitute a default under, any other agreement or instrument to which it is a party or by which it or its property may be bound.

11.2 REPRESENTATIONS AND WARRANTIES OF THE HPSEBL

The HPSEBL represents and warrants that as of the date hereof:

- (a) the HPSEBL is an entity duly licensed under the Electricity Act 2003 and validity existing under the Laws of India and has all requisite legal power and authority to execute the Agreement and to carry out the terms, conditions and provisions hereof;
- (b) the Agreement constitutes the valid, legal and binding obligation of the HPSEBL, enforceable in accordance with the terms hereof except as the enforceability may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or other similar Laws affecting creditors' rights generally and to the extent that the remedies of specific performance, injunctive relief and the reforms of equitable relief are subject to equitable defence, the discretion of the court before which any proceeding therefor may be brought, and the principles of equity in general;
- (c) there are no actions, suits or proceedings pending or, to the HPSEBL's knowledge, threatened against or affecting the HPSEBL before any court or administrative body or arbitral tribunal which might materially or adversely affect the ability of the HPSEBL to meet and carry out its obligations under the Agreement; and

- (d) the execution and delivery of the Agreement by the HPSEBL has been duly authorized by all requisite action and will not contravene any provision of, or constitute a default under, any other agreement or instrument to which it is a party or by which it or its property may be bound.

ARTICLE 12

FORCE MAJEURE

- 12.1 In the event a Party is rendered unable to perform any obligations required to be performed by it under the Agreement by Force Majeure, the particular obligations shall, upon notification to the other Party, be suspended for the period of Force Majeure.
- 12.2 Subject to Section 12.6, Force Majeure shall mean any event or circumstances or combination of events or circumstances that wholly or partly prevents or unavoidably delays any Party in the performance of its obligations under the Agreement, but only if and to the extent that such events and circumstances are not within the reasonable control, directly or indirectly, of the affected Party and could not have been avoided even if the affected Party had taken reasonable care. Such events may include acts of the Government/GOI in its sovereign capacity, war, civil war, quarantine restrictions, freight embargoes, radioactivity and earthquakes to the extent they, or their consequences, satisfy the above requirements.
- 12.3 Upon the occurrence of an event of Force Majeure, the Party claiming that it has been rendered unable to perform any of its material obligations under the Agreement, shall notify the other Party in writing within five (5) days of the commencement thereof giving the particulars and satisfactory evidence in support of its claim. Upon termination of such event of Force Majeure, the affected Party shall, within twenty four (24) hours of its termination, intimate the other Party of such termination.
- 12.4 Time for performance of the relative obligations suspended by Force Majeure shall then stand extended by the period of delay which is directly attributable to Force Majeure. The Party giving such notice shall be excused from timely performance of its obligations under the Agreement, for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed, provided the Party or Parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its performance of the obligations under the Agreement.
- 12.5 Delay or non-performance by a Party hereto caused by the occurrence of an event of Force Majeure shall not:
- a) constitute a default or breach of the Agreement; and
 - b) give rise to any claim for damages or additional cost of expenses occasioned thereby.
- 12.6 Force Majeure shall expressly not include the following, except to the extent resulting from a Force Majeure:
- a) unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, fuel or consumables for the Project;
 - b) a delay in the performance by any contractor(s);
 - c) non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment; and
 - d) non-performance caused by, or connected with, non-performing Party's (i) negligent or intentional acts, errors or omissions, (ii) failure to comply with any of the Laws of India, or (iii) breach of, or default under the Agreement.

12.7 **PROLONGED FORCE MAJEURE**

In the event of a Force Majeure event occurring after the COD of the first Unit and if such event continues beyond one year from date of its occurrence or such other period as may be mutually agreed to by the Parties, the matter shall be resolved by the Parties in mutual consultation with each other.

- 12.8 The obligation by a party to pay any undisputed amount which is due to the other party shall continue even during the occurrence of a Force Majeure event.

ARTICLE 13

RESOLUTION OF DISPUTES

13.1 GOOD FAITH NEGOTIATIONS

In the event of a dispute, disagreement or difference (a "Dispute"), arising out of or relating to the Agreement between the Parties, in respect of which a procedure for the resolution of the Dispute is not otherwise provided for in this Agreement, the following provisions shall apply:

- (a) either Party shall give to the other a written notice setting out the material particulars of the Dispute and requiring nomination of an authorized senior executive officer each from the HPSEBL and the Company, to meet personally at Shimla, Himachal Pradesh, India or at any other mutually agreed place, to attempt, in good faith negotiations and using their best endeavors at all times, to arrive at mutually acceptable recommendations to facilitate resolution of the Dispute;
- (b) the Parties shall nominate their Senior Executive (s) within 7 days from the date of delivery of the notice, as per (a) above and the Senior Executive(s) so nominated shall meet personally within 15 days thereafter at Shimla, or any other mutually agreed place for carrying out such good faith negotiation;
- (c) if the Senior Executives succeed in arriving at a mutually acceptable recommendations to facilitate resolution of the Dispute, they shall jointly reduce such recommendations in writing and shall submit the same to their respective Chief Executive Officers for acceptance thereof;
- (d) the provisions of the succeeding clause (e) shall apply–
 - (i) if the Party receiving notice under clause (a) fails to nominate its Senior Executive Officer for good faith negotiation within a period of 30 days after the receipt of such notice from the other Party; or
 - (ii) if the Senior Executive Officers nominated under clause (b) fail to arrive at any mutually acceptable recommendations to facilitate resolution of the Dispute, as evidenced by the terms of the settlement being reduced to writing and signed by them within 30 (Thirty) working days after the date of receipt of the notice mentioned in clause (a); or
 - (iii) if the recommendations jointly signed by the Senior Executives of both the Parties under clause (c) above are not accepted by the respective Chief Executive Officers within 30 working days from the date on which such recommendations are so made; or
 - (iv) if the Senior Executive Officers, after having been nominated under clause (b), fail to meet personally for good faith negotiations within 30 working days from such nomination:

Provided that in case where the relevant time limit(s) mentioned in sub-clauses (i) to (iv) of clause (d), is mutually extended, the provisions of clause (e) shall apply after expiry of such extended time limits;

- (e) after the expiry of the relevant time limits mentioned in clause (d), either Party may give notice to the other requiring, the Chief Executive Officers of both the Parties to meet at Shimla or at any other mutually agreed place within thirty (30) working days

to attempt, in good faith, negotiations and using their best endeavor at all times to resolve the Dispute within a further period of 60 (sixty) days and if the Dispute is still not resolved as evidenced by the terms of the settlement being reduced to writing and signed by both the Chief Executive Officers, then the provisions of Section 13.2 shall apply, unless the said period is mutually extended.

13.2 ARBITRATION

- (a) Except as otherwise provided in the Agreement, or in the Electricity Act, 2003, all Disputes arising out of or relating to the Agreement, as are not resolved during the period as per Section 13.1, shall be adjudicated upon or referred to arbitration by the Commission as per Section 86 (1) (f) of the Electricity Act, 2003 read with section 158 thereof.
- (b) The arbitration shall be initiated/conducted at Shimla, India. The Laws of India shall govern the validity, interpretation, provisions contained in the Agreement.
- (c) Judgement upon the award rendered in such arbitration and/or for any interim relief or direction or otherwise, during the pendency of arbitration proceedings and upto the date of making of the award in such arbitration, may be entered in any court of competent jurisdiction, at Shimla, having jurisdiction in respect of any application made for the filing of the arbitration agreement.

13.3 JURISDICTION

All legal proceedings arising and in connection with this Agreement shall be subject to the jurisdiction of the Himachal Pradesh High Court and its subordinate courts in the state of Himachal Pradesh, irrespective of the place of performance/execution of the Agreement. In respect of the matters falling in the purview of State Commissions under the Electricity Act, 2003, the Commission shall be the Appropriate Commission.

ARTICLE 14

NOTICES

14.1 Except as otherwise expressly provided in the Agreement, all notices or other communications which are required or permitted hereunder shall be in writing and considered as adequately served if delivered personally (under acknowledgement) or sent by registered or certified mail, telefax, telex or email addressed as follows :

a) If to the Company

Address: M/s _____

Address for correspondence:

Telephone No.

Fax No:

E-mail :

b) If to the HPSEBL:

Designation: _____

Address: _____

Telephone No.

Fax No
.....

E-mail :

All notices or communications given by telefax, telex or email shall be confirmed by delivering confirmation letter by hand or by registered mail to the respective address. All notices shall be deemed delivered upon receipt.

- 14.2 Any Party may by notice to the other Party, change the address and/or addressees to which such notices and communications are to be delivered or mailed.
- 14.3 The Party sending the notice shall also send a copy to the designated officer, if any, of the other Party specified in respect of that notice in the Agreement.

ARTICLE 15

MISCELLANEOUS PROVISIONS

15.1 AMENDMENT

The Agreement can be amended only with the written consent of both the Parties.

15.2 HEADINGS

The headings contained in the Agreement are used solely for convenience and shall not be construed to assign any meaning to the Agreement nor shall such headings be used in any manner to aid in the construing of the Agreement.

15.3 THIRD PARTIES

The Agreement is intended solely for the benefit of the Parties hereto. Nothing in the 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 the Agreement.

15.4 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 the 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 duly executed in writing by a duly authorised 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 the 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 rights hereunder, which shall remain in full force and effect.

15.5 RELATIONSHIP OF THE PARTIES

The Agreement shall not be interpreted or construed or 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.

15.6 SURVIVAL

Cancellation, expiration or earlier termination of the Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration

or termination, including, without limitations, warranties, remedies, promises of indemnity and confidentiality; provided, however, that all obligations surviving the cancellation, expiration or early termination of the Agreement shall only survive for a period of 5 (five) years.

15.7 LANGUAGE

The language of the Agreement shall be English. All documents, notices, waivers and all other communications, written or otherwise, between the Parties in connection with the Agreement shall be in English language.

15.8 GOVERNING LAWS

The Agreement and the rights and obligations hereunder shall be interpreted, construed and governed by the Laws of India, as in force, from time to time.

15.9 ENTIRETY

The Agreement and the Schedules attached hereto are intended by the Parties as the final expression of their agreement and are intended also as a complete and exclusive statement. All prior written or oral understandings, offers or other communications of every kind pertaining to the sale or purchase of electrical output hereunder between the HPSEBL and the Company are hereby abrogated and withdrawn except for the Implementation Agreement.

15.10 ASSIGNMENT

The Agreement shall not be assigned by either Party other than by mutual agreement between the Parties in writing.

Notwithstanding the foregoing, for the purpose of financing the Project, the Company may assign or create security over its rights and interests under or pursuant to the Agreement. The holder of any security created under this Section shall not be prevented or impeded by the HPSEBL from enforcing such security in accordance with its terms, including, without limitation, exercising any right it may have to reassign the Agreement to a new qualified owner or operator of the Project. The HPSEBL shall execute all such consents to assignment and/or acknowledgements of any security created in accordance with this Section as are reasonably requested by the Company to give effect to the foregoing.

Notwithstanding the above, the HPSEBL shall have the right to assign the Agreement to any entity assuming all or part of the HPSEBL's rights and obligations in connection with the purchase of electrical output provided, however, that such transfer does not materially and adversely affect the ability of the transferee to perform its obligations under the Agreement.

15.11 CONFIDENTIALITY

- (a) Each of the Parties shall hold in confidence the copyright documents and other secret technical or commercial information supplied to it by or on behalf of the other Party relating to the design, construction, insurance, operation, maintenance, management and financing of the Project. The parties shall use the confidential information only for the performance of their obligations under the PPA and not disclose or use the confidential information for any other purpose.
- (b) The provision of paragraph (a) above shall not apply to:
 - i) any information in the public domain otherwise than by breach of the 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;
 - iii) information obtained from a third party who is free to divulge the same, and which is not obtained under any obligation of confidentiality; and
 - iv) information relating to the Project after the HPSEBL has acquired the Project from the Company.

15.12 SUCCESSORS AND ASSIGNS

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

15.13 NO THIRD PARTY BENEFICIARIES

The Agreement shall not confer any right of suit or action, whatsoever, on any third party.

15.14 AFFIRMATION

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

15.15 THE HPSEBL'S OBSERVATION VISITS

The HPSEBL's engineers or its authorised representatives shall have at all reasonable times access to the Project to observe construction, testing, commissioning, operation and maintenance of the Project. The Company shall assist in arranging any such

observation visits to the Project. All persons visiting the Project on behalf of the HPSEBL shall comply with the reasonable instructions and directions of the Company or its contractors.

15.16 NO ADVERSE DISCRIMINATION

The HPSEBL shall not practice any adverse discrimination against the Company in the exercise of its discretion or authority under the Agreement with respect to Despatching of the Energy generated by the Project and approval of Scheduled Outages and Maintenance Outages vis-a-vis other generating companies and stations. The Company shall not unfairly discriminate against the HPSEBL under the Agreement with respect to its obligations and discretion hereunder.

15.17 INDEMNITY

- a) The Company shall bear responsibility for loss of or damage to property, death or injury to person including third party (or any claim against the HPSEBL and/or its Contractors in respect thereof) and all claims, demands, losses, damages, costs & expenses of whatsoever nature relating thereto (including without limitation reasonable legal fees) suffered by the HPSEBL in connection with the construction, operation and the maintenance of the Project resulting from any negligent act or omission of the Company and/or its Contractors, without recourse to the HPSEBL. The Company will hold the HPSEBL fully indemnified in respect thereof.
- b) The HPSEBL shall bear responsibility for loss of or damage to property, death or injury to person (or any claim against the Company and/or its Contractors in respect thereof) and all claims, demands, losses, damages, costs & expenses of whatsoever nature relating thereto (including without limitation reasonable legal fees) suffered by the Company and/or its Contractors and/or third party in connection with the construction, operation and the maintenance of the Project resulting from any negligent act or omission of the HPSEBL, without recourse to the Company and/or its Contractors. The HPSEBL will hold the Company and/or its Contractors fully indemnified in respect thereof.

15.18 TRIPARTITE AGREEMENT

Both the Parties agree that if the Company, in terms of the provisions under Implementation Agreement, considers necessary to incorporate a new public/private limited company for the implementation and operation of the Project and a tripartite agreement is entered amongst the Government, Company and the newly formed company, whereby all the rights and obligations of the Company under the Implementation Agreement are transferred to such newly formed company, a similar tripartite agreement shall also be entered into amongst the HPSEBL, the Company and the newly formed company in respect of this Agreement.

ARTICLE 16

LIQUIDATED DAMAGES

16.1 Upon the occurrence of any of the event described below, the Company shall pay to the HPSEBL the Liquidated Damages as per Section 16.2, 16.3 & 16.5 hereunder:-

16.2 DELAY IN SYNCHRONIZATION OF UNITS

If all the generating units are not synchronized on or before the Scheduled Date of Synchronization specified for different generating units, the Company shall be liable to pay to the HPSEBL Liquidated Damages for the delay @ Rs. 1000/- (one thousand) per MW for each day of delay beyond the Scheduled Date of Synchronization subject to maximum of 180 days after which it would constitute Company Event of Default.

16.3 SHORTFALL IN THE TESTED CAPACITIES

If the Company fails to achieve the required contracted capacity within a period of 90 days from the date of Commercial Operation of the Unit/Project, the Company shall be liable to pay Liquidated Damages to the HPSEBL @ Rs. 4000/- per kW for the shortfall between the contracted and the tested capacities. For fractional values of the shortfall in percentage, the Liquidated Damages will be computed on prorata basis. In the event of the shortfall between the contracted capacity and the tested capacity exceeding 4%, it will constitute Company Event of Default as it would amount to deviating materially from Prudent Utility Practices.

16.4 CLAIMS FOR LIQUIDATED DAMAGES

The HPSEBL shall raise claim(s) for liquidated damages as per section 16.2 and 16.3 soon after Commercial Operation Date of the project and shall, in the event of non-payment of the same by the Company within a period of 90 days from the date on which such claims are raised, recover the amount payable by the Company on this account by way of adjustment(s) against the amount of monthly bills received by it from the Company for the sale of Net Saleable Energy:

Provided that no such adjustment shall be commenced until the expiry of 120 days from the date on which such claims is raised;

Provided further that HPSEBL shall restrict the amount to be adjusted on this account against the energy bill for any Billing Month to 10% of the amount of such monthly bill and the balance dues, if any, shall be adjusted by HPSEBL against the monthly bills for the subsequent Billing Months;

Provided further that the Company shall not be liable to pay any interest/surcharge for late payment, so long as the adjustments are made within the above stated timelines.

16.5 MIS – DECLARATION OF AVAILABILITY

In the case of mis-declaration of Available Capacity, the Company shall be liable to pay Liquidated Damages for double of the difference between declared availability and the actual availability for the entire period with effect from the time of declaration of the present availability at the rate as mentioned in the Section 6.2 of this Agreement.

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

COMPANY
M/s

(HPSEBL)
Himachal Pradesh State Electricity Board
Ltd.

By:

By:

Name:

Name:

Designation:.....

Designation:.....

(Party of the First Part)

(Party of the Second Part)

Witness:

Witness:

1.

1.

2.

2.

SCHEDULE-I

CONSTRUCTION LSCHEDULE.

Schedule-II

TECHNICAL LIMITS AND TECHNICAL PARAMETERS

- 1. Electrical System Characteristics:**
 - (i) Grid Voltage :
 - (ii) Grid Frequency :
 - (iii) Power Factor :
 - :
- 2. Capacity of Generating Equipment:**
 - i) Rated Output in KW :
 - ii) Continuous overload rating in KW :
 - iii) Rated Power factor (Lagging) :
 - iv) Rated Power factor (Leading) :
 - v) Maximum reactive load (Lagging) :
 - vi) Maximum reactive load (Leading) :
- 3. Minimum Stable Load for a Unit :**
- 4. Startup Time:**
 - (i) Maximum Time for Cold Start :
 - (ii) Maximum Start-up time :
 - (iii) Maximum Interval for restart of each time :
 - :
- 5. Drawing and other documents**
 - (i) Single line diagram.
 - (ii) Control and Protection drawings of the generators, transformers and feeders.
 - (iii) Settings of the protection relays.
 - (iv) Guaranteed technical particulars of the following: -
Main Inlet Valve;
Turbine;

Generator;
Generator-transformer;
Governor;
AVR;
Generator Circuit breaker;
Outgoing feeder Circuit breaker; and
Outgoing Feeder; etc.

- Notes: (1) The above details shall be submitted by the Company to HPSEBL within 15 months from the Effective Date or within any other date as may be mutually agreed between the Parties duly keeping in view the time period between the Effective Date and Scheduled Synchronization Date of the first Unit of the Project. The HPSEBL shall send its comments, if any, on such details, to the Company, within 3 month after receipt of the same, for necessary action by Company.
- (2) The HPSEBL may require the Company to submit any other technical details or drawings etc. relating to Project, as it may consider necessary, at any stage during the term of the Agreement.

SCHEDULE--III
INSURANCE SCHEDULE

SCHEDULED OF INSURANCE FOR _____ HEP (_____ MW)

Sr. No.	Description of Type of Insurance	Insurance Party
I	Third Party Insurance	
II	Natural Peril Insurance	
III	Construction Insurance	
IV	Risks Encountered During Construction And Operation And Maintenance of the Project.	
V	Business Interruption Insurance	
VI	Marine Transit Insurance (if required)	
VII	Statutory Workers Compensation Insurance	
VIII	Employer Liabilities Insurance; and	
IX	Any Other Insurance as Appropriate.	

“SHORT/MEDIUM TERM” POWER PURCHASE AGREEMENT

(UNDER REC MECHANISM)

FOR _____ HEP (_____ MW)

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