



Dated 12th November 2006

POWER PURCHASE AGREEMENT

between

Paschimanchal Vidyut Vitran Nigam Ltd.
("Buyer One")

and

Poorvanchal Vidyut Vitran Nigam Ltd.
("Buyer Two")

and

Madhyanchal Vidyut Vitran Nigam Ltd.
("Buyer Three")

and

Dakshinanchal Vidyut Vitran Nigam Ltd.
("Buyer Four")

and

Lanco Anpara Power Private Ltd.
("Seller")

2 x 500 MW ANPARA "C" THERMAL POWER PROJECT

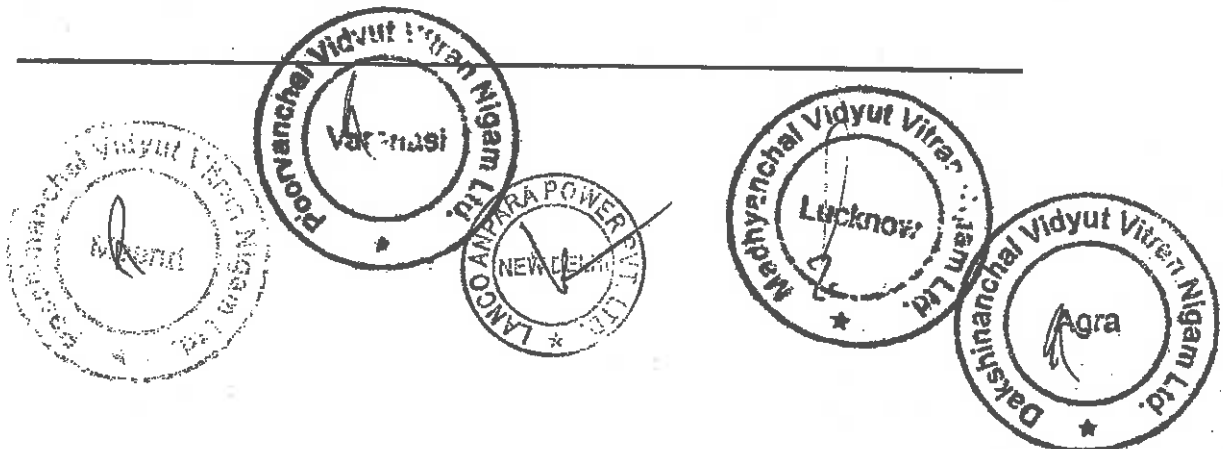
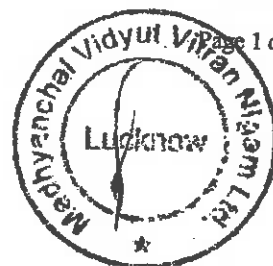
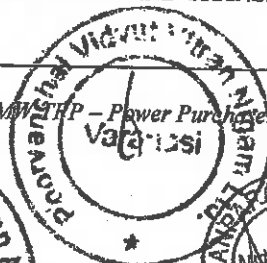
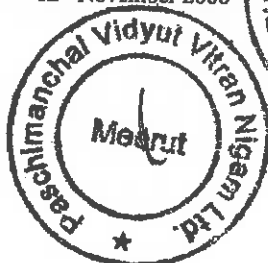




TABLE OF CONTENTS

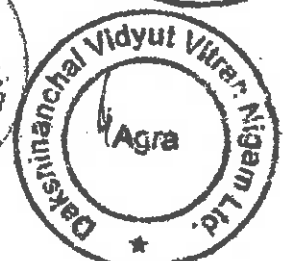
ARTICLE 1 DEFINITIONS AND INTERPRETATION.....	6
ARTICLE 2 EFFECTIVENESS AND TERM	29
ARTICLE 3 CONDITIONS PRECEDENT AND PROJECT DOCUMENTS.....	32
ARTICLE 4 DEVELOPMENT OF the PROJECT	39
ARTICLE 5 CONSTRUCTION	48
ARTICLE 6 SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION.....	52
ARTICLE 7 OPERATION AND MAINTENANCE.....	56
ARTICLE 8 CAPACITY, AVAILABILITY AND DISPATCH.....	67
ARTICLE 9 METERING.....	68
ARTICLE 10 PAYMENT AND INVOICING.....	71
ARTICLE 11 INSURANCES	79
ARTICLE 12 FORCE MAJEURE	83
ARTICLE 13 INDIAN POLITICAL EVENTS.....	86
ARTICLE 14 CHANGE IN LAW	92
ARTICLE 15 TERMINATION FOR DEFAULT	94
ARTICLE 16 LIABILITY AND INDEMNIFICATION	103
ARTICLE 17 ASSIGNMENTS AND CHARGES.....	107
ARTICLE 18 GOVERNING LAW AND DISPUTES	111
ARTICLE 19 CONFIDENTIALITY.....	117
ARTICLE 20 MISCELLANEOUS PROVISIONS	119
SCHEDULE 1 (OMITTED).....	124
SCHEDULE 2 THE SITE	125
SCHEDULE 3 FUNCTIONAL SPECIFICATION.....	126
SCHEDULE 4 METERING SYSTEM	145
SCHEDULE 5 COMMISSIONING AND TESTING	149
SCHEDULE 6 AVAILABILITY FACTORS	153
SCHEDULE 7 DISPATCH PROCEDURES.....	157
SCHEDULE 8 THE TARIFF.....	158
SCHEDULE 9 FORM OF CAPITAL STRUCTURE SCHEDULE.....	172
SCHEDULE 10 VALUATION AND TRANSFER OF ASSETS ON TERMINATION	173

Anpara 'C' 2 x 500 MW GPP - Power Purchase Agreement
12th November 2006





SCHEDULE 11 INSURANCE	183
SCHEDULE 12 NOTIFICATIONS.....	184
SCHEDULE 13 REPRESENTATION AND WARRANTIES	185
SCHEDULE 14 INFORMATION TO BE PROVIDED BY SELLER TO BUYERS	187
SCHEDULE 15 CALCULATION OF WEIGHTED AVERAGE GCY	191



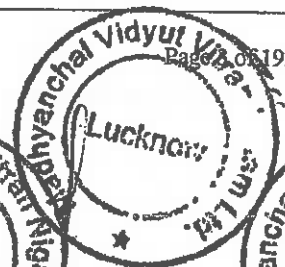
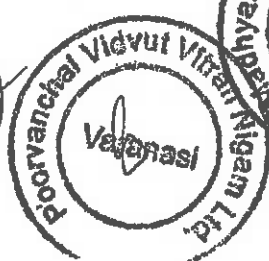


2006 at Lucknow, by and between:
उत्तर प्रदेश UTTAR PRADESH

1. **PASCHIMANCHAL VIDYUT VITRAN NIGAM LTD.**, a company incorporated and existing under the Companies Act, 1956, with its registered office at Hydel Inspection House, Hydel Colony, Victoria Park, Meerut - 250001 (hereinafter referred to as "**Buyer One**" which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **FIRST PART**; and
2. **POORVANCHAL VIDYUT VITRAN NIGAM LTD.**, a company incorporated and existing under the Companies Act, 1956, with its registered office at Vidyut Nagar, Bhikharipur, P.O DLW, Varanasi - 221010 (hereinafter referred to as "**Buyer Two**" which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **SECOND PART**; and
3. **MADHYANCHAL VIDYUT VITRAN NIGAM LTD.**, a company incorporated and existing under the Companies Act, 1956, with its registered office at 4A, Gokhale Marg, Lucknow - 226001 (hereinafter referred to as "**Buyer Three**" which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **THIRD PART**; and
4. **DAKSHINANCHAL VIDYUT VITRAN NIGAM LTD.**, a company incorporated and existing under the Companies Act, 1956, with its registered office at Urja Bhawan, Agra Mathura By Pass Road, Agra - 282007 (hereinafter referred to as "**Buyer Four**" which expression shall unless



Anpara 'C' 2 x 500 MW TPP - Power Purchase Agreement
 12th November 2006

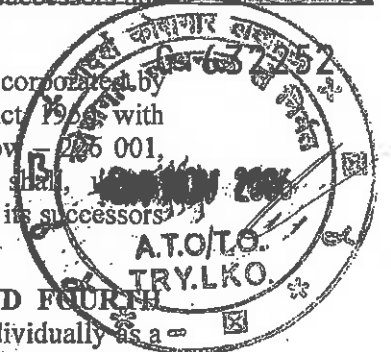




उत्तर प्रदेश **UTTAR PRADESH**

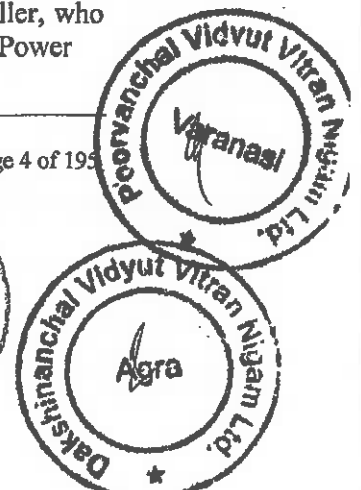
5. Lanco Anpara Power Private Ltd., a company incorporated by the Initial Equity Investors and existing under the Companies Act 1956 with its registered office at 53-C, Kabir Marg, Clay Square, Lucknow 226 001, UP (hereinafter referred to as "Seller" which expression shall, repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) of the **FIFTH PART**;

(Each of the parties of the **FIRST, SECOND, THIRD AND FOURTH PART** above are collectively referred to as the "Buyers" or individually as a "Buyer" and each of the parties of the **FIRST, SECOND, THIRD, FOURTH AND FIFTH PART** are individually referred to as a "Party" and collectively to as the "Parties").



WHEREAS:

- A. The Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited ("UPRVUNL"), on behalf of Uttar Pradesh Power Corporation Limited ("UPPCL") and distribution companies owned by the UPPCL, including the Buyers invited private sector participation to build, own, operate and maintain the 2 x 500 MW Anpara 'C' Thermal Power Project as a dispatchable power plant through an international competitive bidding process;
- B. The Initial Equity Investors, having been selected pursuant to the aforementioned competitive bidding process have constituted the Seller, who proposes to build, own, operate and maintain a 2 x 500 MW Thermal Power





उत्तर प्रदेश **UTTAR PRADESH**

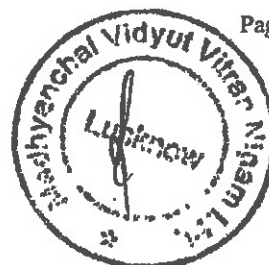
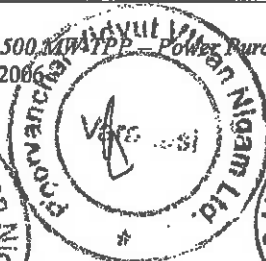
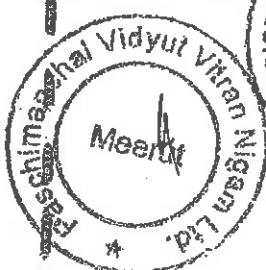
Project at Village Anpara, District Sonbhadra, State of Uttar Pradesh, India
 ("Anpara C") for the purpose of selling all Available Capacity and dispatched
 Electrical Output to the Buyers on the terms and conditions contained in this
 Power Purchase Agreement ("PPA"), the RFQ and the RFP;

- C. The Buyers have agreed (1) to procure the connection of Power Station to the Grid System; (2) to allow the Seller to meet its requirements for electricity at the Power Station as well as ash dyke pipeline corridor, MGR system, water system, township for employees that are outside Power Station, but are essential to generate power from the plant; and (3) to individually pay the Seller the Tariff set out in Schedule 8 herein for such portion of the Available Capacity and dispatched Electrical Output of the Power Station as is made available to each of them and for such purposes, the Buyers and the Seller have entered into this Agreement.

NOW THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Power Purchase Agreement (the "PPA" or the "Agreement") and other consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Anpara 'C' 2 x 500 MW TPP - Power Purchase Agreement
 12th November 2006

Page 5 of 195





ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

- 1.1.1 When used herein and in all of the Schedules hereto including, without limitation, any other documents related to this Agreement, the defined terms set forth in this Article 1 shall have the meanings specified herein, unless repugnant to the context:

"Act" means the Electricity Act, 2003.

"Agreed Form" means, in relation to any document, the form of the said document most recently agreed to by the Parties and initialled by them for identification;

"Appraiser" means the firm of chartered accountants appointed by or on behalf of the Parties pursuant to Paragraph 3.1 of Schedule 10 of this Agreement;

"Availability Factor" or "Availability" shall have the meaning ascribed thereto in Paragraph 6 of Schedule 6 of this Agreement;

"Available Capacity" shall have the meaning ascribed thereto in Paragraph 4.1 of Schedule 6 of this Agreement;

"Bank" means a reference to a Scheduled Bank as notified by the Reserve Bank of India, from time to time acceptable to the Lenders;

"Base Indexed Fixed Charge" shall have the meaning ascribed thereto in Annexure I of Schedule 8;

"Base Non Indexed Fixed Charge" shall have the meaning ascribed thereto in Annexure I of Schedule 8;

"Bid" shall have the meaning ascribed thereto in the RFP;

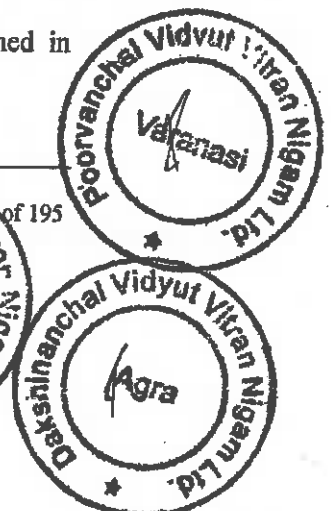
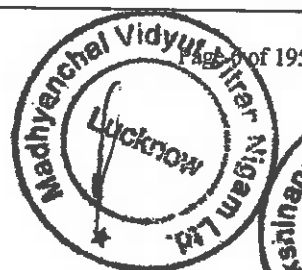
"Bid Deadline" shall have the meaning ascribed thereto in the RFP;

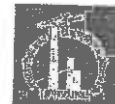
"Buy out" means the purchase of the Project by the Buyers or a Buyer, as the case may be, pursuant to a Buy out Notice;

"Buy out Notice" means the notice referred to in Paragraph 1.2 of Schedule 10 of this Agreement;

"Buy out Price" means the amount payable on a Buy out determined in accordance with Paragraph 4 and 5 of Schedule 10 of this Agreement;

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006





"Buyer's Contractors" means all the contractors of a Buyer (and respective subcontractors) involved with the Project;

"Buyers' Contractors" means all the contractors of the Buyers (and respective subcontractors) involved with the Project;

"Buyer Weekly Schedule" shall have the meaning ascribed thereto in Paragraph 2.2 of Schedule 7 of this Agreement;

"Buyer Event of Default" shall have the meaning ascribed thereto in Article 15.2 of this Agreement;

"Buyer Invoice" shall have the meaning ascribed thereto in Article 10.2.3 of this Agreement;

"Buyer Standby Letter of Credit" shall have the meaning ascribed thereto in Article 10.5.1 of this Agreement;

"Capacity Notice" means a daily notice given pursuant to Paragraph 2 of Schedule 6 of this Agreement;

"Capital Cost" means the lowest of the following:

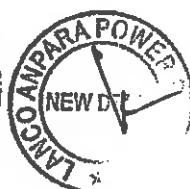
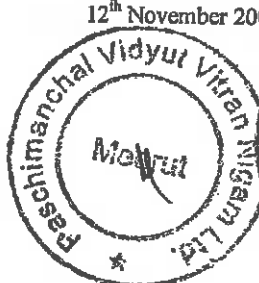
- (a) actual capital cost of the Project upon Commercial Operations Date of the Project as certified by the statutory auditor of the Seller; or
- (b) total project cost as set forth in the Financing Agreements, excluding cost overruns arising due to the default of the Seller, or costs due to events for which compensation has been received from the Buyers;

The Capital Cost of the Power Station shall be deemed to be equally divided amongst the two Units.

"Cause" in relation to the revocation or amendment of any Consent means any fact or circumstance, including without limitation any action, inaction, default, neglect or failure to abide by any of the terms and conditions of such Consent, which legally entitles the issuing authority to revoke the Consent or make the relevant amendment in its terms and conditions;

"Capital Structure Schedule" means the financing plan for the Project based on the Capital Cost and a debt equity ratio of not less than 70:30 set out in Schedule 9 (as it may be amended from time to time in accordance with this Agreement);

"CERC" shall mean the Central Electricity Regulatory Commission created under Section 76 of the Electricity Act, 2003 or any successor entities created by operation of law, which fulfil substantially the whole of the same role;





"Change in Law" means the occurrence of any of the following after the Bid Deadline:

- (a) the enactment of any new Indian law or Directive;
- (b) the repeal, modification or re-enactment of any existing Indian law or Directive;
- (c) the commencement of any Indian law which has not yet entered into effect except to the extent where such Indian Law was enacted prior to the date hereof and such Indian Law takes effect on that commencement date without any material amendment;
- (d) a change in the interpretation or application of any Indian law by an Indian Governmental Instrumentality having direct authority for its interpretation or application;
- (e) the imposition (other than for Cause) of a requirement for a Consent which did not exist as on the date seven (7) days prior to the Bid Deadline;
- (f) a change (other than for Cause) in the terms and conditions attaching to a Consent after it has been given or the attachment of any new terms or conditions to such Consent; or
- (g) the revocation or cancellation (other than for Cause) of any Consent;

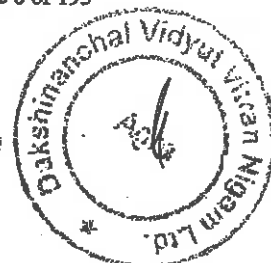
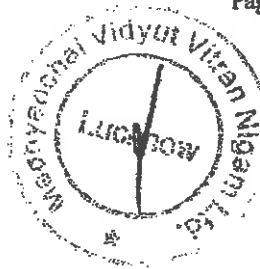
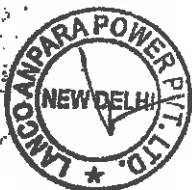
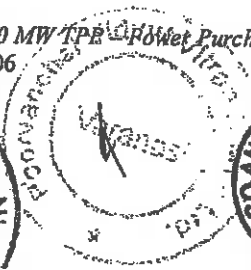
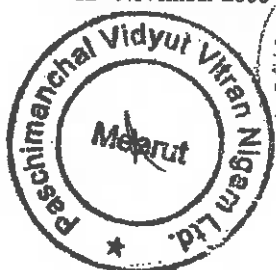
but shall not include any change in any withholding tax on income or dividends distributed to the shareholders of the Seller.

Provided that if Government of India does not extend the income tax holiday for power generation projects under Section 80 IA of the Income Tax Act (as applicable in India) up to the Required Commercial Operation Date or Commercial Operation Date, whichever is earlier, of the first Unit and / or the second Unit, such non-extension shall be deemed to be a Change in Law. Provided further that the non-extension of the due benefits under the UP Power Policy to the Project, shall be deemed to be a Change in Law;

Applicability of availability based tariff regime by an Appropriate Commission to or for the Power Station, shall not constitute a Change in Law.

"Characteristics Tests" means the tests of a Power Station's ability to operate consistently with its Contracted Operating Characteristics carried out in accordance with Paragraph 3 of **Schedule 5** of this Agreement;

"Check Meters" shall have the meaning ascribed thereto in Schedule 4 and **"Check Meter"** shall mean a reference to any one of them;





"Commercial Operations Date of the Project" means the date on which the last Unit is Commissioned;

"Commissioned Date" or **"Commissioning Date"** or **"Commercial Operation Date"** in relation to a Unit or Power Station means the date on which the Unit or Power Station passes the Commissioning Tests for commercial operation of that unit or the Power Station, as the case may be;

"Commissioned" in relation to a Unit or Power Station means that it has passed the Commissioning Tests for commercial operation;

"Commissioning Tests" means:

- (a) the Performance Test; and
- (b) the Characteristics Tests;

and **"Commissioning Test"** means any one of them;

"Control Centre" means the State Load Dispatch Centre located in Shakti Bhawan, 14 Ashok Marg, Lucknow or such other load control centre designated jointly by the Buyers from time to time from which the Buyers shall issue Dispatch Instructions to the Power Station;

"Consents" means:

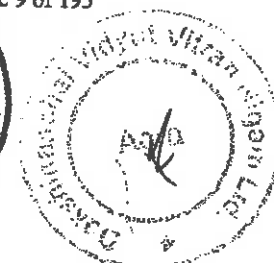
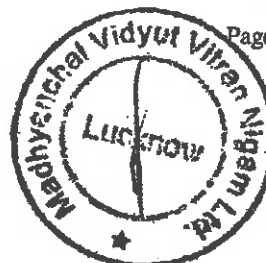
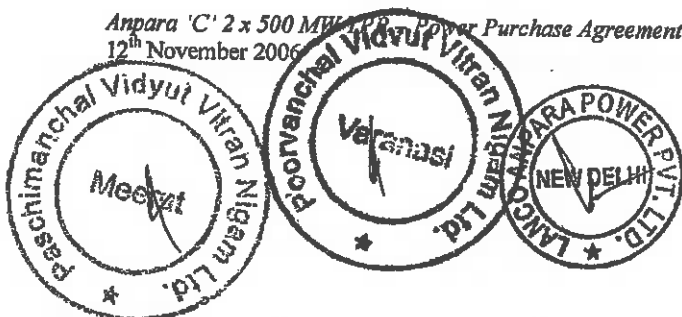
- (a) the Initial Consents;
- (b) the Operating Consents, and
- (c) any consent, license, approval, permit, no objection certificate or any other authorization which does not fall within (a) or (b) above but which is required to be granted by any Indian Government Instrumentality or GoUP for the purposes of the Project or in the case of the Buyers for the purposes of the Interconnection and Transmission Facilities;

and **"Consent"** means any of them as referred to individually;

"Contract Year" means:

the period beginning on the date of this Agreement and each succeeding twelve (12) month period thereafter provided that

- (a) the Contract Year shall begin once again from the Required Commercial Operation Date of the first Unit and shall thereafter be for each succeeding twelve (12) month period and provided further that
- (b) the last Contract Year of this Agreement shall end on the last day of the term of this Agreement;





"Contracted Capacity" or "Installed Capacity" means the summation of the name plate capacities (reckoned at the generator terminals) of all the Units of the Power Station provided that for the purposes of this Agreement in relation to the first Unit and second Unit Contracted Capacity or Installed Capacity means 500 MW rated gross name plate capacity each and in relation to the Power Station as a whole means 1000 MW rated gross name plate capacity, or such capacities as may be determined in accordance with Article 6.3.4 or Article 6.3.5 of this Agreement;

"Construction Contractor" means the contractor or contractors appointed by the Seller under the Construction Contract(s);

"Construction Contract" means the agreement or agreements entered into, or to be entered into, by the Seller and the Construction Contractor(s), for the design, engineering, procurement, construction, completion, start-up, testing and / or commissioning of the Project, as amended from time to time in accordance with this Agreement;

"Construction Period" means the period from (and including) the date upon which the Construction Contractor is instructed or required to commence work under the Construction Contract up to (but not including) the Commercial Operations Date;

"Contracted Operating Characteristics" means the minimum performance standards required for a Unit and after commissioning, for the Power Station, as set out in the Functional Specification;

"Co-ordinating Committee" shall have the meaning ascribed thereto in Article 7.7.1 of this Agreement;

"DCFV Limit Percentage" is defined in Note 3 to the table in Paragraph 5 of Schedule 10 of this Agreement;

"Declared Capacity" means the a) capability of the Power Station (or the Unit, if the Power Station has not been Commissioned) to deliver Electrical Output in MW at the Interconnection Point, declared by the Power Station (or the Unit, if the Power Station has not been Commissioned), as per the requirements of the SLDC, in relation to any Settlement Period of the day or whole of the day, duly taking into account the availability of Fuel or b) the Contracted Capacity less Normative Auxiliary Consumption Rate, whichever is lower;

"Default Contingency Agreement" means either of the four agreements titled 'Default Contingency Agreement' dated on or around the date hereof, intended to be entered into between each Buyer, the Seller and the Default Contingency Agent (as defined thereunder) in the Agreed Form, as it may be amended from time to time;



"Default Security Agreement" means either of the four agreements titled 'Default Security Agreement' dated on or around the date hereof, intended to be entered into between each Buyer and the Seller in the Agreed Form, as it may be amended from time to time;

"Dispatched Electrical Output" means the Electrical Output delivered at the Interconnection Point in pursuance of the Dispatch Instruction.

"Directive" shall mean any present or future requirement, instruction, direction, order, regulation or rule of any competent authority which is legally binding on or legally required to be observed by a prudent owner, operator, designer or contractor of facilities such as the Project;

"Dispute" means any dispute or difference of any kind between the Buyers inter se, or between a Buyer and the Seller or between Buyers and the Seller in connection with or arising out of this Agreement;

"Direct Agreement" means the agreement titled 'Direct Agreement' dated on or around the date hereof, intended to be entered into or already entered into between the Buyers the Seller and the Lenders' Representative acting for and on behalf of the Lenders and the modifications, amendments or alterations thereto from time to time,

"Direct Indian Political Event" shall have the meaning ascribed there to in Article 13.3.2 of this Agreement;

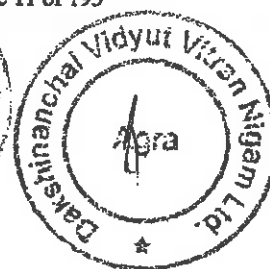
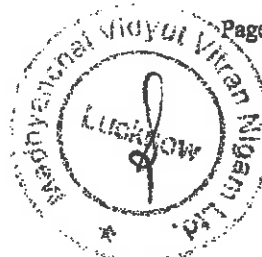
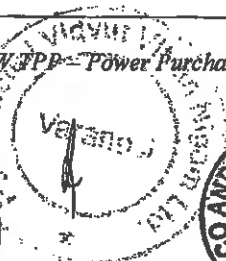
"Dispatch" means the electricity output sent out by the Seller in response to a Dispatch Instruction.

"Dispatch Instruction" means an instruction issued by SLDC acting on behalf of Buyer (s) to the Seller in accordance with the Grid Code and Operating Procedures to vary the output of the Power Station in accordance with this Agreement, provided that, a Dispatch Instruction may never seek supply of power greater than that which the Buyer(s) is entitled to as per the provisions of this Agreement;

"Dispatch Procedures" means the dispatch procedures specified in Schedule 7 as they may be amended from time to time in accordance with Article 7.4 of this Agreement;

"Disinvestment or Disinvested" means, an event wherein a company ceases to be a company in which fifty per cent or more of the voting rights are held either directly or indirectly by the GoUP, or by a company in which, or companies in which, fifty per cent or more of the voting rights are held either directly or indirectly, by the GoUP;

"Due Date" in relation to any Invoice means the thirtieth day after the Invoice is received (or, if that day is not a business day, the immediately following business day);





"Electrical System Limits" shall have the meaning ascribed thereto in Paragraph 1 of Schedule 3 of this Agreement;

"Electricity Act" means the Electricity Act, 2003, as amended from time to time;

"Electricity Rules" means the rules and regulations made under and in force pursuant to the Electricity Act, as they may be amended from time to time;

"Expert" shall have the meaning ascribed thereto in Article 18.4 of this Agreement;

"Expiry Date" means the twenty ninth (29th) anniversary of the date of signing of this agreement;

"Electrical Output" means the net electrical output of the Unit (if only one Unit has been Commissioned) or the Power Station (if both Units have been Commissioned) at the Interconnection Point, as expressed in kWh;

"Emergency" means a condition or situation that, in the opinion of the SLDC or the agency tasked with operating and maintaining the Interconnection and Transmission Facilities or the transmission company, as the case may be, poses a significant threat to the Buyer's or the said agency's or transmission company's ability to maintain safe, adequate and continuous electrical service to its customers, or seriously endangers the security of persons, plant or equipment;

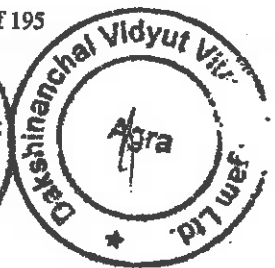
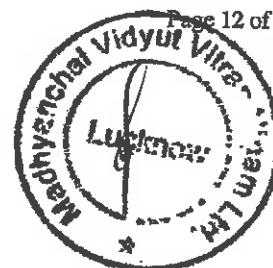
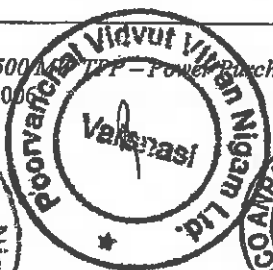
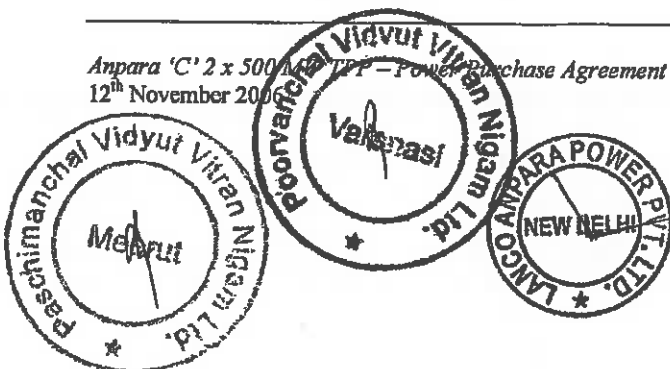
"Facilities and Services Agreement" means the agreement titled 'Facilities and Services Agreement' dated on or around the date hereof, intended to be entered into between UPRVUNL and the Seller in the Agreed Form, as it may be amended from time to time;

"Final Test Certificate" means a certificate of the Independent Engineer certifying the results of a Commissioning Test in accordance with Article 6.3.1 of this Agreement

"Financial Close" or "Financial Closure" means the execution and delivery of all the Financing Agreements and fulfilment or waiver of all conditions precedents, if any, for the initial draw down of funds there under;

"Financing Agreements" means all loan agreements, security agreements, pursuant to which the Seller is to finance the Project according to the Capital Structure Schedule including inter-creditor agreements, co-ordination agreements, the Direct Agreement, letters of credit, notes and indentures and such other agreements but shall not include subordinated debt;

"Fixed Charge" shall have the meaning ascribed thereto in Paragraph 1.2 of Schedule 8 of this Agreement;





"Force Majeure Event" shall have the meaning ascribed to it in Article 12.3 of this Agreement;

"Forced Outage" means an interruption or reduction of the generating capability of the Power Station that is not the result of:

- (a) a request by a SLDC in accordance with this Agreement; or
- (b) a Scheduled Outage or a Maintenance Outage;

"Fuel Supply Agreements" means the agreements entered into, or to be entered into, by the Seller with all the Buyers' approval for the purchase, transportation or handling of fuel required for the operation of the Power Station and with the approval of UPERC as may be required under the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued on January 19, 2005, as such Fuel Supply Agreements may be amended from time to time in accordance with this Agreement;

"Functional Specification" means the technical requirements and parameters described in **Schedule 3** of this Agreement relating to the operation, maintenance and dispatch of any Unit and the Power Station, as they may be modified by the Seller from time to time with the prior written consent of all the Buyers;

"Generation Schedule" shall have the meaning ascribed thereto in Paragraph 3 of Schedule 7 of this Agreement;

"Generator Capacity" in relation to the Power Station at any time means the gross Electrical Output of the Power Station (expressed in kWh) measured at the generator terminal;

"Grid Code" means any set of regulations or codes legally binding on the Buyers' governing the operation of the Grid System and means the Indian Electricity Grid Code, 2006 and / or the UP Electricity Grid Code;

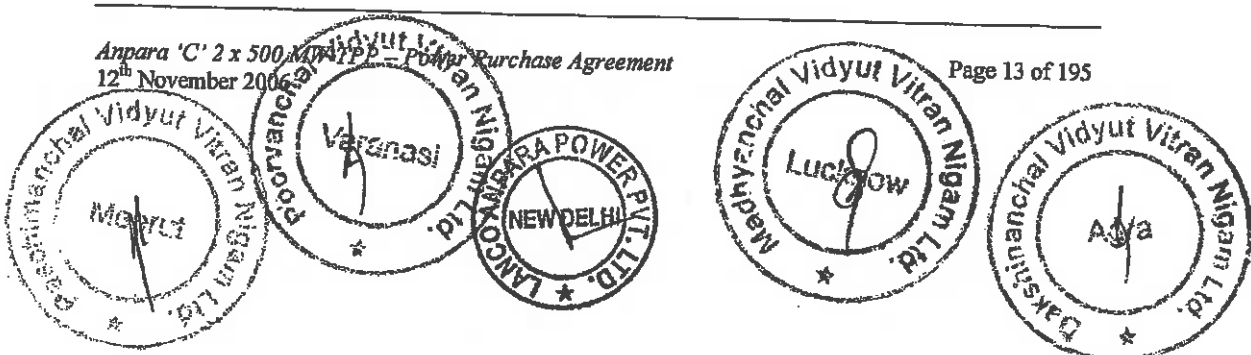
"Grid System" means the Interconnection and Transmission Facilities and any other transmission or distribution facilities through which the Buyers supply electricity to their customers or the transmission company transmits electricity to the Buyers;

"Gross Calorific Value" or **"GCV"** in relation to a Unit or the Power Station means the heat produced in kCal by complete combustion of one kilogram of solid fuel;

"GOP" means the Government of India and its successors;

"GOUP" means the Government of Uttar Pradesh and its successors;

"Government Agreement" means:





(a) the Implementation Agreement;

"Implementation Agreement" means the agreement so entitled entered into, or to be entered into, between the GOUP and the Seller in the Agreed Form;

"Import Meter" shall be the meters installed at 400 kV side of the station transformers from where start up power and station auxiliary power will be drawn by the Seller.

"Incentive Charge for Availability" shall have the meaning ascribed thereto in Paragraph 1.4.1 of Schedule 8 of this Agreement;

"Independent Engineer" means an independent consulting engineering firm or group selected jointly by the Buyers from a list of three (3) such consulting engineering firms or groups which shall be short listed by the Seller from the list of five (5) such consulting engineering firms or groups proposed by the Lenders;

"Indian Consumer Price Index" means the "All India Consumer Price Index for Industrial Workers" published monthly in the "Index Numbers of Wholesale Prices and Consumer Prices" by the Centre for Monitoring of the Indian Economy;

"Indian Wholesale Price Index" means the "All India Wholesale Price Index" published monthly in the "Index Numbers of Wholesale Prices and Consumer Prices" by the Centre for Monitoring of the Indian Economy;

"Indian Governmental Instrumentality" means the GOI, GOUP and any ministry, department, board, agency or other authority of GOI or GOUP;

"Indian Political Event" shall have the meaning ascribed thereto in Article 13.3 of this Agreement;

"Initial Performance Retest Period" shall have the meaning ascribed thereto in Article 6.3.3 of this Agreement;

"Indirect Indian Political Event" shall have the meaning ascribed thereto in Article 13.3.2 of this Agreement;

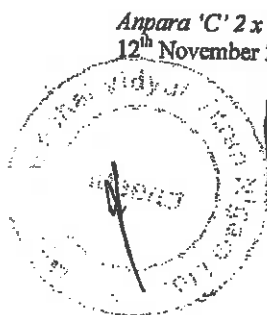
"Infirm Power" shall have the meaning ascribed to the term in Schedule 8.

"Initial Consents" means all the consents, approvals, permits, licenses, exemptions, no objection certificates and authorizations required by the Parties for the purposes of the Project and / or other infrastructure as may be required under applicable law prior to Commercial Operations Date of the Project;

"Initial Equity Investors" means:

- (a) Lanco Kondapalli Power Private Limited, a company incorporated under the Companies Act, 1956 with its registered

Anpara 'C' 2 x 500 MW Power Purchase Agreement
12th November 2006





office at Lanco House, 141, Avenue # 8, Banjara Hills, Hyderabad – 500034, Andhra Pradesh;

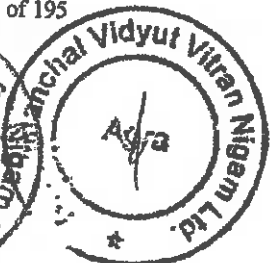
- (b) Aban Power Limited, a company incorporated under the Companies Act, 1956 with its registered office at Janapriya Crest, 113 Pantheon Road, Egmore, Chennai – 600008;
- (c) Lanco Infratech Limited, a company incorporated under the Companies Act, 1956 with its registered office at Lanco House, 141, Avenue # 8, Banjara Hills, Hyderabad – 500034, Andhra Pradesh;
- (d) Clarion Power Corporation Limited, a company incorporated under the Companies Act, 1956 with its registered office at Lanco House, 141, Avenue # 8, Banjara Hills, Hyderabad – 500034, Andhra Pradesh;
- (e) Rithwik Energy Systems Limited, a company incorporated under the Companies Act, 1956 with its registered office at Lanco House, 141, Avenue # 8, Banjara Hills, Hyderabad – 500034, Andhra Pradesh;
- (f) Third Millinnium Investments Limited, a company incorporated in Mauritius with its offices at 5, Duke of Edinburgh Avenue, Port Louis, Mauritius; and
- (g) Electrosteel Castings Limited, a company incorporated under the Companies Act, 1956 with its registered office at Rajgangpur – 770017, Orissa.

“Insurances” means the insurance cover to be maintained by the Seller in accordance with Article 11 of this Agreement;

“Interconnection and Transmission Facilities” means the facilities on the Buyers' side of the Interconnection Point for receiving and metering Electrical Output in accordance with this Agreement and other RFP Documents and which shall include, without limitation, all other transmission and distribution lines and associated equipment, transformers and associated equipment, relay and switching equipment and protective devices, safety equipment and, subject to Article 9, the metering system required for the Project including, without limitation, the Metering System;

“Interconnection Points” means following:

- i) Interconnection point of Anpara – Unnao 765 KV transmission line with Sellers 765 kv Switchyard of the Power Station , and
- ii) 400 KV side of each of the 1000 MVA , 765 KV/400 KV Interconnecting Transformers to be installed by Seller





being the points at which Electrical Output is delivered to the Buyers;

"Investors" at any time means all shareholders of the Seller at that time, and includes Initial Equity Investors till such time as they continue to hold shares in the Seller;

"Investors Equity Agreement" means the agreement so entitled and to be entered between the Buyers and the Initial Equity Investors a copy of which has been provided to the Buyers before Financial Close;

"Invoice" means either a Monthly Tariff Invoice, a Supplementary Invoice or a Buyer Invoice;

"Invoice Dispute Notice" shall have the meaning ascribed thereto in Article 10.4.2 of this Agreement;

"kW" means Kilowatts;

"kWh" means a Kilowatt hour;

"kV" means Kilovolts;

"Land Lease Agreement" means the agreement or agreements entered into, or to be entered in to, in the Agreed Form, under which the Seller will lease the Site for the purposes of the Project including township for the Project staff;

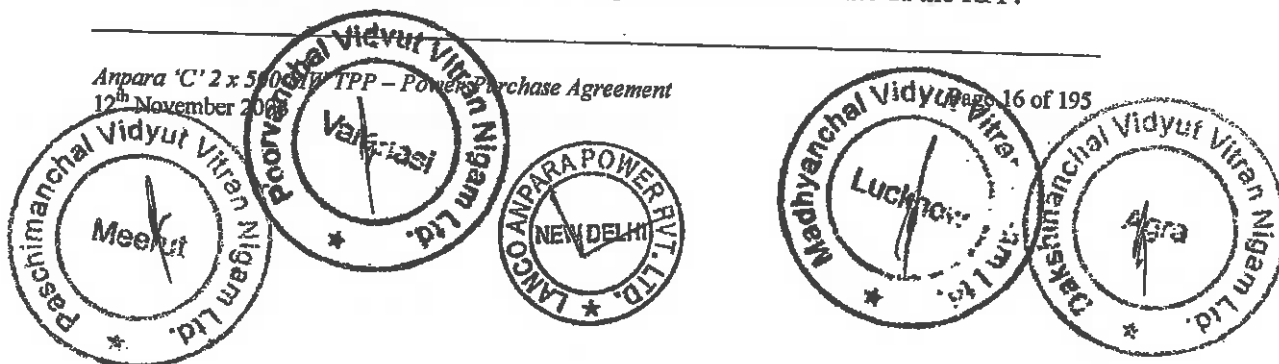
"Lenders" means the banks, other financial institutions, RBI registered non banking financial companies, mutual funds and agents or trustees of debenture / bond holders, including their successors and assignees, who have agreed as at Financial Close to provide the Seller with the debt financing described in the Capital Structure Schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned:

Provided that, such assignment or transfer does not lead to an increase in the liability of any Buyer;

"Lenders' Representative" means the representative of the Lenders as notified by the Seller, which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns, as such person may from time to time be replaced by the Seller or the Lenders pursuant to the Financing Agreements by written notice to each Buyer from the Seller and / or any of the Lenders;

Provided that, there shall never be more than one Lenders' Representative at any time;

"Letter of Acceptance" shall mean the letter of acceptance issued by UPRVUNL to the successful Bidder pursuant to clause 6.26 of the RFP.





"Main Meters" means:

- (a) the Generator Meter,
- (b) the Interconnection Meter, and
- (c) the Import Meter,

each of such meters having the meanings ascribed thereto in Schedule 4.

"Maintenance Outage" means an interruption or reduction of the generating capacity of the Power Station that:

- (a) is not a Scheduled Outage;
- (b) has been scheduled in accordance with Article 7.6 of this Agreement; and
- (c) is for the purpose of performing work on specific components, which work could be postponed by at least two (2) days but should not, in the reasonable opinion of the Seller, be postponed until the next Scheduled Outage;

"MCR " in relation to a Unit or the Power Station means the maximum continuous output at the generator terminals, guaranteed by the manufacturer at rated parameters;

"Metering System" shall have the meaning ascribed thereto in Schedule 4 of this Agreement;

"Monitoring Engineer" means an independent engineering consulting firm or group appointed by the Buyers, at their cost, pursuant to Article 8.1.3 of this Agreement;

"Monitoring Notice" means a notice issued jointly by the Buyers to the Seller pursuant to Paragraph 3.3 of Schedule 6 of this Agreement;

"Monthly Tariff Invoice" shall have the meaning ascribed thereto in Article 10.2.1(a) of this Agreement;

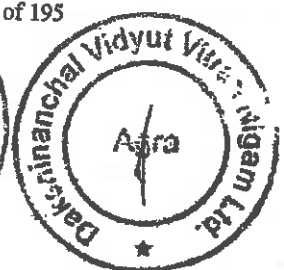
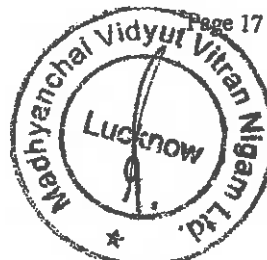
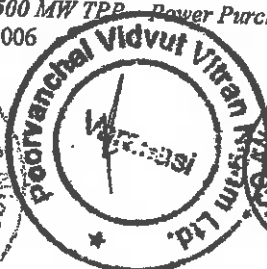
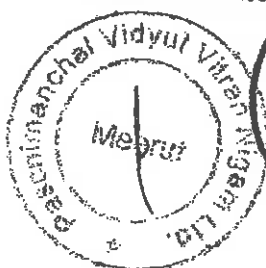
"Monthly Tariff Payment" shall have the meaning ascribed thereto in Paragraph 1 of Schedule 8 of this Agreement;

"MVar" means Megavars;

"MW" means Megawatts;

"MWh" means a Megawatt hour;

"Net Quoted Heat Rate" or **"NQHR"** means the heat energy input in Kcal required to generate one kWh of electrical energy at the Interconnection Point,





provided that for the purposes of this Agreement, NQHR shall have the meaning ascribed theretodefined in Annexure I of Schedule 8;

"Normative Auxiliary Consumption Rate" or "Auxiliary Consumption" means in relation to a Settlement Period means the quantum of energy consumed by auxiliary equipment of the Power Station, transformer losses within the Power Station and the matters specified in Article 4.3.4, and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the Units of the Power Station. For the purposes of this Agreement, Normative Auxiliary Consumption Rate shall be deemed to be the auxiliary power consumption factor used to calculate the Availability and PLF, which shall be 7.5%. This includes energy consumed by the housing colony of Power Station as permitted under the removal of difficulty Rules gazetted under the Electricity Act 2003;

"O&M Agreement(s)" means the agreement(s), entered into, or to be entered in to, between the Seller and the Operator or Operators, if any, relating to the operation and maintenance of the Power Station and / or the Project, as it may be amended from time to time in accordance with this Agreement;

"Operating Consents" means the consents, licenses, approvals, permits, exemptions, no objection certificates and authorisations required by the Parties for the purposes of the Project after the Commercial Operations Date of the Project, in addition to the Initial Consents which are required to be continued;

"Operating Period" in relation to the Power Station means the period from its Commissioned Date until the expiry or earlier termination of this Agreement in accordance with Article 2 of this Agreement;

"Operating Procedures" shall have the meaning ascribed thereto in Article 7.1.1 of this Agreement;

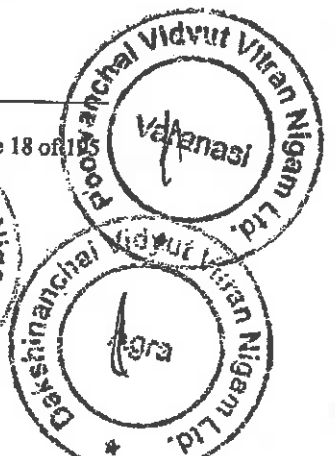
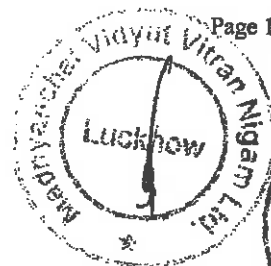
"Operator" means the person(s), if any, appointed from time to time by the Seller to act as operator of the Power Station and / or the Project under the O&M Agreement(s);

"Panel" shall have the meaning ascribed thereto in Article 18.2.2 of this Agreement;

"Parties" means a reference to the Buyers and Seller collectively and **"Party"** shall mean an individual reference to either one of them;

"Permitted Tolerance" is nil.

"PLF", for a given period, means the Electrical Output corresponding to Scheduled Generation during the period, expressed as a percentage of sent out Electrical Output corresponding to Contracted Capacity in that period and shall be computed in accordance with the following formula:





$$PLF = 10000 \times \sum_{i=1}^N SG_i / \{ N \times IC \times (100 - AUX_n) \} \%$$

Where:

- (1) "IC" = Contracted Capacity in MW;
- (2) "SG_i" = Scheduled Generation in MW for the Settlement Period i (only for the Buyers);
- (3) "N" = Number of Settlement Periods during the period; and
- (4) "AUX_n" = Auxiliary Consumption of 7.5%.

"Post Closing Adjustment" is defined in Paragraph 3.6 of Schedule 10 of this Agreement;

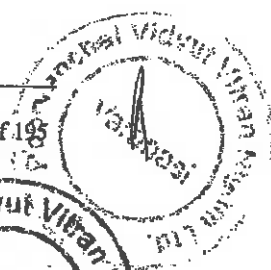
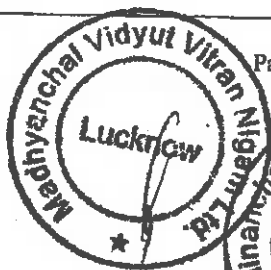
"Performance Test" means the test of a Unit's rated capacity and after commissioning of the Power Station, of the Power Station's rated capacity as a whole carried out in accordance with Paragraph 2 of Schedule 5 of this Agreement;

"Preliminary Termination Notice" shall have the meaning ascribed thereto in Article 15.3 or 15.4 of this Agreement, as the case may be;

"Project" means the ownership, design, financing, engineering, procurement, construction, operation, maintenance, repair, refurbishment, development and insurance of the Power Station undertaken by the Seller in accordance with the terms and conditions of this Agreement including township for the staff;

"Project Documents" means:

- (a) The Investors Equity Agreement;
- (b) The Construction Contract (s);
- (c) The Fuel Supply Agreements;
- (d) All Default Contingency Agreements;
- (e) All Default Security Agreements;
- (f) The Facilities and Services Agreement;
- (g) The Land Lease Agreement;
- (h) The Direct Agreement;
- (i) The O&M Agreement;
- (j) This Power Purchase Agreement





- (k) any other agreements designated at such, from time to time by the Buyers and the Seller as Project Documents;

"Prudent Utility Practices" means the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment of the type specified in this Agreement and which practices, methods and standards shall be adjusted as necessary, to take account of:

- (a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Station;
- (b) the requirements of Indian law; and
- (c) the physical conditions at the Site;

"Power Station" means the:

- (a) coal fired power generation facility described in the Technical Specification electrical energy generated by which shall be supplied by the Seller to the Buyers;
- (b) any associated fuel transport, treatment or storage facilities of the power generation facility referred to above;
- (c) any water supply, treatment or storage facilities required for the operation of the power generation facility referred to above; and
- (d) all the other facilities and related assets required for the efficient and economic operation of the power station
- (e) the ash disposal system (ash dyke)
- (f) township area for the staff colony
- (g) construction of bay for second 765 kV transmission system in the switchyard of the Power Station (if technically feasible);

whether completed or at any stage of development and construction or intended to be developed and constructed as per the provisions of this Agreement and Volume II of the RFP;

"Reference Exchange Rate" in relation to the US Dollar on a particular day means the selling rate in Rupees for the US Dollar on the relevant day, as notified by the State Bank of India as its TT Rate at 12:00 noon on the relevant day, or is determined in such other manner as the Parties may mutually agree, if the State Bank of India does not publish the relevant rate;



"Required Commercial Operations Date" or "Required Commissioning Date" means (i) for the first Unit, the date falling fifty four (54) months after the date of issue of the Letter of Acceptance hereof; and (ii) for the second Unit and the Power Station, the date falling fifty eight (58) months after the date of issue of the Letter of Acceptance hereof as the same may be extended from time to time in accordance with the provisions herein;

"Revised Capacity Notice" shall have the meaning ascribed thereto in Paragraph 2.3 of Schedule 6 of this Agreement;

"RFP" means the Request for Proposal document issued by UPRVUNL on 20th February 2006 (including all its amendments) for the selection of the Initial Equity Investors responsible for incorporating the Seller who shall implement the Project;

"RFQ" means the Request for Qualification document issued by UPRVUNL on October 1, 2004 for the pre-qualification of parties interested in bidding for selection as the Initial Equity Investors who shall be responsible for incorporating the Seller who in turn shall implement the Project;

"Rupee", "Rupees" and "Rs." denote the lawful currency of India;

"Scheduled Connection Date" shall mean the date falling thirty two (32) months after Financial Close as such date may be extended pursuant to Article 4.5 of this Agreement;

"Schedule Day" means the day by reference to which the Buyers dispatch the Power Station;

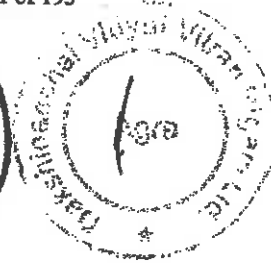
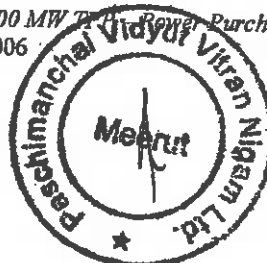
"Scheduled Bank" means a bank incorporated in India and recognised as a scheduled bank by the Reserve Bank of India;

"Scheduled Generation" or "SG" at any time or for any period or for any Settlement Period means schedule of generation in MW at the Interconnection Point given by the SLDC;

"Scheduled Outage" means a planned interruption or reduction of the generating capability of the Power Station that:

- (a) is not a Maintenance Outage;
- (b) has been scheduled and allowed by the Buyers in accordance with Article 7.5 of this Agreement; and
- (c) is for inspection, testing, preventative maintenance, corrective maintenance, repairs, replacement or improvement;

"Scheduled Synchronisation Date" means the date falling thirty six (36) months after Financial Close;





"SBIPLR" means the prime lending rate per annum for loans with one (1) year maturity as fixed from time to time by the State Bank of India and in the absence of such rate, any other arrangement that substitutes such prime lending rate as mutually agreed to by the Parties;

"Security Package" means:

- (a) the Project Documents;
- (b) the Government Agreement; and
- (c) the Insurances.

"Seller's Contractors" means the Construction Contractor, the Operator, other contractors to the Seller and each of their respective sub-contractors (and each of their respective successors and permitted assigns) in their respective capacities as such;

"Seller Event of Default" shall have the meaning ascribed thereto in Article 15.1 of this Agreement;

"Settlement Period" means any fifteen (15) minute period beginning on the hour or half hour or quarter hour;

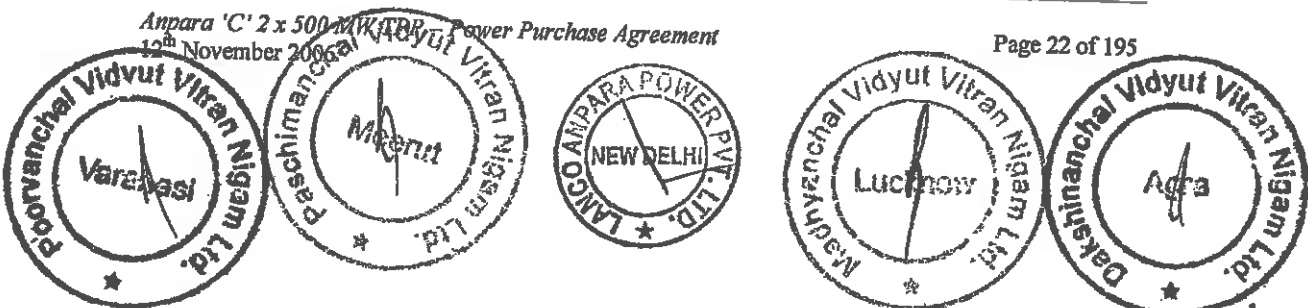
"Site" means the land, spaces, waterways, roads and rights of way more particularly described in **Schedule 2** of this Agreement acquired or to be acquired by the Seller for the purpose of the Project (including, without limitation, any working areas required by the Seller or its Seller's Contractors, villages, townships and camps for the accommodation of the employees of the Seller and its Seller's Contractors and all rights of way and access from public highways where applicable; **"Supplementary Invoice"** shall have the meaning ascribed thereto in Article 10.2.1(b) of this Agreement;

"State Load Dispatch Centre" or **"SLDC"** means the State Load Dispatch Centre as defined under Section 2(66) of Electricity Act, 2003

"Suspension Period" shall have the meaning ascribed thereto in Article 15.3 or Article 15.4 of this Agreement, as applicable;

"Tariff" means the Monthly Tariff Payment calculated in accordance with Schedule 8 of this Agreement;

"Tax" means any Indian tax (including, without limitation, income tax, withholding tax, wealth tax, works contract tax, octroi, entry tax, property tax, profession tax, water tax, energy tax, fuel tax, environmental tax, sales tax, expenses tax or value added tax), duty (including, without limitation, any import or export duty, Countervailing duty, excise tax or duty in the nature of excise), surcharge, cess, Imposit or levy of any nature (whether central, state or local) charged, levied or imposed;





"Technical Specification" means the technical requirements and parameters prescribed in relation to the Project, forming a part of the Construction Contract. Provided these shall always comply with the requirements of Paragraph 1 to 4 of Schedule 3 of this Agreement and Volume – II of RFP;

"Tested Capacity" in relation to a Commissioned Unit, or the Power Station as a whole (if the Power Station has been commissioned) means the results of the most recent Performance Test carried out in relation to the Power Station in accordance with Schedule 5 or Article 8.1 of this Agreement;

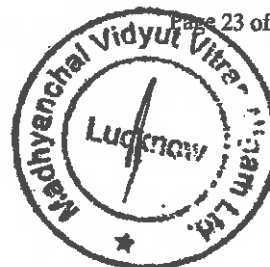
"Termination Notice" shall have the meaning ascribed thereto in Article 15 of this Agreement;

"Total Debt Amount" means the sum of the following amounts, expressed in Rupees :

- (a) the principal amount of the debt incurred by the Seller (as per the terms of the Financing Agreements) to finance the Project according to the Capital Structure Schedule which remains outstanding on the Transfer Date after taking account of any debt repayments which could have been made out of the Monthly Tariff Payments received by the Seller on or before the Transfer Date as per the terms provided in the Financing Agreements ; and
- (b) all accrued interest and financing fees, but excluding penal interest, payable under the Financing Agreements on the amounts referred to in paragraph (a) above since the Fixed Charge Payment immediately preceding the Transfer Date or, if Fixed Charges have not yet fallen due to be paid, from the most recent date when interest and financing fees were capitalised, and
- (c) if this Agreement is terminated during the Construction Period, any amounts owing to the Construction Contractor for work performed but not paid for under the Construction Contract (other than amounts falling due by reason of the Seller's default or this Agreement being terminated);

"Transfer Costs" means:

- (a) costs and liabilities of the Seller directly resulting from the purchase of the Project by the Buyers or a Buyer, as the case may be, pursuant to Schedule 10 of this Agreement including the fees and out of pocket expenses of the Appraiser, Lender's fees for repayment of loans, any costs arising under a Project Document due to its early termination arising from termination of this Agreement to the extent that the relevant termination





provisions of such Project Documents were first approved by the Buyers pursuant to this Agreement; and

- (b) any taxes payable by the Seller as a result of the purchase by the Buyers or a Buyer, as the case may be, of the Project pursuant to Schedule 10 of this Agreement which are not Transfer Taxes;

"Transfer Taxes" means all stamp duties and other similar transfer taxes (excluding capital gains tax, income- tax as any similar tax to the foregoing) and registration fees payable by the Seller solely as a result of the purchase by the Buyers or a Buyer, as the case may be, of the Project pursuant to Schedule 10 of this Agreement;

"Transfer Date" means the date when all sums owing to the Seller and / or the Seller's Lenders pursuant to Schedule 10 have been paid by all the Buyers to the Seller and / or the Seller's Lenders;

"Unit" means a set consisting of a boiler, turbine generator, mills and associated equipment and auxiliaries which meets the Technical Specification and the requirements of Volume 2 of the RFP;

"Unscheduled Interchange (UI) Charges": Shall mean the charges applicable on account of variation between actual Dispatched Electrical Output and Scheduled Generation and/or actual drawl and Scheduled Generation as may be mentioned in the applicable Availability Based Regulations and the Grid Code

"UPERC" shall mean the Uttar Pradesh Electricity Regulatory Commission created under the provisions of the Uttar Pradesh Electricity Reforms Act, 1999 and existing pursuant to the Electricity Act, 2003 or any successor entities created by operation of law, which fulfil substantially the whole or the same role;

"Uplift" shall have the meaning ascribed thereto in Paragraph 4.3 of Schedule 10 of this Agreement;

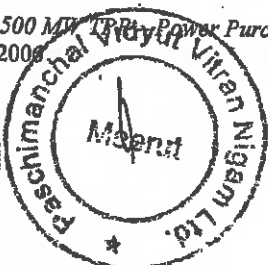
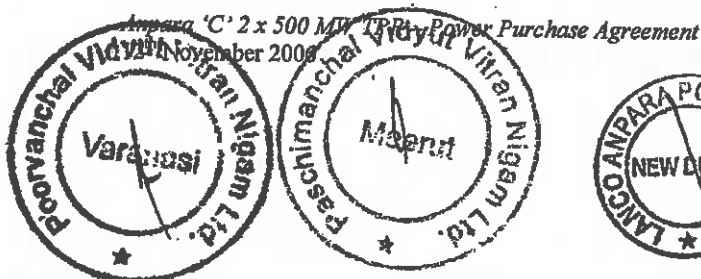
"Variable Charge" shall have the meaning ascribed thereto in Paragraph 1.3 of Schedule 8 of this Agreement;

"Valuation" is defined in Paragraph 3.1 of Schedule 10 of this Agreement;

"Week" means a period of seven (7) consecutive days beginning at midnight Indian Standard Time between Sunday and Monday;

"Weekly Capacity Notice" shall have the meaning ascribed thereto in Paragraph 2. 1 of Schedule 7 of this Agreement;

- 1.1.2 Capitalized terms not specifically defined in Article 1.1.1, but defined in the Electricity Act or the Electricity Rules, shall, unless repugnant to the context.,



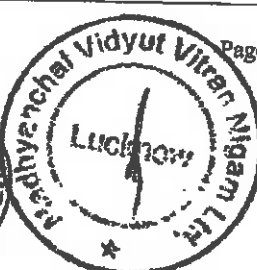
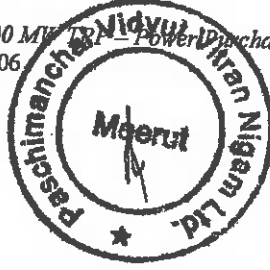
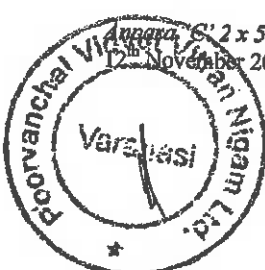


have the meaning ascribed to the term in the Electricity Act or the Electricity Rules

1.2 Interpretation

Any reference in this Agreement to:

- (a) An "affiliate" of any person shall be construed as a reference to a subsidiary or holding company, or a subsidiary of a holding company, of such person;
- (b) "this Agreement" shall be construed as including a reference to its Schedules and Annexes;
- (c) An "Annex" or a "Schedule" shall, subject to any contrary indication, be construed as a reference to an Schedule to this Agreement;
- (d) A "business day" shall be construed as a reference to a day (other than a Sunday) on which nationalised banks are generally open for business in Lucknow;
- (e) A "crore" means a reference to ten million (10,000,000);
- (f) An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;
- (g) The "equivalent" on any given date in any currency (the "first currency") of an amount denominated in another currency (the "second currency") is a reference to the amount of the first currency which could be purchased with the amount of the second currency at the Reference Exchange Rate at or about 11:00 a.m. on such date for the purchase of the first currency with the second currency for delivery on the second business day thereafter;
- (h) A "holding company" and "subsidiary" shall have the meaning set forth in the Companies Act, 1956.;
- (i) "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (j) A "person" shall be construed as a reference to any person, firms, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate





legal personality) of two or more of the above and shall include affiliate of such a person;

- (k) A "Schedule" shall, subject to any contrary indication, be construed as a reference to a schedule of this Agreement;
- (l) A "paragraph" shall, subject to any contrary indication, be construed as a reference to a paragraph of the Schedule in which such reference appears;
- (m) A subsidiary" of a company or corporation shall be construed as a reference to any company or corporation:
 - (i) which is controlled, directly or indirectly, by the first-mentioned company or corporation; or
 - (ii) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or
 - (iii) which is a subsidiary of another subsidiary of the first-mentioned company or corporation

and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and / or to control the composition of its board of directors or equivalent body;

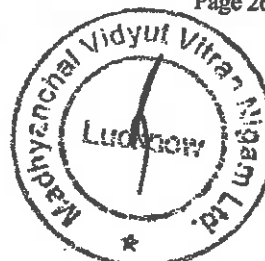
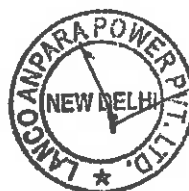
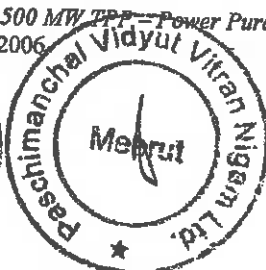
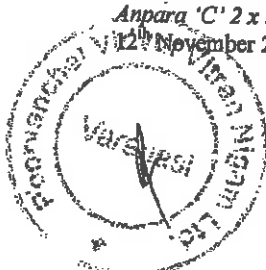
- (n) the "winding-up", "dissolution", "administration", "insolvency", or "reorganisation" of a company or corporation and references to the "liquidator", "assignee", "administrator", "receiver", "administrative receiver", "receiver" and "manager" or "trustee" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings or, as the case may be, insolvency representatives or officers under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation or, as the case may be, insolvency representatives or officers is incorporated or constituted or any jurisdiction in which such company or corporation or, as the case may be, insolvency representatives or officers carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors and shall additionally, unless the context otherwise requires, have the meaning set forth in the Companies Act, 1956.

1.3 General

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

Anpara 'C' 2 x 500 MW TPP - Power Purchase Agreement
12 November 2006

Page 26 of 195





- (a) Any words importing the singular shall also include the plural and vice versa;
- (b) A person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;
- (c) This Agreement itself, or any other agreement or document shall be construed as a reference to that agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;
- (d) Any section, provision, or schedules of a statute or enactment shall be construed as a reference to such statute as it may have been, or may from time to time be, amended or re-enacted. Any reference to a statute shall also mean a reference to subordinate regulations issued or promulgated under the said statute;
- (e) A time of day shall be construed as a reference in Indian Standard Time; and
- (f) The words 'include' and 'including' are to be construed without limitation.

1.4 Table of Contents and Headings

The table of contents and any headings in this Agreement or any are for ease of reference only and shall not affect the interpretation of this Agreement.

1.5 Interest

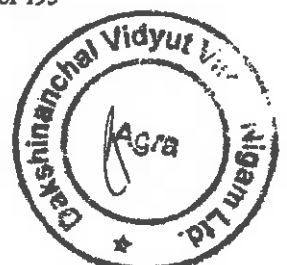
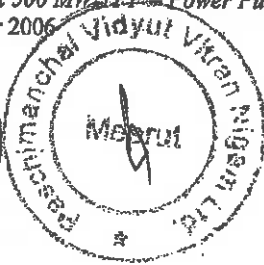
All interest payable under this Agreement shall accrue from day to day and be calculated on the basis of a year of three hundred sixty five (365) days unless specifically and expressly stated otherwise.

1.6 Interpretation

Any word or expression used in this Agreement shall bear its ordinary English meaning and, only for these purposes, the General Clauses Act 1897 shall not apply.

1.7 Discretion

Except where this Agreement expressly requires a Party to act fairly or reasonably, a Party may exercise any discretion given to it under this





Agreement in its absolute discretion and the exercise of that discretion shall not be challengeable on grounds that the Party did not exercise its discretion fairly or reasonably.





ARTICLE 2 EFFECTIVENESS AND TERM

2.1 Effectiveness

This Agreement shall commence and be effective when it is executed and delivered by the Parties.

2.2 Term

2.2.1 Subject to Article 2.2.2, this Agreement shall continue in effect until the Expiry Date when, subject to Articles 2.3, 2.4 and 2.5, it shall terminate.

2.2.2 This Agreement shall terminate before the Expiry Date:

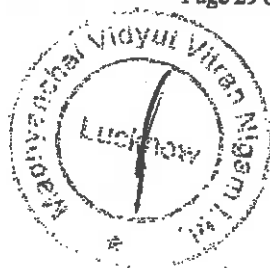
- (a) if all the conditions precedent referred to in Article 3 are not satisfied, or are not duly waived, within fourteen (14) months of the date of issue of the Letter of Acceptance and any Party chooses to serve a written notice to terminate under and in accordance with Article 3.5; or
- (b) if a Termination Notice is served in accordance with and under Article 15; or
- (c) if a written notice to terminate and due payment is made in accordance with and under Article 13.6 following a prolonged Indian Political Event.

2.3 Automatic Extension

2.3.1 A Buyer shall have the right, at anytime during the period beginning three (3) years before the Expiry Date and ending two (2) years before the Expiry Date, to give to the Seller a written notice requiring an extension of this Agreement for a period of five (5) years. Provided, such right of extension will be available to the Buyer or Buyer(s) only if:

- (a) Seller has decided not to permanently decommission the Project; and
- (b) The Buyer requiring an extension does not have a subsisting Buyer Event of Default under Article 15.2 (c).

In case, the Buyer requiring an extension has a subsisting Buyer Event of Default under Article 15.2 (c), the Available Capacity relating to such a Buyer can be exercised by the other Non-defaulting Buyers in proportion to their then Available Capacity entitlement.





2.3.2 If such written notice is delivered to the Seller by all Buyers:

- (a) all references to the Expiry Date shall be construed as references to the last date of the stated period of extension; and
- (b) this Agreement shall stand extended to such date.

The tariff payable for Available Capacity and dispatched Electrical Output for the period of extension shall be as is mutually agreed to between the Seller and the Buyers:

Provided that, there shall be no difference in the tariff payable by any Buyer for the aforesaid period of extension.

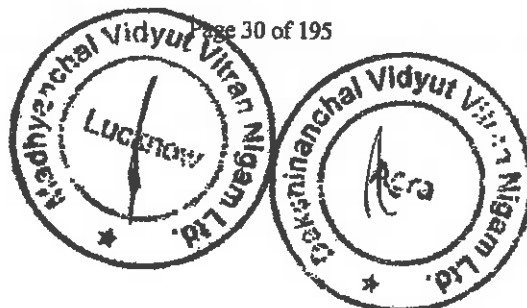
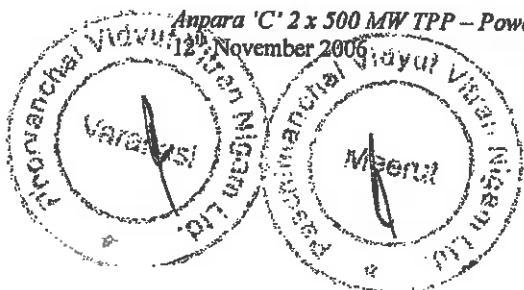
Further provided that, in the case of disagreement between the Parties, the tariff payable for Available Capacity and dispatched Electrical Output for the period of extension shall be as is determined by the UPERC, whose order, notwithstanding anything contained to the contrary in this Agreement, shall be final and binding on the Parties and the only recourse available to the Parties against such decision of the UPERC, if any at all, shall be under the appellate mechanism set forth in the Electricity Act, 2003.

2.3.3 If the written notice referred to in Article 2.3.1 is not delivered to the Seller by all Buyers but only by some Buyers or one Buyer (such Buyers or Buyer, as the case may be, "Extending Buyers" or "Extending Buyer", as the case may be), this Agreement shall expire and stand terminated in respect of the Buyer or Buyers who have not delivered such written notice ("Exiting Buyer" or "Exiting Buyers") and no rights and obligations save those already accrued prior to such expiry, shall be owed by the Exiting Buyer or Existing Buyers to the Seller or vice versa. The Extending Buyer or Extending Buyers shall have the choice to elect for extension of the Term of this Agreement in respect of any portion of the Available Capacity and corresponding dispatched Electrical Output of the entire Power Station, which portion of the Available Capacity and corresponding dispatched Electrical Output shall be delivered to the Extending Buyer or Extending Buyers, in such proportions as may be notified by the Extending Buyer or Extending Buyers to the Seller, as the case may be. In all cases:

- (a) all references to the Expiry Date shall be construed as references to the last date of the stated period of extension; and
- (b) this Agreement shall stand extended to such date;

in so far as the Extending Buyer's or Extending Buyers' entitlement to that portion of the Available Capacity and dispatched Electrical Output of the Power Station as they have elected under this Article 2.3.3 pertains.

The tariff for the period of extension shall be as mutually agreed by the Seller, the Extending Buyer or Extending Buyers, as the case may be.





Provided that, in the case of disagreement between the Seller and the Extending Buyer or Extending Buyers, the tariff for the period of extension shall be as is determined by the UPERC, whose order, notwithstanding anything contained to the contrary in this Agreement, shall be final and binding on them and the only recourse available to them against such decision of the UPERC, if any at all, shall be under the appellate mechanism set forth in the Electricity Act, 2003.

- 2.3.4 On Expiry of any extension of the Term under Article 2.3.2 or 2.3.3, the provisions of this Agreement, including this Article 2.3 itself shall apply *mutatis mutandis* in relation to the Buyers' or Buyer's right or an Extending Buyer's or Extending Buyers' right for further automatic extension.

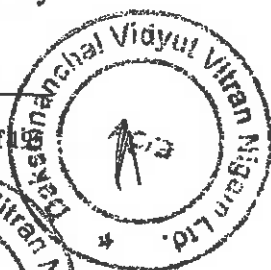
2.4 Consequences of Buyers not extending

- 2.4.1 In the event that all Buyers choose not to automatically extend the PPA under Article 2.3, the PPA shall expire and no rights and obligations save those already accrued prior to such expiry, shall be owed by any Party to the other. The Seller shall in such circumstances have the right to sell all the Available Capacity and Electrical Output to any third party of his choice and at any terms and conditions of his choice but with no liability on the Buyers.
- 2.4.2 In the event that an Extending Buyer or Extending Buyers elect to extend the PPA only in respect of a portion of the Available Capacity and Electrical Output of the Power Station, the Seller shall in such circumstances have the right to sell all the remainder of the Available Capacity and corresponding Electrical Output of the Power Station to any third party of his choice and at any terms and conditions of his choice, with no liability on the Buyers:

Provided that, the Available Capacity and Electrical Output so sold to a third party shall in no circumstances be sold at a Tariff less than that at which any part of the Available Capacity and corresponding Electrical Output is being made available to the Extending Buyer or Extending Buyers. For the purposes of this Article 2.4.2, Tariff at which Available Capacity and Electrical Output has been sold to a third party shall be the average price at which power has been sold to all third parties (excluding the Buyer(s)) put together. Further, such average price shall be calculated for each block of 12 months or in case the third party sales have been made for a period less than 12 months, for such reduced period.

2.5 Survival

The expiry or termination of this Agreement shall not affect accrued rights and obligations of the Parties under this Agreement including, but not limited to, those assumed under Schedule 10, nor shall it affect any continuing obligations for which this Agreement provides, either expressly or by necessary implication.





ARTICLE 3
CONDITIONS PRECEDENT AND PROJECT DOCUMENTS

3.1 Conditions precedent

3.1.1 Satisfaction of conditions precedent

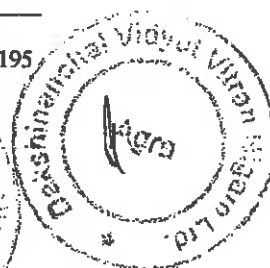
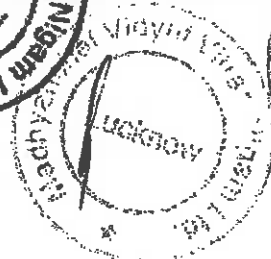
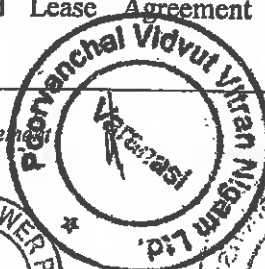
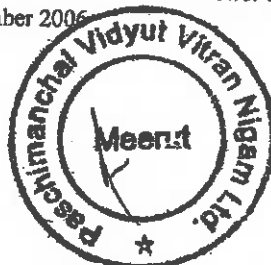
Save and except as provided in this Article 3, the Parties' rights, duties, obligations and liabilities under this Agreement are subject to the conditions listed in Article 3.1.2 being satisfied by the Parties required to satisfy them:

Provided that, a Party for whose benefit a condition precedent has been listed therein, may, on being approached by the other Party required to satisfy such condition precedent with a written request seeking waiver, waive satisfaction of that condition precedent. Grant of such waiver shall be ineffectual unless evidenced in writing. If so waived, the relevant condition precedent will be deemed to have been satisfied for the purposes of this Article 3.1.1.

3.1.2 List of conditions precedent

Parties agree that the conditions precedent for the purposes of Article 3.1 of this Agreement are that:

- (a) each Party shall have received all the Initial Consents either unconditionally or subject to conditions which do not materially prejudice its rights or the performance of its obligations under this Agreement;
- (b) the UPERC should have approved the RFP and have passed an order adopting the tariff determined pursuant to the bidding process conducted in accordance with the RFP under Section 63 of the Electricity Act, 2003;
- (c) the Seller shall have received copies of each of the Government Agreement duly signed by the counter-parties to such Government Agreement;
- (d) the Parties shall have agreed on the appointment of the Independent Engineer, the Financial and Technical Expert;
- (e) certified true copies of all Project Documents shall have been executed and delivered by the Seller to all the Buyers;
- (f) the Seller shall have been granted vacant possession of the Site within eight months of the date of issue of the Letter of Acceptance in accordance with the Land Lease Agreement and shall have





obtained such other rights including without limitation way leaves, as it may require for the Project;

- (g) the Buyers collectively, or the agency tasked with the work of constructing the Interconnection and Transmission Facilities shall have obtained the way leaves required to construct or procure the construction of the Interconnection and Transmission Facilities;
- (h) the Seller is reasonably satisfied that it and each of the Seller's Contractors have received, or will be entitled to receive, immigration permits and visas for such expatriate staff as they may reasonably require to work on the Project;
- (i) all the Parties shall have received copies (certified as true copies by a duly authorized officer of the others) of the constitutive documents of the others;
- (j) all the Parties shall have received copies (certified as true copies by a duly authorised officer of the others) of resolutions adopted by the others' boards of directors authorising the execution, delivery and performance by the relevant party of each of the Project Documents and this Agreement;
- (k) the Performance Bonds in full have been provided by the Seller to the Buyers in accordance with Article 3.7
- (l) the Seller shall have received an opinion of all Buyers' Indian legal counsel, in the Agreed Form, with respect to:
 - (i) Buyers' authority to enter into this Agreement and the Project Documents (to which the Buyers are party); and
 - (ii) GOUP's authority to enter into the Government Agreement;and, in each case, the enforceability of their provisions;
- (m) all the Buyers shall have received an opinion of the Seller's legal counsel qualified to practice law in an appropriate jurisdiction, in the Agreed Form, with respect to:
 - (i) the Seller's authority to enter into this Agreement and the Project Documents; and
 - (ii) Validity of the Initial Equity Investors Agreement;and, in each case, the enforceability of their provisions;
- (n) Financial Close shall have occurred (or will occur at the same time as the remaining conditions precedent set out in this Article 3 are satisfied or waived);



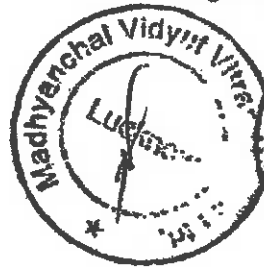


- (o) all the Buyers shall have received written undertakings from the Initial Equity Investors that the shareholding in the Seller shall comply with the requirements enumerated in clause 4.5.3, 4.5.4 and 4.7 of the RFQ;
- (p) the Fuel Supply Agreement shall have been executed by the Seller and delivered to all the Buyers in accordance with Article 7.10 (in respect of which, the Buyer's responsibilities will be limited to providing their comments on the Fuel Supply Agreement);
- (q) all the Buyers shall have procured the undertaking required from GoUP under Article 5.1 (e) of the Default Security Agreement;
- (r) the Seller shall have received confirmation from GoUP that all incentives, privileges and rights under the Uttar Pradesh Power Policy, 2003 shall be made available in respect of the Project;
- (s) all policies, procedures, Agreed Forms and Schedules to this Agreement left blank and intended to be filled up and / or agreed upon by the Parties post the date hereof, but in all cases prior to Financial Close, shall have been duly agreed upon and / or filled up, as the case may be;
- (t) the Seller shall have provided the entire information required by Annexure B of Volume II of the RFP to all the Buyers;
- (u) the Buyers and the Seller shall have procured that UPRVUNL have identified the interconnection points for the connection of storm water drainage and treated effluent discharge of the Power Station with the existing storm water discharge system of Anpara A and B power stations; and
- (v) the Fuel Supply Agreement has been approved by the UPERC as may be required under the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued on January 19, 2005.

3.2 Allocation of responsibilities

3.2.1 Joint responsibility

All Parties shall be jointly responsible for ensuring satisfaction of conditions precedent enumerated in Article 3.1.2(b), (c), (d), (f), (i), (j), (p), (r), (s), (u) and (v). For the purposes of the first proviso to Article 3.1.1, the conditions precedent listed herein shall be for the benefit of all Parties. Consequently, any one Party seeking waiver requires to make a written request to all other Parties and receive their written consent. All expenses incurred in ensuring satisfaction of these conditions precedents shall be borne by the Party incurring such expenditure.





3.2.2 Seller responsibility

The Seller shall be responsible at its own expense for satisfying the conditions precedent referred to in Articles 3.1.2(a) (other than Initial Consents specifically provided for under Article 3.1.2), (e), (h), (i), (j), (k), (m), (n), (o) and (t). For the purposes of the first proviso to Article 3.1.1, the conditions precedent listed herein shall be for the benefit of all the Buyers and the Seller may make a written request to all Buyers seeking a waiver which shall be effective if so consented to by all Buyers.

3.2.3 Buyers' responsibility

Each Buyer shall be responsible at its own expense for satisfying the conditions precedent referred to in Articles 3.1.2 (l) and (q) in so far as the condition precedent pertains to it. For the purposes of the first proviso to Article 3.1.1, the conditions precedent listed herein shall be for the benefit of the Seller and all Buyers may make a written request to the Seller seeking a waiver which shall be effective if so consented to by the Seller.

All Buyers shall be jointly responsible for ensuring satisfaction of the condition precedent enumerated in Article 3.1.2(g). For the purposes of the first proviso to Article 3.1.1, the conditions precedent listed therein shall be for the benefit of the Seller. Consequently, seeking waiver requires all Buyers to make a joint written request to the Seller and receive the Seller's written consent. All expenses incurred in ensuring satisfaction of these conditions precedents shall be borne by the Buyer incurring such expenditure.

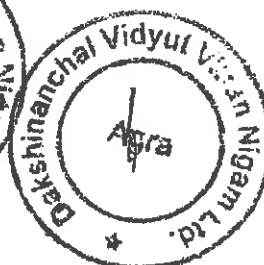
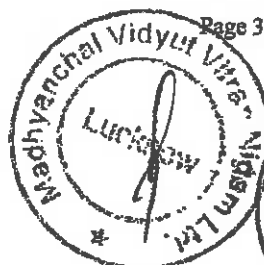
In the event of any differences between the Buyers resulting in non satisfaction of conditions precedent for which the Buyers are responsible, the matter shall be referred to the UPERC.

3.3 Parties to use reasonable endeavours

Each Party shall use all reasonable endeavours to cause the conditions precedent referred to in Article 3.1.2 for which it is responsible to be satisfied within fourteen (14) months after the date of issue of the Letter of Acceptance and shall provide the of issue of the Letter of Acceptance other Parties with such reasonable cooperation as may be required to assist that Party or those Parties in satisfying the conditions precedent for which they are responsible under this Article 3.2.

3.4 Reports

The Parties shall notify each other in writing at least once a month on the progress made in satisfying the conditions precedent in Article 3.1. Each Party





shall promptly inform the others in writing when any condition precedent for which it is responsible has been satisfied or duly waived.

3.5 Right to terminate

If all the conditions precedent as set forth in Article 3.1.2 have not been satisfied or duly waived within fourteen (14) months after the date of issue of the Letter of Acceptance, any Party may terminate this Agreement by giving a written notice of termination to the other Parties and all Parties shall be discharged from any further obligations hereunder, and shall, subject to Article 3.7, have no liability to each other including any accrued liabilities arising under this Agreement or any other applicable agreement between the Seller and the Buyers.

3.6 Project Documents

- 3.6.1 The Seller shall provide all the Buyers with certified true copies (5 numbers for each Buyer) of all Project Documents, including amendments, promptly, as and when they become available.
- 3.6.2 All Project Documents and amendments made thereto from time to time, must comply with the requirements set forth in the RFQ and the RFP and, if no express requirements are so mentioned, must not be inconsistent with the contents of the RFP or the RFQ.
- 3.6.3 The Seller shall not enter into, terminate, assign, replace or materially amend or vary the terms of any Project Document other than the Fuel Supply Agreement (in respect of which, Article 7.9 and 7.10 shall apply) which is submitted to the Buyers in accordance with Article 3.6.1 above, without first complying with the following requirements:
- (a) Before finalizing any Project Document or any amendment thereto, the Seller shall provide at least thirty (30) days to each Buyer to comment on such document (including amendments). Complete details and documentation shall be provided to all the Buyers.
 - (b) The Buyers may provide comments to the Seller for consideration and possible incorporation in to the relevant Project Document or amendment proposed thereto. However, such comments, if any, shall not be binding on the Seller. Equally, such comments shall not relieve the Seller of any of its obligations under this Agreement or the relevant Project Document.
- 3.6.4 No Project Document or amendment thereto shall create or purport to create any liability, fiscal or otherwise for any of the Buyers. The Seller shall include in every Project Document or amendment thereto an explicit





acknowledgements from the relevant counterparty recognising the non privity of the Buyers to the Project Document or amendment in question and the fact that the relevant counterparty has no recourse against the Buyers in respect of its rights and obligations under the Project Document or amendment in question except to the extent specifically provided under the Direct Agreement.

- 3.6.5 The provisions of the above Article 3.6.2, Article 3.6.3 and Article 3.6.4 shall not apply to the Fuel Supply Agreement which shall be governed by the other provisions of this Agreement in particular Article 7.10 of this Agreement.

3.7 Performance Bonds

- 3.7.1 Before the signing of this Agreement, the Seller shall have for due and faithful performance of its obligations under this Agreement, provided each of the Buyers with a bank guarantee from a Scheduled Bank in the Agreed Form (each a "Performance Bond" and collectively, the "Performance Bonds") for a sum equal to:

In the case of Buyer One, Rs 27,00,00,000 (Rupees twenty seven crores)

In the case of Buyer Two, Rs 27,00,00,000 (Rupees twenty seven crores)

In the case of Buyer Three, Rs 18,00,00,000 (Rupees eighteen crores)

In the case of Buyer Four, Rs 18,00,00,000 (Rupees eighteen crores)

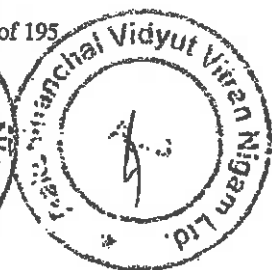
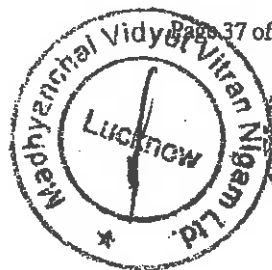
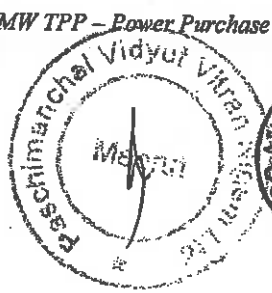
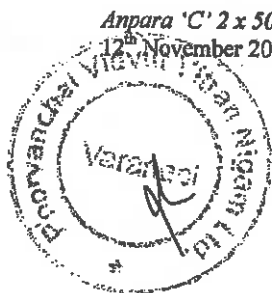
- 3.7.2 The Performance Bonds shall be released by the Buyers upon:

- (a) contribution of sixty (60) percent of the total equity investment proposed for the Project as certified by the Lenders; and
- (b) the Seller having expended on the Project and paid out an aggregate sum of not less than thirty (30) percent of the Capital Costs as certified by the statutory auditors of the Seller;

Provided that, at such stage, the Seller is not in material breach of this Agreement and no Seller Event of Default shall be subsisting.

- 3.7.3 Fifty (50) percent of the Performance Bonds shall be encashed by the Buyers in the event that a Seller Event of Default has occurred.

- 3.7.4 On encashment of fifty (50) percent of the Performance Bonds in accordance with Article 3.7.3, the Seller shall, within thirty (30) days reinstate all the Performance Bonds to their full amount. If such fresh Performance Bonds are provided within thirty (30) days, the Seller shall be given an additional thirty (30) days from the date of reinstatement within which to remedy the Seller Event of Default in question. Furthermore, in the event that the Seller ensures that the Power Station meets the Required Commercial Operations Date, the





appropriated amount of the Performance Bonds shall be returned to the Seller by the Buyers on achievement of Commissioning of the Power Station without any interest payable thereupon within thirty (30) days.

3.7.5 However, in the event that the Seller:

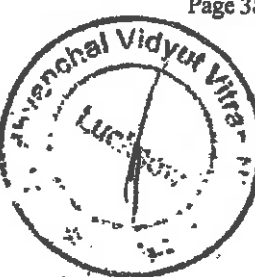
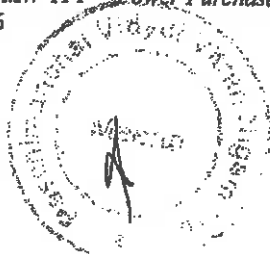
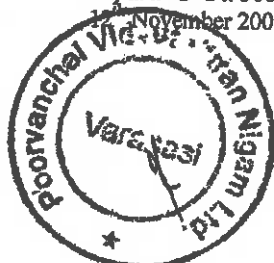
- (a) does not reinstate the Performance Bonds to their full amount within thirty (30) days as required under Article 3.7.4; or
- (b) is unable to remedy the relevant Seller Event of Default within thirty (30) days as required under Article 3.7.4;

the Buyers shall be entitled to issue a Preliminary Termination Notice in accordance with Article 15. Additionally and without prejudice to any other rights, which the Buyers may have, they shall also be entitled to appropriate the remainder of the Performance Bonds or the entire amount, as the case may be.

3.7.6 In all cases where the Performance Bonds have been encashed under Article 3.7.3, notwithstanding the contents of Article 3.7.2, the Performance Bonds shall be continued for:

- (a) a further period of six (6) months from the date of release indicated in Article 3.7.2 above; or
- (b) six (6) months from the last date of encashment of the Performance Bonds;
- (c) until the breach is cured and the two conditions specified in Article 3.7.2 above are satisfied;

whichever event is latest.





ARTICLE 4
DEVELOPMENT OF THE PROJECT

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

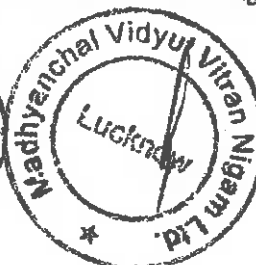
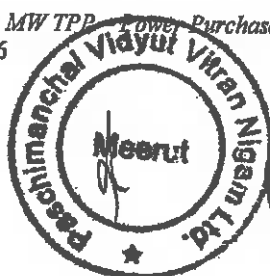
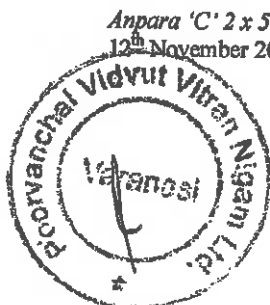
Subject to the terms and conditions of this Agreement, the Seller undertakes to be responsible for:

- (a) obtaining and maintaining in full force and effect any Consents required by it pursuant to this Agreement and Indian law;
- (b) executing the Project in a timely manner so as to enable each of the Units and the Power Station as a whole to be Commissioned no later than its Required Commercial Operations Date and such that as much of the Contracted Capacity as can be made available through the use of Prudent Utility Practices will be made available reliably to meet the Buyers' scheduling and dispatch requirements throughout the Operating Period of the Power Station;
- (c) owning the Power Station throughout the term of this Agreement free and clear of encumbrances except those expressly permitted by Article 17.2; and
- (d) fulfilling all other obligations undertaken by him under this Agreement.

4.2 Buyers' obligation in relation to the Interconnection and Transmission Facilities

Subject to the terms and conditions of this Agreement, the Buyers undertake to be responsible for:

- (a) procuring the Interconnection and Transmission Facilities to enable the Power Station to be connected to the Grid System not later than the Scheduled Connection Date;
- (b) assisting the Seller in procuring, at the Sellers cost, its requirements of electricity at the Power Station (including construction, commissioning and start-up power) on the same terms and conditions as apply from time to time to similar customers provided that the Seller shall be required to meet in a timely manner all application formalities for getting such a supply of electricity; and





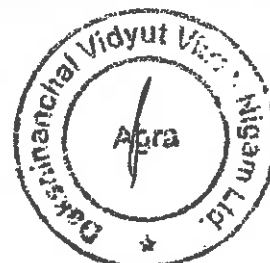
- (c) using all reasonable endeavours to facilitate the commissioning and testing of the Units and after commissioning of the Power Station, of the Power Station as a whole that are within their power to do.

4.3 Purchase and sale of Available Capacity and Electrical Output

- 4.3.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Buyers, and Buyers undertakes to pay the Tariff for all of the Available Capacity, Scheduled Generation and Electrical Output of the Power Station throughout its Operating Periods.
- 4.3.2 The Seller shall sell all the Available Capacity, unless otherwise instructed, of the Power Station to each Buyer in the following ratios:
- In the case of Buyer One, 30%
- In the case of Buyer Two, 30%
- In the case of Buyer Three, 20%
- In the case of Buyer Four, 20%
- 4.3.3 The Scheduled Generation and Electrical Output attributable to such Available Capacity shall be provided to each Buyer in the ratio of the amounts sought to be supplied pursuant to Dispatch Instructions.

4.4 Right to Scheduled Generation and Electrical Output

- 4.4.1 Subject to the provisions of Article 4.9, the Seller shall not grant to any third party or allow any third party to obtain any entitlement to the Available Capacity, Scheduled Generation and Electrical Output.
- 4.4.2 Notwithstanding the foregoing, the Seller shall be permitted to sell power amounting to a part of the Available Capacity of the Power Station to third parties if:
- (a) there is a part of Available Capacity which is not a part of Scheduled Generation of the Buyer, ordinarily entitled to receive such part; and
 - (b) there is prior written intimation by the Buyer ordinarily entitled to receive such part, that such Buyer does not require such Available Capacity and Scheduled Generation; and
 - (c) such part has first been offered to the other Buyers who were not ordinarily entitled to receive such part and they have chosen to waive or not exercise their first right to receive such part of the Available Capacity in ratios proportionate to their then existing entitlements to Available Capacity, within one (1) day of being so offered the





opportunity to receive such part. In case other Buyers accept such part of the Available Capacity offered to them, then the Fixed Charge Liability corresponding to such re-allocated capacity shall be required to be paid by the Buyers to whom such capacity has been re-allocated.

Provided that out of the gross revenue (less the Variable Fuel Charge which can be attributed to such sale of electricity, calculated as per provisions of Schedule 8) realised from such third party sales, fifty (50) percent shall be paid to the Buyer who would in the absence of the third party sale been ordinarily entitled to receive the same and the balance shall be retained by the Seller in addition to the Tariff he may receive from the Buyers for the Available Capacity, Scheduled Generation and Electrical Output dispatched by the Buyers. Provided that the Seller shall ensure that the price and terms at which Available Capacity is sold is the best available and shall ensure that sale of power to third parties related directly or indirectly to the Seller or to the investors in the Seller is not at a price less than the Tariff, without the prior consent of the UPERC. For the purposes of this Article 4.4.2, Tariff at which Available Capacity, Scheduled Generation and Electrical Output has been sold to a third party related directly or indirectly to the Seller shall be the average price at which power has been sold to all such third parties related directly or indirectly to the Seller (excluding the Buyer(s)) put together. Further, such average price shall be calculated for each block of 12 months or in case the third party sales have been to a party related directly or indirectly to the Seller for a period less than 12 months, for such reduced period.

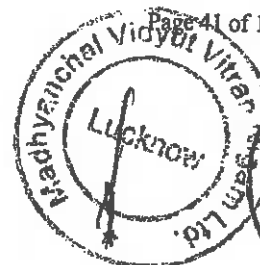
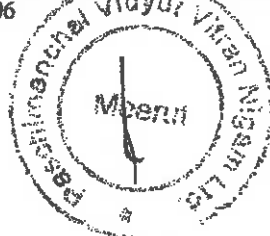
4.4.3 The Seller shall not itself use any of the electricity generated by the Power Station during the term of this Agreement except for the purpose of meeting the Power Station's auxiliary load requirements. For the purposes of clarification, supply of electricity from the Power Station:

(a) to the housing colonies of, or township housing of, the operating staff of the Power Station as permitted under the removal of difficulty Rules gazetted under the Electricity Act 2003 shall also be counted towards the auxiliary power consumption factor; and

(b) to meet its requirements for electricity for transformer losses inside the Power Station, ash dyke pipeline corridor, MGR system, water system, that are outside Power Station, but are essential to generate power from the Power Station shall be deemed and treated as part of auxiliary consumption of the Power Station.

4.5 Extensions of time

4.5.1 In the event that:





- (a) the Seller is prevented from performing its obligations under Article 4.1(b) by the required date because of any material default of one or more Buyers; or
- (b) a Unit, or after commissioning of the first unit, the Power Station cannot be Commissioned by its Required Commercial Operations Date because of an Indian Political Event or a Force Majeure Event;

the Required Commercial Operations Date, the Scheduled Connection Date and the Expiry Date shall be deferred, subject to the limit prescribed in Article 4.5.3, for a reasonable period to permit the Seller through the use of due diligence, to overcome the effects of the Indian Political Event, Force Majeure Event or the Buyer's or Buyers' material default.

- 4.5.2 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance on how long the Required Commercial Operations Date, the Scheduled Connection Date or the Expiry Date should be deferred by, any Party may submit the Dispute to the Expert for determination in accordance with Article 18.4.
- 4.5.3 The Required Commercial Operations Date of any Unit or after commissioning of the first Unit, the Required Commercial Operations Date of the Power Station as a whole, may not be extended by more than a total of twenty four (24) months from the Required Commercial Operations Date first determined pursuant to this Agreement by reason of one or more Force Majeure Events, and the new date shall be deemed the Required Commercial Operations Date for the purposes of this Agreement. If the original Required Commercial Operations Date is delayed beyond the above twenty four (24) months by reason of one or more Force Majeure Events, this Agreement shall terminate without any Buy out obligations or options. For the sake of clarity, it is specified that, this clause 4.5.3 shall apply only in case of Force Majeure Events.

4.6 Liquidated damages for delay in providing Contracted Capacity

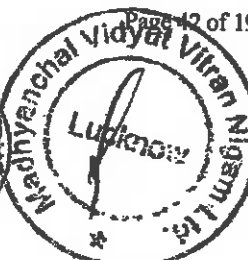
- 4.6.1 If any Unit is not Commissioned by its Required Commercial Operation Date other than for the reason specified in Article 4.5.1, the Seller shall pay to each Buyer liquidated damages for the delay in making the Unit's Contracted Capacity available for dispatch. The amount payable to each Buyer shall be calculated (subject to Article 4.6.2) as follows:

$$SLD_{b1} = [CC_u \times d \times DR] \times 0.3$$

$$SLD_{b2} = [CC_u \times d \times DR] \times 0.3$$

$$SLD_{b3} = [CC_u \times d \times DR] \times 0.2$$

$$SLD_{b4} = [CC_u \times d \times DR] \times 0.2$$





Where:

- (a) "SLD_b" are the liquidated damages payable by the Seller during the period beginning with the day after the Required Commercial Operation Date of a Unit, as the case may be up to and including the day on which the Unit is actually Commissioned to a Buyer;
- (b) "CC_u" is the Contracted Capacity of Unit (u1) ;
- (c) "d" is the number of days in the period beginning with the day after the Required Commercial Operation Date of a Unit, up to and including the day on which the Unit is actually Commissioned;
- (d) "DR" is Rs. Sixteen Thousand (16,000) of damages per MW per day of delay.
- (e) b1, b2, b3 and b4 are Buyer One, Buyer Two, Buyer Three and Buyer Four respectively.

4.6.2 The Seller's aggregate liability under this Article 4.6 shall not extend beyond one hundred eighty (180) days of delay for each Unit. The Commissioning Date of the second Unit shall be the same as Commissioning Date of the Power Station.

4.6.3 The Seller shall make payment of the amount calculated pursuant to Article 4.6.1 within ten (10) days of the earlier of:

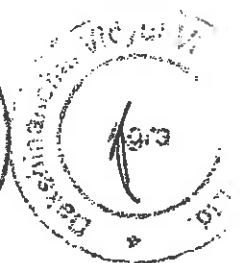
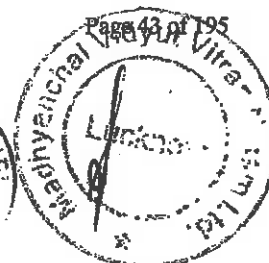
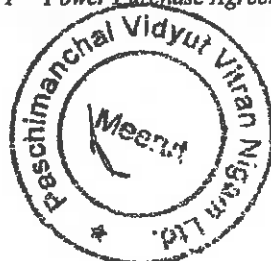
- (a) the date on which the Unit is actually Commissioned; and
- (b) the date of termination of this Agreement.

4.6.4 The Parties agree that the agreed formula for calculation of liquidated damages payable by the Seller under this Article 4.6, including without limitation, the value of 'DR', is a genuine and accurate pre-estimation of the actual loss that will be suffered by the Buyers in the event of Seller's default in achieving commissioning of a Unit or if the first Unit has been commissioned, of the Power Station as a whole, by its Required Commercial Operation Date and that non payment of the said liquidated damages by the time specified in Article 4.6.3 shall be a Seller Event of Default.

4.6.5 The Parties further agree that the monies payable under this Article 4.6 shall be in addition to the right of the Buyers to encash the Performance Bonds in accordance with Article 3.7 of this Agreement.

4.7 Liquidated damages for delay due to Buyer default

4.7.1 If a Unit or the Power Station is available for conducting Commissioning Tests and is anticipated to be capable of duly completing the Commissioning Tests as certified by the Expert, but the said Commissioning Test is not undertaken or completed due to an Indian Political Event or a Buyer Event of





Default, the first Unit or the second Unit (if the first Unit has been Commissioned), as relevant, shall, until the effects of the Indian Political Event or a Buyer Event of Default (as appropriate) no longer prevent the Seller from undertaking a Commissioning Test, be deemed to have a Tested Capacity equal to the Contracted Capacity and to this extent, be deemed to have been Commissioned and thus deemed to be in commercial operation with an Available Capacity of eighty (80) percent if the delay is due to a Direct Political Event or due to a Buyer Event of Default and sixty (60) percent if the delay is due to an Indirect Political Event and shall be eligible for the payment of Fixed Charges based on such deemed Available Capacity. For the avoidance of doubt, it is specified that the charges payable under this Article 4.7.1 shall be paid by all the Buyers in proportion to the Available Capacity allocated to them.

4.7.2 In every case referred to in Article 4.7.1 hereinabove, the Seller shall undertake a Commissioning Test as soon as reasonably practicable (and in no event later than seven (7) days) after the point at which it is no longer prevented from doing so by the effects of the Indian Political Event or a Buyer Event of Default (as appropriate) and if such Commissioning Test is not duly completed and / or demonstrates a Tested Capacity which is less than ninety five (95) percent Contracted Capacity, then:

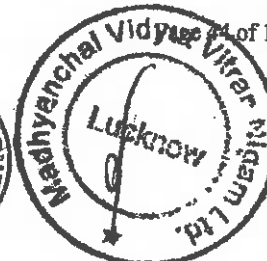
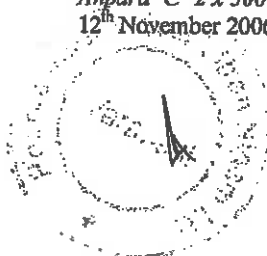
- (a) The first Unit or the second Unit (as applicable) which fails the Commissioning Test, shall be deemed to have not been Commissioned from the deemed commissioning date referred to in Article 4.7.1;
- (b) [Intentionally omitted].
- (c) The Seller shall repay to the Buyer, all sums received by way of Fixed Charge;
- (d) Where the Seller fails to achieve Commissioning by the Required Commercial Operation Date, it shall also pay liquidated damages in accordance with Article 4.6.

Provided that the Buyer(s) shall not be liable to any additional costs on account of delay in undertaking the Commissioning Test after the point at which the Seller is no longer prevented from doing so by the effects of the Indian Political Event or a Buyer Event of Default (as appropriate).

4.8 Increased costs due to Buyer's default

4.8.1 Subject to the contents of Article 4.6, 4.7 and 4.8, nothing in this Article 4 shall entitle the Seller and the Buyer to make any claim against each other, whether in contract, tort or without limitation, in any applicable law for the time being in force, or any other legal theory, for any indirect, consequential, punitive or exemplary damages.

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006



Page 1 of 195



4.8.2 The Parties expressly agree that the Buyers' only liability for any loss of profits or any other loss of any other kind or description whatsoever, suffered by the Seller by reason of the Buyers' failure to meet its obligations under Article 4.2 shall be the amounts specified in Article 4.7.

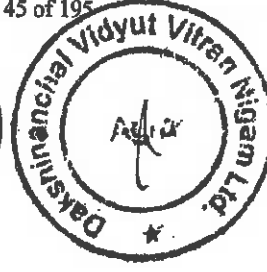
4.9 Third Party Sales on default

4.9.1 Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence of an event where the Buyer has not made payment by the Due Date of the Invoice through freely transferable cleared funds or through the Buyer's Buyer Standby Letter of Credit, the Seller shall have the right enumerated in Article 4.9.2, 4.9.3.

4.9.2 After giving seven (7) days notice to the Buyers, the Seller shall have the obligation to take recourse to the Default Contingency Account relatable to the said defaulting Buyer for pending payments. In the event the Seller fails to realise payment of the outstanding amount even through the Default Contingency Account, then after giving seven (7) days notice to the defaulting Buyer, the Seller shall have the right to offer 25% of the Contracted Capacity earmarked for the defaulting Buyer to the other non defaulting Buyers in ratios equal to their then existing entitlements to Available Capacities, as has not been paid for by the defaulting Buyer by the Due Date of the Invoice ("Default Electricity"). The non defaulting Buyer or Buyers have the right to elect to receive the whole or any part of the Default Electricity referred to hereinabove, and on such election, shall be entitled to receive the same. In such case, the non defaulting Buyer or Buyers in question shall, within seven (7) days of exercising the right of election, either present an irrevocable letter of credit in accordance with the principles set forth in Article 10.5 or increase the value of contingency cover under the Default Contingency Agreement and related Default Security Agreement to secure payment for that part of the Default Electricity as the non defaulting Buyer in question elects to take and within two (2) months of the election, unless the event outlined in Article 4.9.5 has occurred, shall have presented an irrevocable letter of credit in accordance with the principles set forth in Article 10.5 and shall have increased the value of contingency cover under the Default Contingency Agreement and related Default Security Agreement.

4.9.3 If the non defaulting Buyer or Buyers do not make the election to receive the Default Electricity within one (1) day of it being so offered, or he or they expressly waives his first right to receive the same, the Seller shall have the right (but not the obligation) to make available and sell the Default Electricity to:

- (a) any consumer, subject to applicable law; and
- (b) any licensee under the Electricity Act, 2003.





4.9.4 If the non defaulting Buyer or Buyers make the election aforementioned in Article 4.9.2, but only in respect of a part of the Default Electricity, choosing to receive such part of the Default Electricity either himself or themselves, within one (1) day of it being so offered, the Seller shall have the right (but not the obligation) to make available the entire remainder of the Default Electricity which is not the subject of the Buyer's election under Article 4.9.2 to:

- (a) any consumer, subject to applicable law; and
- (b) any licensee under the Electricity Act, 2003.

Provided that, in the case of Article 4.9.3 or 4.9.4, the Seller shall use its best effort to sell the Default Electricity generated or capable of being generated to such third parties at the best terms available in the market at such time, having due regard to the circumstances at such time and the pricing of electricity in the market at such time.

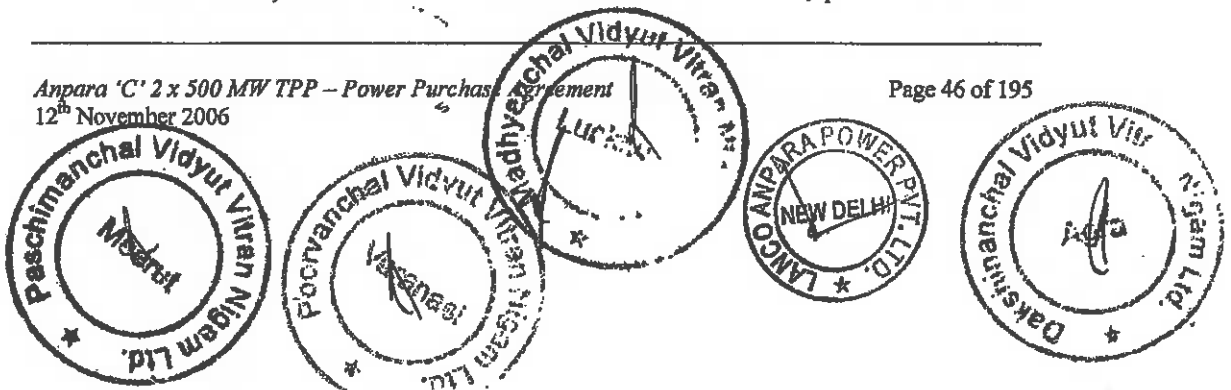
4.9.5 Sales to any person or Party other than the defaulting Buyer under Article 4.9.2, 4.9.3 or 4.9.4 shall cease and regular supply of Electricity to the defaulting Buyer in accordance with all the provisions of this Agreement shall commence and be restored no later than twenty four (24) hours after the end of the day on which full payment for all Invoices whose Due Date is past has been made and the event where the Buyer has not made payment by the Due Date of the Invoice specified in Article 4.9.1 and leading to third party sales under Article 4.9.2, 4.9.3 or 4.9.4 shall have ceased to exist.

4.9.6 If, in the course of the carrying out of third party sales as permitted by this Article 4.9, the Seller supplies electricity at:

- (a) a rate equal to or less than the Tariff, the surplus over Variable Fuel Charge which can be attributed to such sale of electricity, calculated as per provisions of Schedule 8 shall be used towards the extinguishment of the subsisting payment liability of the defaulting Buyer towards the Seller;
- (b) a rate greater than the Tariff, then in addition to the consequences mentioned in sub-article 4.9.6 (a) above, the Seller shall be entitled to retain the entire surplus over the Tariff calculated as per provisions of Schedule 8.

The liability of the defaulting Buyer towards making Fixed Charge payments even for electricity sold to third parties during such periods will remain unaffected.

4.9.7 If the Default Security Agreement is not fully restored within thirty (30) days of the occurrence of an event where the Buyer has not made payment by the Due Date, the Seller shall have the right (and obligation mentioned under Article 4.9.6) enumerated in Article 4.9.2 to 4.9.6 above, provided however

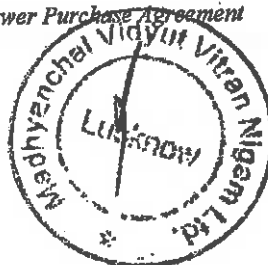




such rights shall apply for the entire Available Capacity of the defaulting Buyer or Buyers as the case may be.

- 4.9.8. Upon exercise of the above rights to undertake third party sale of power (other than to the other Non-Defaulting Buyers), the Seller shall not lose claim over the Fixed Charge due from the defaulting Buyer.

It shall be the duty of the Seller to sell the Default Electricity at the best terms available. Further, the Seller shall ensure that sale of power to third parties related directly or indirectly to the Seller or to the investors in the Seller is not at a price less than the Tariff, without the prior consent of the UPERC.





ARTICLE 5 CONSTRUCTION

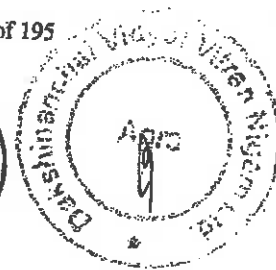
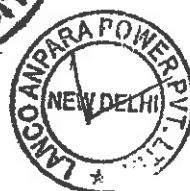
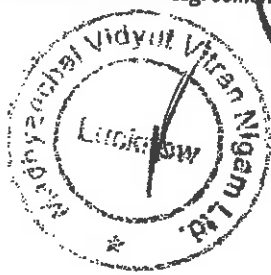
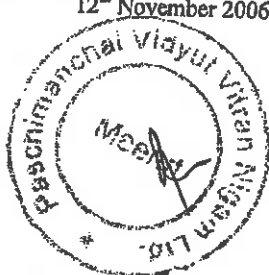
5.1 The Seller's Construction Responsibilities

5.1.1 The Seller shall be responsible for designing, constructing, erecting, commissioning, completing and testing the Power Station in accordance with the following, it being clearly understood that in the event of inconsistency between two or more of the following, the order of priority as between them shall be the order in which they are placed, with 'applicable law' being the first:

- (a) applicable law;
- (b) the Grid Code and applicable Availability Based Regulations;
- (a) the terms and conditions of this Agreement;
- (c) the Functional Specifications;
- (d) the Technical Specifications; and
- (e) Prudent Utility Practices.

5.1.2 Additionally, the Seller shall source the equipments listed at 5.1.2 (a) to (e) below from such reputed manufacturer(s) who would have supplied equipments of similar type, design and rating for, for at least two (2) other power stations of a similar unit size, type and capacity and, which are as on the Bid Deadline, in successful commercial operation for at least one year. The Seller shall source the equipments listed at 5.1.2 (f) below from such reputed manufacturer(s) who would have supplied the equipments of similar design, type and ratings for Switchyards or Substations of Voltage rating of 765 KV or above for at least two (2) no. Switchyards/Substations and which are as on the Bid Deadline in successful commercial operation for at least one year:

- (a) Steam Generator
- (b) Steam Turbine and Generator Set
- (c) Electro-static Precipitator
- (d) Boiler Feed Pump
- (e) Generator Transformers
- (f) 765 kV Switchyard





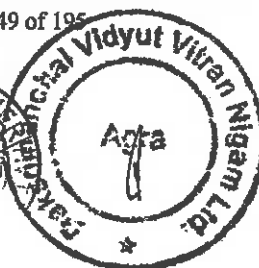
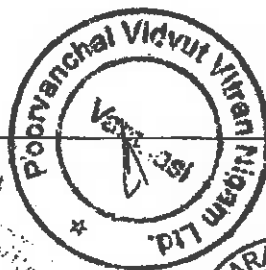
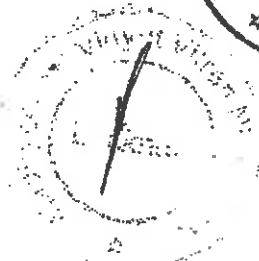
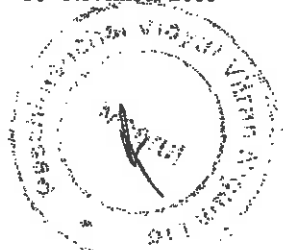
- 5.1.3 The Seller shall ensure that the Power Station is fitted with steam driven boiler feed pumps.

5.2 The Site

The Seller acknowledges that, before entering into this Agreement it has had sufficient opportunity to investigate the Site and accepts full responsibility as between the Parties for its condition (including but not limited to its geological condition, any toxic contamination or archaeological remains on the Site, the adequacy of the road and rail links to the Site and the availability of adequate supplies of water) and agrees that it shall not be relieved from any of its obligations under this Agreement or be entitled to any extension of time or financial compensation by reason of the unsuitability of the Site for whatever reason.

5.3 The Construction Contractor

- 5.3.1 The Seller shall appoint the Construction Contractor prior to Financial Close to design, engineer, procure, construct, complete, test, commission the Project and remedy defects therein, subject to the requirement that the proposed Construction Contractor must have successfully carried out a scope, similar to the scope of work assigned to them for the Power Station, for at least one (1) thermal power station with a capacity of at least five hundred (500) MW and such power station should have been in operation, as on the Bid Deadline, for a period of at least one (1) year.
- 5.3.2 The Seller shall not change the Construction Contractor without prior intimation to the Buyers and providing the Buyers with copies of all relevant documentation. The appointment of the Construction Contractor, prior intimation to the Buyers and providing the Buyers with copies of all relevant documentation shall not relieve the Seller of any of its responsibilities under this Agreement and approval of the Construction Contractor shall not prejudice any rights that the Buyers may have as against the Seller for non compliance with his obligations contained in this Agreement. Provided that, the Construction Contractor for the Project at any point of time, must comply with the requirements set forth in the RFQ and the RFP and, if no express requirements are so mentioned, must not be inconsistent with the contents of the RFP or the RFQ.





5.4 Information Regarding Interconnection and Transmission Facilities

The Buyers shall jointly provide the Seller, on a timely basis, all information with regard to the Interconnection and Transmission Facilities as is reasonably necessary to enable the Seller to design, install and operate all interconnection plant and apparatus on the Seller's side of the Interconnection Point.

5.5 Quality of Workmanship

The Seller shall ensure that the Power Station is designed, built and completed in a good workmanlike manner using sound engineering construction practices and using only materials and equipment that are new and of international – utility grade quality such that, the useful life of the Power Station will not be less than thirty (30) years before any significant refurbishment is required.

5.6 Consents

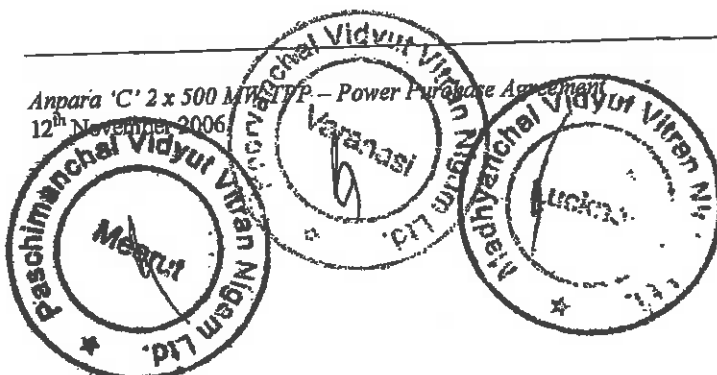
The Seller shall be responsible for obtaining all Consents (other than those required for the Interconnection and Transmission Facilities) and keeping in effect all such Consents in order to carry out its obligations under this Agreement in general and this Article 5 in particular and shall supply the Buyers promptly with copies of each application that it submits, correspondence in respect of such applications and a copy of each Consent which it obtains.

5.7 Construction Documents

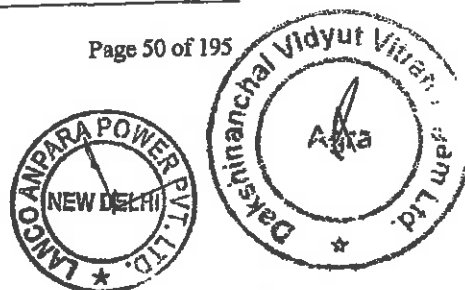
5.7.1 The Seller shall retain at the Site and make available for inspection (after notice of two (2) hours) to the Buyers at all reasonable times the following documents:

- (a) as built drawings for the Power Station and / or the Project, including, but not limited to the civil and architectural works;
- (b) copies of the specifications, operating manuals and manufacturer's warranties for all major items of plant and / or equipment incorporated into the Power Station or used for the purposes of the Project;
- (c) copies of the results of all tests performed on major items of plant incorporated into the Power Station; and
- (d) such other technical documents relating to the design, procurement, engineering and construction of the Power Station as the Buyers may reasonably request from time to time.

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006



Page 50 of 195





5.7.2 The Seller shall provide to the Buyers, information mentioned in Schedule 14 within the time frames mentioned in such Schedule:

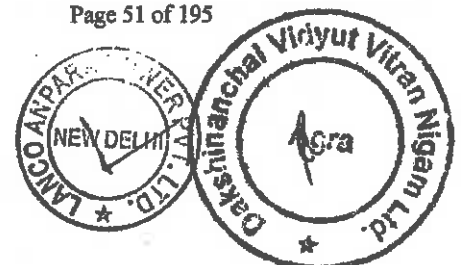
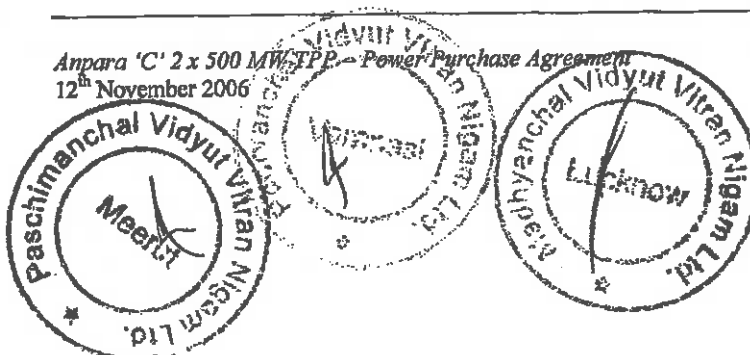
Provided that, except to the extent mentioned in Schedule 14, such information shall be provided to the Buyers every month thereafter only if there is any change in such information from the information previously informed to the Buyers.

5.8 Co-ordination of Construction Activities

5.8.1 Before the tenth (10th) day of each month during the Construction Period:

- (a) the Seller shall prepare and submit to the Buyers a monthly progress report, in the Agreed Form, which reviews the progress of the design, engineering, procurement, construction, completion, testing and commissioning of the Power Station; and
- (b) The Buyers shall prepare and submit to the Seller a monthly progress report, in the Agreed Form, which reviews the progress of the design, engineering, procurement, construction and installation of the Interconnection and Transmission Facilities.

5.8.2 Each Party shall designate from time to time, in a written notice to the other Party up to five (5) of its employees who shall be responsible for coordinating all construction activities relating to the Project and who shall have access at all reasonable times to the other Party's land for the purpose of observing the progress of the work being carried on there, subject to their giving reasonable notice of such observation related activities and subject to their complying with all reasonable safety procedures.

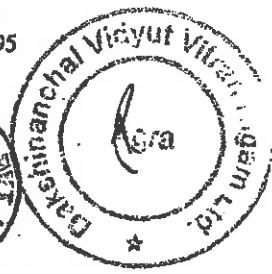
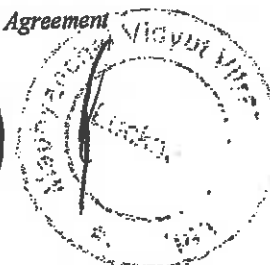




ARTICLE 6
SYNCHRONISATION, COMMISSIONING
AND COMMERCIAL OPERATION

6.1 Synchronisation

- 6.1.1 The Seller shall give the Buyers and SLDC at least sixty (60) days advance written notice of the date on which it intends to synchronise a Unit to the Grid System.
- 6.1.2 Subject to Article 6.1.1, a Unit may be synchronised to the Grid System when:
- (a) it has been completed in accordance with the Technical Specification and the Functional Specification;
 - (b) it meets all connection conditions prescribed in any Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronisation to the Grid System; and
 - (c) is capable of being operated safely.
- 6.1.3 The Seller shall notify the Buyers as soon as it believes a Unit has been completed, satisfies that conditions listed in Article 6.1.2 and is ready to be synchronised to the Grid System in accordance with this Agreement.
- 6.1.4 The Buyers shall inspect any Unit, which the Seller intends to synchronise to the Grid System within five (5) days after being notified in writing by the Seller pursuant to Article 6.1.3 to determine whether the requirements of Article 6.1.2 have been met. The Seller shall provide to the Buyers' employees, in accordance with Article 5.8.2 with such access to the Site as it reasonably requires to make such determination.
- 6.1.5 If the Buyers are satisfied that the Unit is ready to be synchronised in accordance with Article 6.1.2, they shall promptly notify the Seller to that effect and provide the Seller with all reasonable assistance in synchronising the Unit on or before the intended date of synchronisation by the Seller. .
- 6.1.6 If the Buyers or a Buyer does not inspect the Unit when required pursuant to Article 6.1.4, or having inspected the Unit, any Buyer determines that the requirements of Article 6.1.2 are not met, the Seller shall nevertheless be entitled to synchronise the Unit to the Grid System, and the Buyers shall provide the Seller with all reasonable assistance in synchronising the Unit as soon as practicable, if the Independent Engineer:
- (a) certifies to the Buyers in writing that, in its opinion, the Unit has been completed in accordance with Article 6.1.2; and





- (c) gives in writing the reasons why, in its opinion, any objections raised by the Buyer or Buyers are not well founded.

6.2 Commissioning

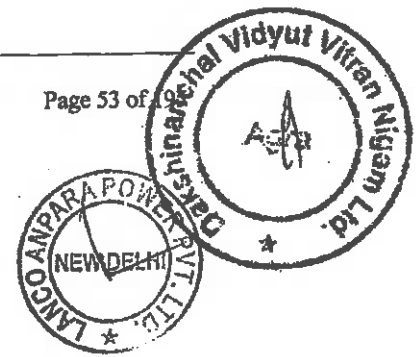
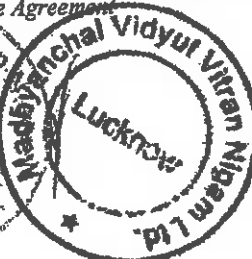
- 6.2.1 The Seller shall be responsible for ensuring that the Power Station is Commissioned in accordance with Schedule 5 at its own expense.
- 6.2.2 The Buyers shall use all reasonable endeavours to accept into the Grid System, Electrical Output generated by a Unit and after the first Unit is Commissioned, Electrical Output generated by the Power Station while it is undergoing commissioning and testing.
- 6.2.3 The Seller shall give the Buyers and the Independent Engineer not less than ten (10) days prior written notice of each Commissioning Test.
- 6.2.4 The Buyers may collectively, for reasonable cause defer any Commissioning Test for up to fifteen (15) days from the date originally notified by the Seller pursuant to Article 6.2.3 if the Buyers notify the Seller in writing at least one (1) day before the Commissioning Test starts of the reason for the deferral and when the test is to be rescheduled:

Provided that, such deferment at the request of the Buyers shall be permitted only once.

- 6.2.5 The Seller, the Buyers and the Independent Engineer shall each designate qualified and authorised representatives to monitor each Commissioning Test.
- 6.2.6 Testing and measuring procedures applied during each Commissioning Test shall be in accordance with the codes, practices and procedures mentioned in Schedule 5 of this Agreement.
- 6.2.7 Within five (5) days of a Commissioning Test, the Seller shall provide the Buyers and the Independent Engineer each with copies of the detailed test results.

6.3 Commercial Operation

- 6.3.1 A Unit, or the Power Station, as the case may be, shall be Commissioned on the day after the date when the Buyers receives a Final Test Certificate of the Independent Engineer stating that:
- (i) the Commissioning Tests have been carried out in accordance with Schedule 5;
 - (ii) the results of the Performance Test show that the Unit's Tested Capacity, or in the case the Power Station has been Commissioned, the





Power Station's Tested Capacity is not less than ninety five (95) percent of its Contracted Capacity;

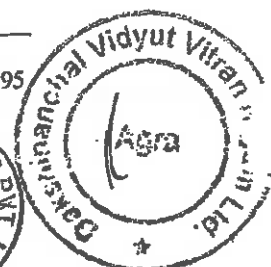
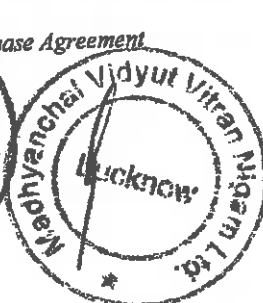
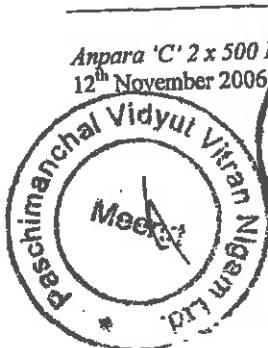
- (iii) the results of the Characteristics Test show that the Unit, or in the case the Power Station has been Commissioned, the Power Station is capable of operating in accordance with its Contracted Operating Characteristics;
- (iv) the Independent Engineer certifies that the Seller has complied with the requirements of Articles 5.1.2, 5.1.3 and 5.3.1, and
- (v) a copy of the results of the Construction Contractor Guarantee Tests as provided in Part 7 of Volume II of the RFP, are made available to the Buyer.

6.3.2 If a Unit (or the Power Station, as relevant) fails a Commissioning Test, the Seller may retake the relevant test within three (3) days after the end of the previous test with one (1) days notice.

6.3.3 The Seller may retake the Performance Test, only once, during a period of ninety days ("Initial Performance Retest Period") from a Unit's or if the Power Station has been commissioned, the Power Station's Commissioning Date in order to demonstrate an increased Tested Capacity.

6.3.4 (i) If a Unit's (or the Power Station's, as relevant) Tested Capacity, at the end of the Initial Performance Retest Period or immediately after a Performance Test is retaken as per provisions of Article 6.3.3, whichever is earlier, is less than its Contracted Capacity, the Unit (or the Power Station's, as relevant) shall be permanently derated with the following consequences :

- (a) the Unit's (or the Power Station's, as relevant) Contracted Capacity shall be reduced to its Tested Capacity, as existing at the end of the Initial Performance Retest Period or immediately after a Performance Test is retaken as per provisions of Article 6.3.3, whichever is earlier;
- (b) the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Contracted Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned);
- (c) the Seller shall not be permitted to declare the Available Capacity of the Unit or if the Power Station has been commissioned, the Power Station at a level greater than its Tested Capacity; and
- (d) the Availability Factor of the derated Unit and the Power Station shall be calculated by reference to the reduced Contracted Capacity;



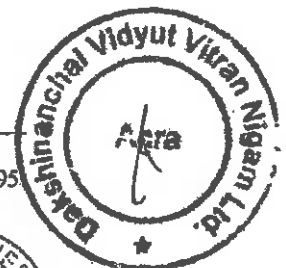
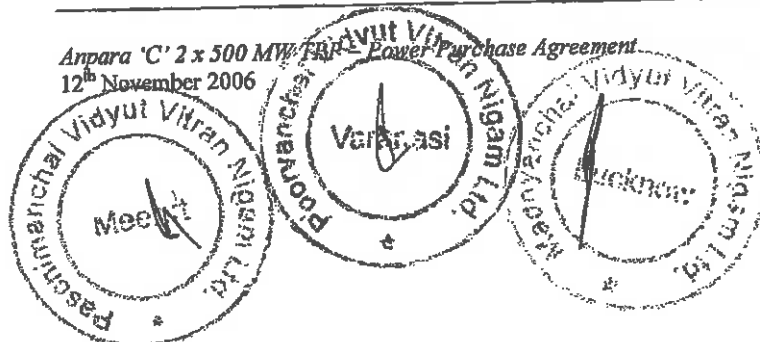


in each case with effect from the Unit's (or the Power Station's, as relevant) Commissioned Date and the Buyers shall have the right to claim from the Seller any excess Tariff Payments that they may have made to the Seller.

- 6.3.5 If a Unit's or Power Station's Tested Capacity at the end of the Initial Performance Retest Period is found to be more than its Contracted Capacity (as existing on the date of this Agreement), the Tested Capacity in excess of the Contracted Capacity (as existing on the date of this Agreement) shall be ignored for all purposes. Thereafter, the Contracted Capacity shall be deemed to be the Tested Capacity of the Unit or the Power Station, as the case may be.

6.4 Costs Incurred

The Seller expressly agrees that all costs incurred by him in Synchronising, connecting, Commissioning and / or Testing or Retesting a Unit or the Power Station as a whole shall be solely and completely to his account and the Buyer's or Buyers' liability shall not exceed the liability provided in Schedule 8.





ARTICLE 7 OPERATION AND MAINTENANCE

7.1 Operating Procedures

7.1.1 Not later than one hundred and eighty (180) days prior to the Scheduled Synchronisation Date, all Buyers shall jointly provide the Seller and the SLDC with one common draft of the operating procedures (the "**Operating Procedures**") dealing with all operational interfaces between the Seller, Buyer and control centre in question including, but not limited to:

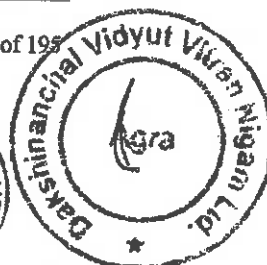
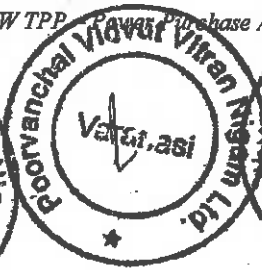
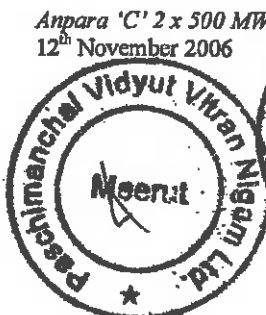
- (a) methods of day to day communication between the Seller and the Buyer;
- (b) safety co-ordination;
- (c) clearances and switching practices;
- (d) contingency planning in the event of a partial or total Grid System shutdown;
- (e) incident reporting;
- (f) testing of the Interconnection and Transmission Facilities; and
- (g) Testing (including Performance Tests) and monitoring of the Units.

The final Operating Procedures shall be as are agreed to mutually by the Seller, Buyers and the SLDC.

7.1.2 The Operating Procedures shall be consistent with the following, it being clearly understood that in the event of inconsistency between two or more of the following, the order of priority as between them shall be the order in which they are placed, with 'applicable law' being the first:

- (a) Applicable law;
- (b) the Grid Code and applicable Availability Based Regulations;
- (c) the terms and conditions of this Agreement;
- (d) the Functional Specifications;
- (e) the Technical Specifications; and
- (f) Prudent Utility Practices.

7.1.3 Within sixty (60) days after receiving the later of the drafts, submitted by each of the Buyers pertaining to the Operating Procedures, the Seller shall notify





the Buyers in writing whether or not it agrees to the proposed drafts in which event:

(a) if the draft is agreed, the Operating Procedures proposed in the draft by the Buyers shall become the Operating Procedures as between those between the relevant Buyer and Seller for the purposes of this Agreement upon the date specified in the proposal or, if no date is so specified upon the expiry of the sixty (60) day notice period;

(b) if the draft is not agreed, the Seller shall provide a written list of its objections, if any, to the drafts of Operating Procedures received and the deletions, amendments or additions that it requires, and all Parties shall meet to discuss the draft Operating Procedures and to try to reach agreement on the Operating Procedures and suggested deletions, amendments and additions. If the Parties have failed to reach agreement within twenty (20) days after the Buyers' receipt of the Seller's notice pursuant to this Article, the matter shall be referred to an Expert and determined in accordance with Article 18.4.

(c) if the Buyer receiving the notice of objections from the Seller fails to respond within such twenty (20) day period it will be deemed to have agreed to the proposed change.

7.1.4 Any Party may from time to time propose amendments to the Operating Procedures in any manner consistent with Article 7.1.2 by giving written notice to the other Party stating the reasons for the proposed amendment. The process in Article 7.1.3 shall apply if one Party objects within sixty (60) days to any proposed amendment.

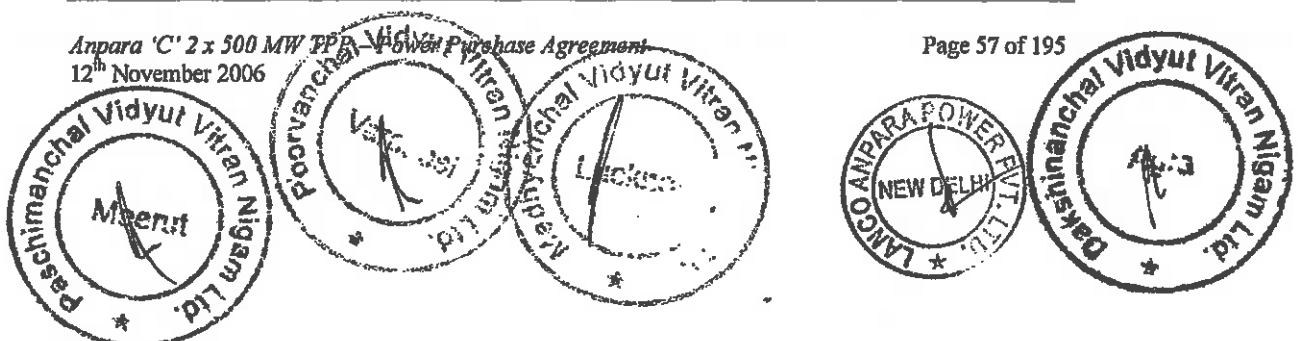
7.1.5 The Operating Procedures shall take effect on the date agreed by the Parties or determined by the Expert or, if there is no objection to the proposed Operating Procedures, the expiry of the sixty (60) day objection period or such later date as shall be set out in the draft Operating Procedures which have been circulated.

7.1.6 The Parties shall comply with the Operating Procedures.

7.2 Operation and Maintenance of the Power Station

7.2.1 The Seller shall be responsible at its own expense for ensuring that the Power Station is operated and maintained in accordance with all legal requirements, including the terms of all Consents and Prudent Utility Practices so as to meet its obligations under this Agreement, including without limitation its obligations under Article 4.1, and so as not to have an adverse effect on the Grid System.

7.2.2 *Omitted*





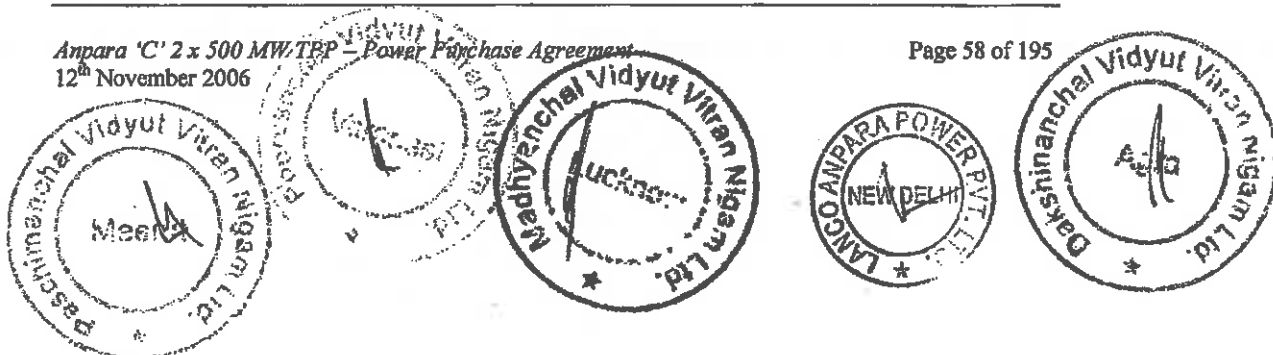
- 7.2.3 The Seller shall be responsible at its own expense for obtaining and keeping in force all Consents required for the operation of a Unit, the Power Station and the Project in accordance with this Agreement throughout its Operating Period.
- 7.2.4 The Seller shall ensure that sufficiently competent and qualified personnel are always on hand at the Power Station to enable a Unit to be operated twenty four (24) hours a day, seven (7) days a week throughout the year, it being understood that this shall not create an obligation on the Buyers to absorb all the Electrical Output that is capable of being generated if the Units are run in such manner and shall also not affect the ability of the Buyers to Dispatch the Power Plant. In relation to employing personnel the Seller shall meet any applicable laws, rules, regulations and requirements in force from time to time in India.
- 7.2.5 Not later than the Commissioned Date of the first Unit and during the term of this Agreement, the Seller shall keep at the Site as permanent stock such quantity of coal as shall reasonably represent fifteen (15) days consumption at a PLF which reflects the actual PLF of the Power Station during the last six (6) months provided that such PLF shall not be anticipated at a figure lower than 80 %.

7.3 Inspections

7.3.1 The Buyers shall have the right to jointly designate, from time to time in a written notice to the Seller, up to five (5) of its employees who shall be responsible for inspecting the Power Station for the purpose of verifying the Seller's compliance with this Article 7 and who shall have access to the Power Station:

- (a) on no more than two (2) occasions in a Contract Year, upon giving not less than twenty four (24) hours notice of the inspection to the Seller;
- (b) On occasions when the Seller has reported partial or full outage, to verify the other conditions reported by the Seller which in the reasonable opinion of the Buyer may affect the output of a Unit and / or the Power Station in the next twenty four (24) hours, by giving one (1) hours notice; and
- (c) at any other time for good cause, upon giving such notice as may be reasonable in the circumstances;

subject, in all cases, to their complying with all reasonable safety precautions and standards.





- 7.3.2 In the exercise of any of its right under Article 7.3.1, the Buyers shall ensure that their employees do not knowingly interfere with the proper operation or maintenance of the Power Station.

7.4 Despatch Procedures

The Dispatch Procedures shall be as notified by SLDC from time to time and these shall be binding on the parties.

7.5 Scheduled Outages

- 7.5.1 Not later than November 30 in each year (or by such other date as the SLDC may from time to time prescribe for the submission of outage plans from generating companies connected to the Grid System), the Seller shall submit to the Buyers and SLDC in writing its firm proposals for the Scheduled Outages to be taken in the next Contract Year and its provisional proposals for Scheduled Outages in each of the next two (2) succeeding Contract Years.

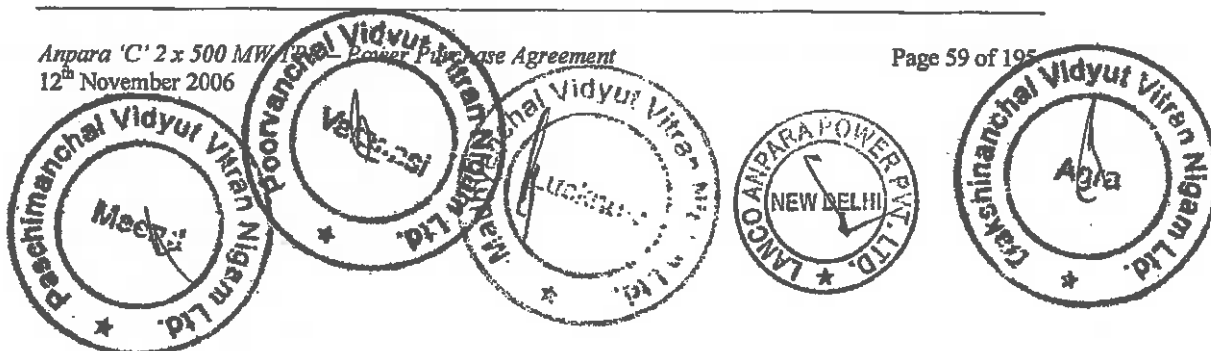
- 7.5.2 Unless otherwise requested to do so by the SLDC, the Seller shall always plan to take Scheduled Outages only during the months of July, August and September. Further, without the prior consent of the SLDC, the Seller shall not take Scheduled Outages for both the Units of the Power Station, at the same time:

Provided that, after giving a notice of not less than two (2) years, the SLDC shall have the right to jointly replace the above months of July, August and September with any three other months.

- 7.5.3 Within two (2) months after receiving the Seller's proposals, the SLDC shall notify the Seller in writing whether its proposed Scheduled Outages for the forthcoming one (1) Contract Year are acceptable and, if not, and after discussing the matter with the Seller, they shall indicate the periods that would be acceptable, which shall be:

- (a) of the same duration as the periods requested by the Seller;
- (b) within the time limits required by any legal requirement relating to routine maintenance;
- (c) within the time limits required or recommended by the manufacturer or supplier of the plant which is to undergo maintenance; and
- (d) at the same point in time.

- 7.5.4 If the Seller does not object in writing within twenty (20) days after receiving the proposal, it shall be deemed to have agreed to the Scheduled Outages proposed jointly by the SLDC. The Seller may only object to a Scheduled



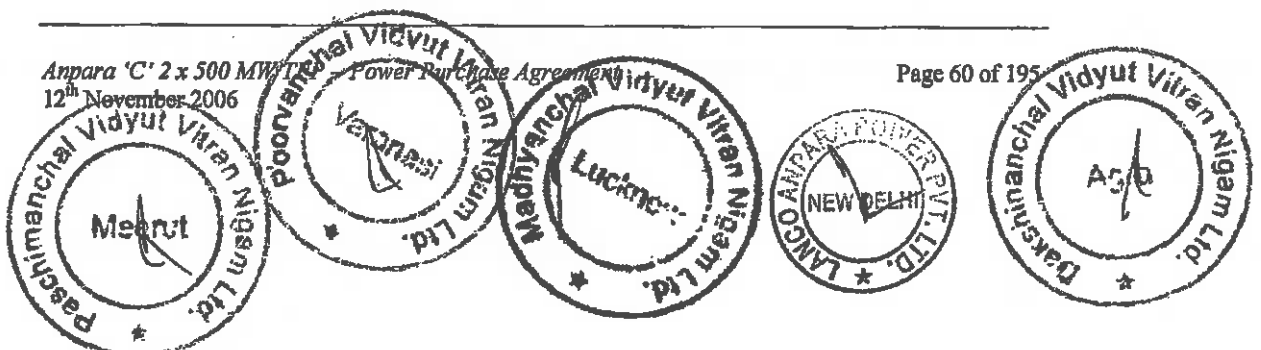


Outage proposed by the SLDC on the grounds that it would be inconsistent with the requirements of Article 7.5.3. If the Seller does object to a proposed Scheduled Outage within that period and the Parties cannot reach agreement within ten (10) days after the Seller's objection was sent to the SLDC, the matter shall be referred to the Expert and determined in accordance with Article 18.4.

- 7.5.5 The Scheduled Outages accepted by the SLDC or agreed to by the Seller pursuant to Article 7.5.4 shall be confirmed to the extent that they relate to the forthcoming one (1) Contract Year and shall be provisional to the extent that they relate to subsequent Contract Years. Provisionally confirmed Scheduled Outages, may be changed, by any Party for good cause.
- 7.5.6 In an Emergency, SLDC may require the Seller to use its best efforts to reschedule a confirmed Scheduled Outage (including one which has already begun) to a more convenient time and the Buyers shall compensate the Seller for all additional costs which it reasonably incurs in rescheduling the Scheduled Outage, including damages payable or liability incurred in respect of the other Buyers who have not requested an emergency rescheduling of a confirmed Scheduled Outage.
- 7.5.7 The SLDC shall also give notice to the Seller of the maintenance program for the Interconnection and Transmission Facilities and shall use reasonable endeavours to coordinate such maintenance with the Scheduled Outages approved pursuant to this Article 7.5 so as to minimise any disruption to the operation of the Project.
- 7.5.8 The Seller shall not declare any Unit available in any Settlement Period when it was scheduled to be undergoing a Scheduled Outage except as may be provided by the Grid Code.
- 7.5.9 All notices or instructions under the above Articles 7.5.1 to 7.5.8 which are being provided to SLDC or being received from the SLDC by the Seller shall be immediately provided by the Seller to all the Buyers.
- 7.5.10 In case the SLDC is no longer authorised or empowered or responsible for undertaking the activities mentioned in the above Articles 7.5.1 to 7.5.8, the term SLDC in Article 7.5.1 to 7.5.9 shall stand replaced by such other entity which may be prescribed under Grid Code or by the UPERC for such activities.

7.6 Maintenance Outages

- 7.6.1 Whenever the Seller needs a Maintenance Outage it shall advise the SLDC in accordance with the provisions of the Grid Code of the nature of the work to be carried out, the estimated time required to complete it and the latest time by which in the Seller's opinion the work should begin consistent with Prudent



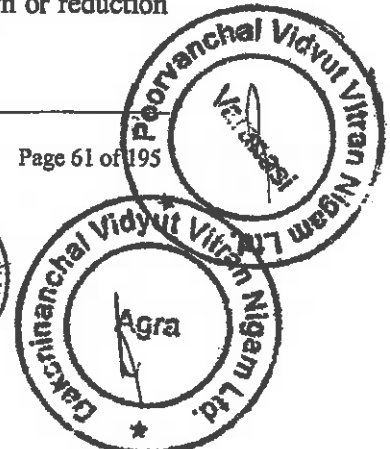


Utility Practices (which shall be not earlier than forty eight (48) hours after the time when the Seller advised the Buyers of the need for the Maintenance Outage).

- 7.6.2 After discussing the matter with the Seller, the SLDC shall advise the Seller regarding when the requested Maintenance Outage is scheduled to begin (which shall be not later than the latest time indicated by the Seller). The Seller shall use its reasonable endeavours consistent with Prudent Utilities Practices to take the relevant Unit out of service at the scheduled time.
- 7.6.3 The SLDC may require the Seller to schedule a Maintenance Outage in accordance with Articles 7.6.1 and 7.6.2 to remedy any impairment of a Unit's ability to meet its Contracted Operating Characteristics.
- 7.6.4 All notices or instructions under the above Articles 7.6.1 to 7.6.3 which are being provided to SLDC or being received from the SLDC by the Seller shall be immediately provided by the Seller to all the Buyers.
- 7.6.5 In case the SLDC is no longer authorised or empowered or responsible for undertaking the activities mentioned in the above Articles 7.6.1 to 7.6.3, the term SLDC in Article 7.6.1 to 7.6.4 shall stand replaced by such other entity which may be prescribed under Grid Code or by the UPERC for such activities.

7.7 Coordinating Committee

- 7.7.1 No later than one hundred and twenty days (120) days prior to the Scheduled Synchronisation Date of the First Unit, the Parties shall establish a committee (the "Co-ordinating Committee") which shall be responsible for the co-ordination of the commissioning and operation of the Interconnection and Transmission Facilities and the Power Station and their coordination with the Grid System. The Co-ordinating Committee shall comprise seven (7) members of which two (2) shall be appointed by the Seller (one or more of which shall be employees of the Operator), one by each Buyer and one (1) shall be appointed by UPPCL.
- 7.7.2 Without limitation to the generality of Article 7.7.1, the powers and duties of the representatives of the Co-ordinating Committee shall include:
- (a) the co-ordination of the respective programmes of the Parties for the construction and commissioning of the Interconnection and Transmission Facilities and each of the Units and agreement where necessary upon the respective commissioning procedures;
 - (b) discussion of the steps to be taken on the occurrence of a Force Majeure Event, an Indian Political Event or a shutdown or reduction





in capacity for any other reason, either of the Interconnection and Transmission Facilities or the Power Station;

- (c) the co-ordination of the maintenance programme of the Interconnection and Transmission Facilities and the Units and / or the Power Station whether scheduled or otherwise;
- (d) the co-ordination of forecasts or requirements from the Power Station;
- (e) consultation on the insurance programme to be undertaken by the Seller for the purposes of this Agreement including in respect of the Insurances;
- (f) the development of any revisions to the Dispatch Procedures;
- (g) the development of the Operating Procedures;
- (h) safety matters affecting the Parties or their contractors;
- (i) clarification of plans for an Emergency developed by the Buyers including for recovery from a local or widespread electrical blackout or voltage reduction in order to effect load curtailment;
- (j) the review and revision of protection schemes and devices; and
- (k) any other mutually agreed matters affecting the operation of the Interconnection and Transmission Facilities or the Power Station.

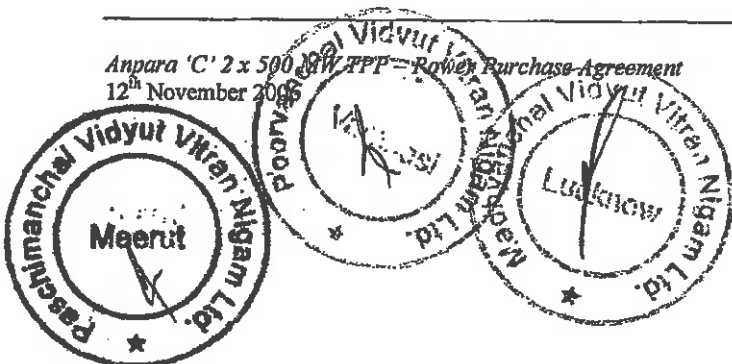
7.7.3 The Co-ordinating Committee may agree upon procedures for the holding of meetings, the recording of meetings and the appointment of sub-committees:

Provided that, Buyer One, Buyer Two, Buyer Three and Buyer Four shall alternatively nominate the Chairman of the Co-ordinating Committee on an annual basis and the quorum for each meeting shall include at least one (1) person appointed by each Party.

7.7.4 All decisions at any meeting of the Co-ordinating Committee shall be made with the unanimous agreement of all persons present at such meeting:

Provided that, the Coordinating Committee or any Party may refer the decision to the head/chief executives of the Parties for further consideration and resolution. Any matters not resolved by such unanimous agreement or resolution between each Party's head/chief executive shall be determined in accordance with Article 18.2.

7.7.5 The Co-ordinating Committee shall have the option, by mutual agreement between the members of the Co-ordinating Committee, to co-opt any other member(s) from relevant bodies such as the GOUP, or the Lenders (or any agent, trustee or representative acting on their behalf).





7.7.6 Except to the extent that any decision is inconsistent with the following, it being clearly understood that in the event of inconsistency between two or more of the following, the order of priority as between them shall be the order in which they are placed, with 'applicable law' being the first:

- (a) applicable law;
- (b) the Grid Code and applicable Availability Based Regulations;
- (c) the terms and conditions of this Agreement;
- (d) the Functional Specifications;
- (e) the Technical Specifications; and
- (f) Prudent Utility Practices.

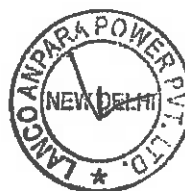
the Parties shall comply with the unanimous decisions of the Co-ordinating Committee in relation to matters within its competence or those that may referred to it.

7.8 Maintenance of Records

7.8.1 Each Party shall keep complete and accurate records and all data required by each of them for the purposes of proper administration of this Agreement including, without limitation, an accurate and up to date operating log at the Power Station with records of:

- (a) meter records and other records needed to reflect real and reactive power production for each Settlement Period and Electrical Output of the Power Station on a continuous real time basis;
- (b) records of Available Capacity and Declared Capacity;
- (c) the results of any tests;
- (d) changes in operating status, Scheduled Outages, Maintenance Outages and Forced Outages (and any other restrictions or limitations affecting Available Capacity);
- (e) any unusual conditions found during inspections; and
- (f) records or primary and secondary fuel receipts, consumption and stocks.
- (g) any other record that may be required by Grid Code or UPERC

7.8.2 All records maintained pursuant to this Article 7.8.1 shall be maintained for minimum of sixty (60) months after the creation of such records or data:





Provided that, the Parties shall not dispose of or destroy any such records after such sixty (60) month period without thirty (30) days' prior written notice to the other parties or at any time during the continuation of any dispute in respect of any matter to which such records relate.

- 7.8.3 Every Party shall have the right, upon reasonable prior notice, to examine the records and data of the other Parties relating to this Agreement or the operation and maintenance of the Power Station at any time during normal office hours.

7.9 Fuel Purchasing

- 7.9.1 The Seller shall be responsible for obtaining its requirements of fuel for the Power Station on the best terms reasonably obtainable, having regard to the terms of the fuel policy adopted by the Parties from time to time, subject to Article 7.9.2 and the Seller's commitments under existing Fuel Supply Agreements that have been jointly approved by the Buyers.

- 7.9.2 Within six (6) months of Financial Close, the Parties shall adopt a written fuel policy to govern the Seller's fuel purchase. The fuel policy shall provide guidance to the Seller in negotiating the terms of agreements for the supply, transportation and management of fuel and to the Buyers in determining whether it would be reasonable for them to withhold approval of an amendment to a Fuel Supply Agreement (or the entering into of any new Fuel Supply Agreement after Financial Close) proposed by the Seller pursuant to Article 7.10;

Provided that, the contents of the fuel policy shall not be the sole criteria for determining whether Buyers' exercise of discretion in according approval to the Fuel Supply Agreement or any amendment thereof, is reasonable or not.

The Parties shall review the fuel policy at least once annually through the Coordinating Committee and may amend it at any time by agreement. In the event that the Parties are unable to mutually arrive at a Fuel Policy, any Party may submit the Dispute to the Expert for determination in accordance with Article 18.4.

- 7.9.3 The fuel policy shall cover at least the following issues:

- (a) fuel quality;
- (b) fuel price (including transportation) as approved by the UPERC as may be required under the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued on January 19, 2005;
- (c) that coal may not be imported without the prior consent of the Buyers;



- (d) the term of any Fuel Supply Agreement;
- (e) take or pay commitments will not be a pass through in Tariff;
- (f) fuel security;
- (g) procedures for awarding new Fuel Supply Agreements after Financial Close.
- (h) the fuel policy shall always provide that the cost incurred by the Seller for the transportation, loading and unloading of coal through the use of his own wagons and personnel (including personnel or wagons on contract) or through the use of the existing merry go round system located at Anpara, shall not be considered as a part of the cost of coal;
- (i) the fuel policy shall always ,unless otherwise approved by the UPERC, provide that the transit and handling losses in excess of 0.3% of the coal dispatched by the Fuel Supplier shall be ignored while calculating the cost of coal;
- (j) the cost of secondary fuel shall not be a pass through in the price of coal or Tariff; and
- (k) that the Commissioning Tests shall always be carried out with the worst quality fuel permitted under this policy.

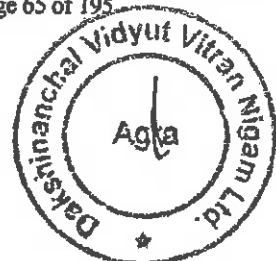
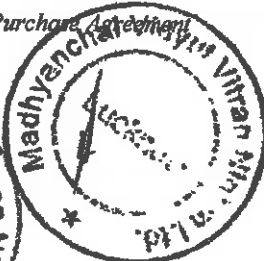
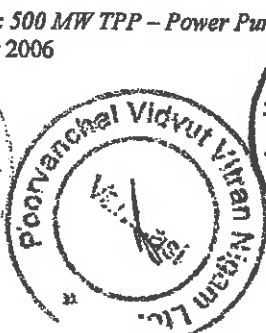
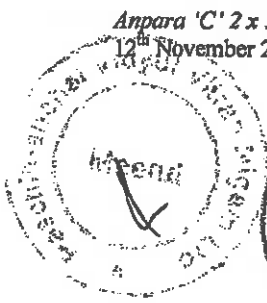
7.9.4 If the Seller enters into any agreement relating to fuel in breach of its obligation under Article 7.9.1, the cost of the fuel subject to that agreement which may be taken into account in calculating the Variable Fuel Charge shall be limited to the lowest cost that the Seller could have obtained had it not entered into that agreement.

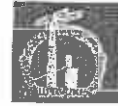
7.10 Fuel Supply Agreement

7.10.1 The Seller shall, at its own cost and expense, engage the services of a consultant, reasonably acceptable to the Buyers to advise the Seller and the Buyers on all aspects of the coal supply arrangements, including the Fuel Supply Agreement.

7.10.2 The Seller shall enter into the Fuel Supply Agreement only on the basis of:

- (a) the Fuel Policy, if existing at such time;
- (b) advice of the consultant referred to hereinabove;
- (c) advice of the Buyers;
- (d) Prudent Utility Practices;





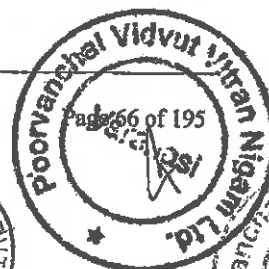
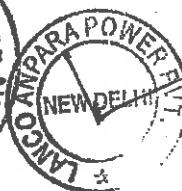
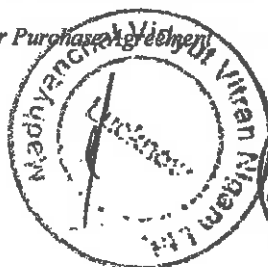
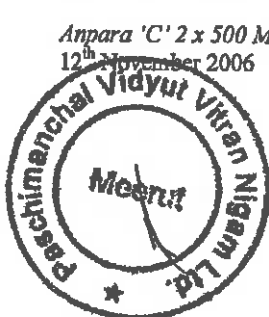
- (e) with the express written consent of the Buyers which consent shall not be unreasonably withheld if the Seller satisfies the Buyers that, the Fuel Supply Agreement intended to be entered into by the Seller is on the best commercial terms that would be available to any third party in its procurement of coal for a project similarly placed to the Project; and
- (f) approval of the UPERC as may be required under the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued on January 19, 2005

7.10.3 Nothing in Article 3.6 shall limit the Buyers' rights under Article 7.9 or 7.10. To the extent contradictory, Article 7.9 and 7.10 shall prevail over Article 3.6.

7.11 Appointment of Operation & Management Contractor

- 7.11.1 The Seller shall always have the right to undertake the operation and maintenance of the Power Station on its own. In case the Seller wishes to appoint any other person as the O&M Contractor, such person must have at least one (1) year of experience in operation and maintenance of at least one (1) thermal power station with a capacity of at least 500 MW.

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006





ARTICLE 8
CAPACITY, AVAILABILITY AND DISPATCH

8.1 Availability

8.1.1 The Seller shall at all times keep the Buyers and SLDC informed of the Available Capacity of a Unit and / or (if the Power Station has been commissioned) the Power Station as a whole, and any impairment of its Contracted Operating Characteristics in accordance with Schedule 6.

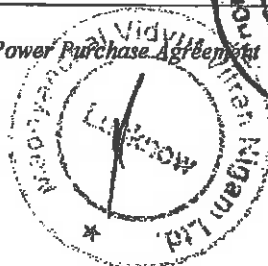
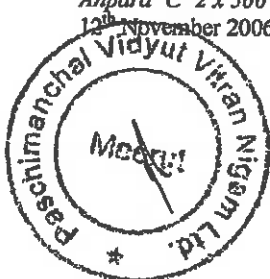
8.1.2 The SLDC shall calculate the Availability Factor for a Unit and / or (if the Power Station has been commissioned) the Power Station as a whole, in each Settlement Period Category monthly in accordance with Schedule 6 and shall notify the Buyers and Seller in writing of the results as soon as practicable but in any event within three (3) business days after the end of the relevant month, as per the Operating Procedures.

8.31.33 The SLDC shall calculate monthly Availability Factors using the available written data at the time the calculations are finalised, notwithstanding that some of the data may be provisional (because of outstanding disputes, pending Interim or Post Event Notices or otherwise). The calculations shall be updated up to the latest date by which the Buyers may notify the Seller and SLDC and/or Seller may notify the Buyers and SLDC of any errors in the Monthly Tariff Invoice for the relevant month. Implications of the provisional data, once finalised and any subsequent changes in data shall be settled by the Annual Adjustment which is calculated pursuant to Paragraph 4 of Schedule 8.

8.24 Dispatch

8.2.1 The Seller shall comply with a Buyer's Dispatch Instructions that are issued by the SLDC in accordance with Schedule 7.

8.2.2 Nothing in this Article 8.4 shall require the Seller to comply with a Dispatch Instruction, if, the Seller would as a result of complying with such Dispatch Instruction, violate applicable law, including the Electricity Law or Electricity Rules or risk seriously damaging any Unit or other plant or equipment at the Power Station or would pose a serious danger to the Seller's staff.





ARTICLE 9 **METERING**

9.1 Installation of Meters

9.1.1 The Seller shall procure and install the Metering System in accordance with this Article 9 and Schedule 4:

Provided that, the Check Meters shall be installed jointly by the Buyers.

9.1.2 Following installation, the Metering System shall be the joint property of the Buyers and the Buyers shall be jointly responsible for the cost of its maintenance, replacement and calibration.

9.1.3 The Seller shall not commence testing or commissioning any Unit before the Interconnection Meter, the Import Meter and the associated Generator Meter and Check Meters have been installed.

9.2 Inspection and Testing of Meters

9.2.1 The Parties shall jointly inspect and if necessary, recalibrate the Metering System on a regular basis and but in any event, at least once every three (3) months.

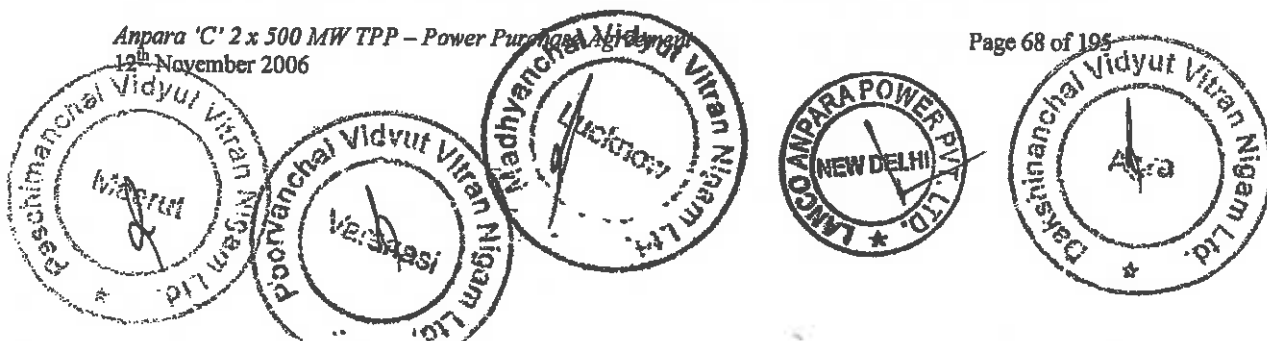
9.2.2 Each meter comprising the Metering System shall be sealed by each Party and shall not be opened, tested or calibrated except in the presence of representatives of all the Parties.

9.3 Generator Capacity, Electrical Output and Imported Energy

9.3.1 The Generator Capacity generated by a Unit shall, subject to Articles 9.4 and 9.5, be measured on the basis of meter readings from its Generator Meter.

9.3.2 The Electrical Output generated by the Power Station and delivered by the Seller to the Buyers at the Interconnection Point shall, subject to Articles 9.4 and 9.5, be measured on the basis of meter readings from the Interconnection Meters.

9.3.3 The energy imported by the Seller to the Power Station shall, subject to Articles 9.4 and 9.5, be measured on the basis of meter readings from the Import Meters.



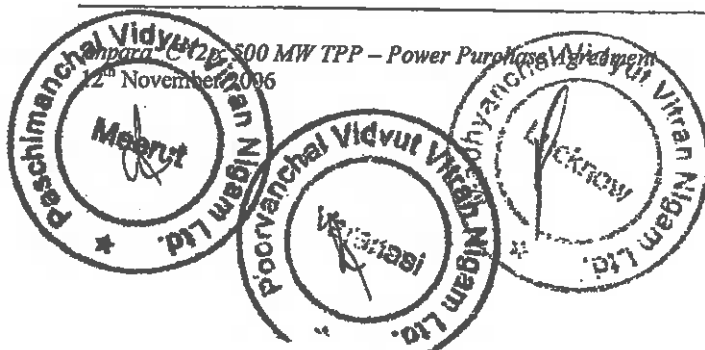


9.4 Inaccuracy of Meters

- 9.4.1 In the event that any Main Meter fails to register or, upon being tested, is found not to be accurate within ± 0.2 , the Generator Capacity, Electrical Output or imported energy, as the case may be, shall for the period referred to in Article 9.4.3, be measured on the basis of the value registered by the corresponding Check Meter.
- 9.4.2 In the event that both a Main Meter and the corresponding Check Meter both fail to register or, upon being tested, be found not to be accurate within ± 0.2 , Generator Capacity, Electrical Output, or imported energy, as the case may be, shall for the period referred to in Article 9.4.3, be adjusted by immediately restoring and recalibrating the Main Meter and the corresponding Check Meter and the correction applied to the consumption registered by the Main Meter.
- 9.4.3 The period referred to in Articles 9.4. 1 and 9.4.2 above is the actual period during which inaccurate measurements were made if such period can be determined or, if not readily determinable, the shorter of:
- (a) the period since the immediately preceding test of the relevant Main Meter; or
 - (b) ninety (90) days immediately preceding the test at which the relevant Main Meter was determined to be defective or inaccurate.

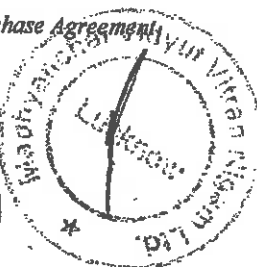
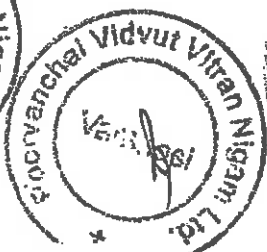
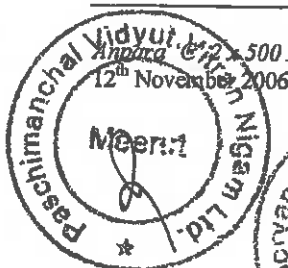
9.5 Meter Reading

Representatives of all Buyers and the Seller shall conduct joint visual readings of the Metering System at 12:00 noon on the first day of each month following which the Parties shall immediately prepare joint statements recording the readings of such meters for the relevant month and, if the readings are significantly different from each other and / or demonstrate a level of inaccuracy greater than ± 0.2 , then the Metering System shall immediately be tested by the Seller and all Buyers and the provisions of Article 9.4 shall apply. Provided that in case of any inconsistency between the metering reading procedure mentioned above and the meter reading procedure specified by UPERC/SLDC, the meter reading procedure provided by UPERC/SLDC shall prevail.





9.6 In case of power export from Anpara A and Anpara B station through the interconnecting transformers, the transformer losses on account of such export shall not be to the account of the Seller. Provided further, in order to claim such losses, the Seller shall have the option to install meters (of same type and accuracy as the Interconnection Meters) on the 765 kV kV side of the interconnecting transformers to account for such export of electrical energy from Anpara A and Anpara B stations through Anpara – Unnao 765 kV line.





ARTICLE 10 PAYMENT AND INVOICING

10.1 Calculations and Payment

Subject to the other provisions of this Article 10:

- (a) All Buyers shall pay to the Seller the Monthly Tariff Payment determined in accordance with Paragraph I of Schedule 8 on or before the Due Date; and
- (b) If a Buyer is liable to pay a Monthly Adjustment, such payment shall be made to the Seller on or before the Due Date in accordance with Schedule 8.

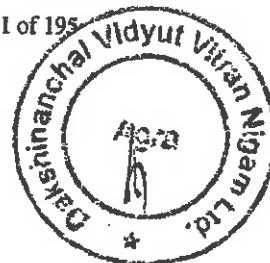
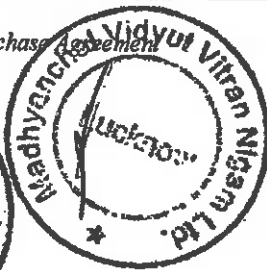
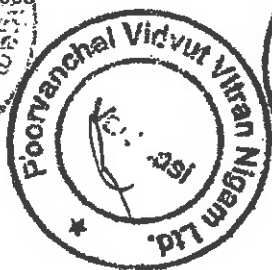
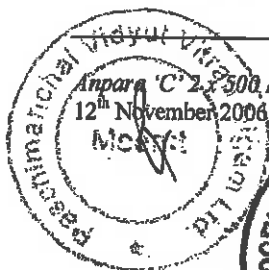
10.2 Delivery of Invoices

10.2.1 Commencing with the month following the month in which the Scheduled Synchronisation Date of the first Unit occurs, the Seller shall submit to all the Buyers and to their respective Default Contingency Agents, by the fifth (5) Day of the end of such and each succeeding month (or, if such Day is not a business day, the immediately preceding business day):

- (a) an invoice in the Agreed Form (the “**Monthly Tariff Invoice**”) setting out the Seller’s computation of the Monthly Tariff Payment for that month in accordance with the Agreement payable by the Buyers; and
- (b) an invoice in the Agreed Form (the “**Supplementary Invoice**”) setting out the Seller’s computation of any amount other than a Monthly Tariff Payment that may be payable by the Buyers to the Seller in respect of the immediately preceding month pursuant to this Agreement.

10.2.2 Each Monthly Tariff Invoice and Supplementary Invoice for a Buyer shall include reasonably detailed calculations of the amounts payable under it, together with such further supporting documentation and information as the Buyer in question and Seller may have agreed to before Financial Close.

10.2.3 Each Buyer shall, on or after the fifth day of each month (or, if such day is not a business day, the immediately preceding business day) submit to the Seller and to the Default Contingency Agent (as defined in Article 10.6.1 below) an invoice in the Agreed Form (the “**Buyer Invoice**”) setting out the said Buyer’s computation of any amount that may be payable to it for the immediately preceding month pursuant to this Agreement.





10.2.4 Each Buyer Invoice shall include reasonably detailed calculations of the amounts payable under it, together with such further supporting documentation as the Buyer in question and Seller may have agreed to before Financial Close.

10.3 Payment of Invoices

10.3.1 Subject to Article 10.3.2, an amount payable under an Invoice shall be paid in immediately available and freely transferable cleared funds for value on or before the Due Date to such account of the payee as shall have been previously notified to the other Party.

10.3.2 Where in respect of any month there is both an amount payable by a Buyer to the Seller pursuant to a Monthly Tariff Invoice or a Supplementary Invoice and an amount payable by the Seller to such Buyer pursuant to a Buyer Invoice or otherwise pursuant to this Agreement, the two amounts may at the election of the Buyer in question, be set off against each other and the balance only shall be paid by the said Buyer to the Seller or by the Seller to the said Buyer, as the case may be:

Provided that, in the event that a Buyer elects to set off the amounts indicated in his Buyer Invoice against the amount indicated in his Monthly Tariff Invoice, he shall clearly indicate the same in the relevant Buyer Invoice in respect of such amounts.

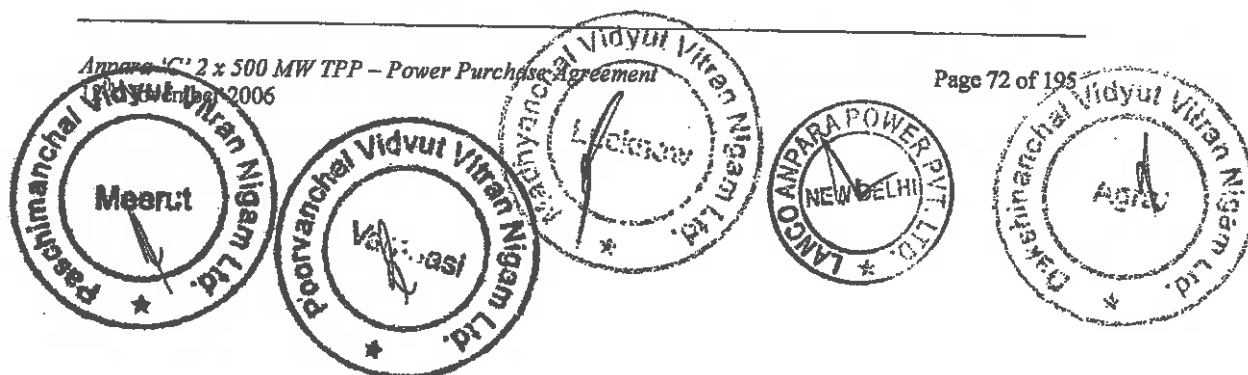
10.3.3 If the payments in respect of a Monthly Tariff Invoice are:

- (a) made by the Due Date; and
- (b) are an amount equal to one hundred (100) percent of the amount due and payable under the Monthly Tariff Invoice, as reduced by the SBIPLR of the amount, calculated for each day intervening between the date of payment by the Buyer in question and the Due Date;

to the extent such amount is not the subject of an Invoice Dispute Notice, then the full amount owing by the Buyer under such Monthly Tariff Invoice shall be deemed to have been paid in full by the Buyer to the Seller

10.3.4 Save as otherwise provided in Article 10.3.2 or 10.3.3, all net payments owing by one Party under this Agreement to the other Party shall be made free of any restriction or condition and without deduction or withholding (except to the extent required by law) on account of any other amount owing, whether by way of set-off or otherwise, but the making of payments shall be without prejudice to other rights of the person doing so:

Provided that, where a Buyer or the bank with which a Buyer Standby Letter of Credit is maintained is required to make such a payment subject to the deduction or withholding of tax, the sum payable by the Buyer in respect of





which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Seller receives and retains a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

- 10.3.5 Any amount properly due from one Party to another pursuant to this Agreement and remaining unpaid after the Due Date shall bear interest from the date when payment was due, such interest to accrue from day to day and be compounded with monthly rests at a rate equal to SBIPLR for the time being and from time to time, from the Due Date until the amount due is actually received by the payee:

Provided that, in the event that the Seller does not receive the complete amount of the Monthly Tariff Payment by the Due Date, the Seller shall not be entitled to any interest on late payment, unless:

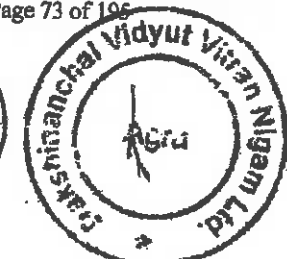
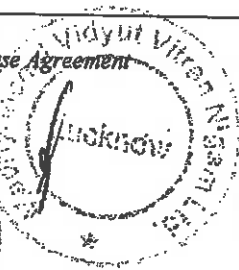
- (a) the Seller immediately draws down on the Buyer Standby Letter of Credit established under Article 10.5 by the defaulting Buyer in accordance with the terms of the said Article; and
- (b) the issuing bank does not make such payment within (2) days of demand made by the Seller in accordance with Article 10.5 for reasons other than those specifically listed in the relevant Buyer's Standby Letter of Credit.

Where interest is payable as per the terms of this Article 10.3.5, and the Seller has complied with the requirements of Article 10.3.5(a) and (b) in particular, such interest may also be claimed by the Sellers from the Buyers by drawing down on the relevant Standby Letter of Credit for amounts due and interest so payable thereupon.

10.4 Disputed Invoices

- 10.4.1 If a Party does not question or dispute an Invoice within one hundred and twenty (120) days of receiving it, the Invoice shall be considered correct and complete and conclusive between the Parties except in the case where that Party could not reasonably have identified any error or omission in the Invoice, taking into account the information then available to it during the above one hundred and twenty (120) day period.

- 10.4.2 If any Party disputes any item or part of an item set out in any Invoice then that Party shall serve a notice (an "Invoice Dispute Notice") on the other Party setting out the item or part of an item set out in such Invoice which is in Dispute together with its estimate of what such item or part of an item should be.





10.4.3 In the event that any Party has issued an Invoice Dispute Notice in accordance with Article 10.4.2, the following amounts shall be payable to the other Party, on the Due Date of the Invoice in relation to which such Invoice Dispute Notice was issued:

- (a) the remainder of the items set out in the relevant Invoice in relation to which there is no Dispute
- (b) its estimate, as set out in the Invoice Dispute Notice pursuant to Article 10.4.2, of what the item or part of an item which is disputed should be.

Provided that in case of (a) and (b) above, such amount required to be paid shall be at least eighty (80) percent of the average of the last six (6) undisputed Monthly Tariff Invoices excluding the Invoice in relation to which the Invoice Dispute Notice was issued, and, in the event that there have not been six (6) undisputed Monthly Tariff Invoices excluding the Invoice in relation to which the Invoice Dispute Notice was issued, at least eighty (80) percent of the estimated tariff payable at 80% PLF for the month to which the Invoice Dispute Notice relates.

10.4.4 If the Party receiving the Invoice agrees with the Invoice Dispute Notice to which it relates, it shall:

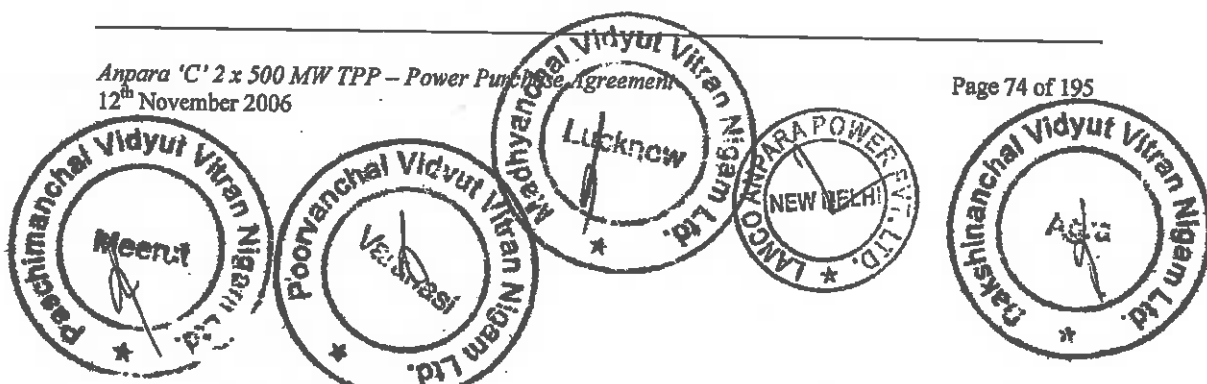
- (a) in the case of the Seller, adjust the Invoice and send such adjusted invoice to the relevant Buyer (if the said Buyer has not paid) or refund the applicable amount within thirty (30) days (if the said Buyer has made the payment); or
- (b) in the case of a Buyer, pay the applicable amount to the Seller within thirty (30) days.

10.4.5 In the event that the Parties do not, within fourteen (14) days of the delivery of a Invoice Dispute Notice, resolve any Dispute arising under Article 10.4.2, either Party involved in the Invoice Dispute Notice may refer the matter to be determined by the Expert in accordance with Article 18.4.

10.4.6 Upon resolution of any Dispute arising under this Article 10.4, the amount (if any) due to the prevailing Party shall be paid within twenty (20) days together with interest accrued from the Due Date of the Invoice until the date of final payment at the rate per month equal to SBIPLR.

10.5. Establishment of Buyer Standby Letter of Credit

10.5.1 Each Buyer shall, six (6) months prior to the Required Commercial Operations Date, furnish letter(s) from the bank proposing to issue the





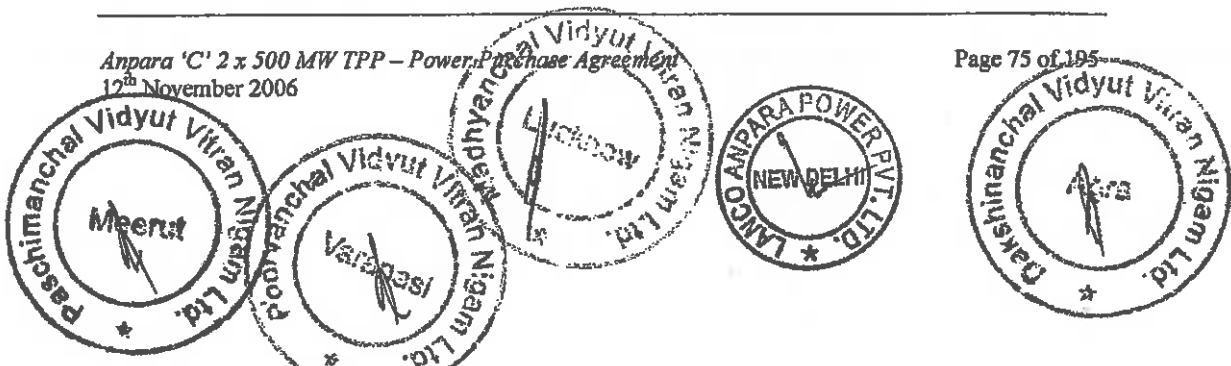
Standby Letter of Credit, confirming the issue of such proposed Standby Letter of Credit as scheduled. Each Buyer shall provide the Seller with a rupee denominated irrevocable revolving standby Letter of Credit issued in favour of the Seller by a Scheduled Bank or Scheduled Banks in India reasonably acceptable to the Seller, such Letter of Credit to be in a form and substance reasonably satisfactory to the Seller (the "Buyer Standby Letter of Credit") and to be provided by the Buyer at its own cost.

The Buyer Standby Letter of Credit shall be provided on the basis that:

- (a) the Seller may draw upon the Buyer Standby Letter of Credit for payment of a Monthly Tariff Invoice by presenting to the issuing Bank a copy of the unpaid Monthly Tariff Invoice that has been delivered by the Seller to the Buyer in question in accordance with this Agreement, such presentment to take place on any day after the Due Date; and
- (b) the value of the each Buyer Standby Letter of Credit will be equal to one point one (1.10) times the Monthly Tariff Payment (provided variations upto (+)/(-) 2% shall be ignored) calculated by averaging the succeeding Monthly Tariff Payments in respect of the six (6) month-period following the Commissioned Date of the first Unit as determined in accordance with Article 10.5.2 and recalculated after that six (6) month period to be equal to one point one (1.10) times the monthly average Monthly Tariff Payments for the immediately preceding six (6) months, revised upon the Commercial Operations Date and then six (6) monthly; and
- (c) all Buyer Standby Letter of Credits shall be fully revolving so that it will be renewed for its full value upon each call made on the Letter of Credit; and
- (d) all Buyer Standby Letter of Credits shall be for a term of not less than twelve (12) months but with an outstanding value as determined in accordance with sub-clause (b).

The Buyer Standby Letter of Credit shall be provided:

- (i) no later than twenty (20) days before the Commissioned Date of the first Unit as reasonably estimated by the Independent Engineer;
- (ii) immediately upon the revision pursuant to paragraph 10.5.1(c) above of the required value of any letter of credit; and
- (iii) no later than thirty (30) days prior to the date upon which any letter of credit provided pursuant to this Article 10.5.1 is expressed to expire;





10.5.2 The value of any Buyer Standby Letters of Credit for the purposes of the six (6) month period following the Commissioned Date of the first Unit shall be notified by the Buyers to the Seller no later than fourteen (14) days before such is required to be provided pursuant to Article 10.5.1, such value being equal to one point one (1.10) times the aggregate of:

- (a) the estimated Fixed Charge payable in respect of the next succeeding month falling after the date on which such value falls to be determined, calculated at the rates most recently determined in accordance with Schedule 8 (or, if no such rates have then been determined with respect to the number of Units then Commissioned, at the rates reasonably estimated by the Buyer after duly considering the terms of the Fixed Charge mentioned in Schedule 8); and
- (b) the Variable Charge payable in respect of the next succeeding month after the date on which such value falls to be determined calculated on the basis:
 - (i) that, at all times during such month, the dispatch of a Unit which has then been Commissioned (or, if the Power Station has been Commissioned, the Power Station) will be equal to ninety (90) percent of the Contracted Capacity of that Unit; and
 - (ii) the cost of coal during such month will be equal to the most recent calculation of the cost in respect of any month which has been made for the purpose of calculating any Variable Fuel Charge in accordance with Schedule 8

and after due consideration of the Fuel Supply Agreement and Fuel Policy.

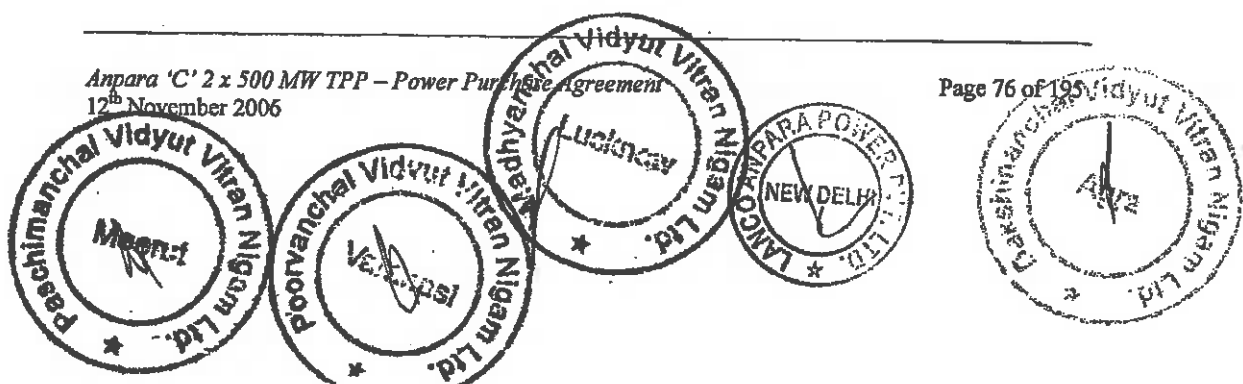
Provided that, if no such calculation has been made, the cost of coal shall be that reasonable estimated by the Buyers after duly considering the terms of the Fuel Supply Agreement and the Fuel Policy.

10.5.3 The Seller may transfer each Buyer Standby Letter of Credit to or for the benefit of the Lenders' Representative on behalf of the Lenders.

10.5.4 The Seller shall give GOUP and the Default Contingency Agent a written notice of any draw down of a Buyer Standby Letter of Credit.

10.5.5 In respect of a Buyer, on the occurrence of all of the following, the term "one point one (1.10) times" shall stand replaced by the term "one point zero (1.0) times" in the above Articles 10.5.1 and 10.5.2 in so far as it relates to such Buyer:

- (i) A period of more than five (5) years has elapsed since the Disinvestment of the Buyer; and





- (ii) At any time after the Disinvestment of the Buyer, the Buyer has achieved, for its ability to honour its Tariff payment obligations to the Seller, a credit rating equivalent of 'A' or better from a SEBI registered Indian credit rating agency consistently for a period of one (1) year or more; and
- (iii) In the immediately preceding two (2) year period, there should have been no Buyer Event of Default under Article 15.2 (c) of this Agreement.

A Buyer shall have to reinstate the Buyer Standby Letter of Credit to 1.1 times the value of the Monthly Tariff Payment in the event of any Buyer Event of Default under Article 15.2 (c) of this Agreement.

10.5.6 Each Buyer shall provide the Seller with a letter from the Scheduled Bank it intends to procure the Buyer Standby Letter of Credit from confirming the said Scheduled Bank's commitment to provide the Buyer Standby Letter in the manner and form prescribed in this Article 10.5 within eight (8) months of the date of issue of the Letter of Acceptance.

10.6 Default Contingency Account

10.6.1 Before Financial Close, the Parties along with a scheduled Indian bank having a branch at Lucknow ("Default Contingency Agent") shall enter into one or more Default Contingency Agreements in the Agreed Form for the establishment and operation of Default Contingency Accounts into which revenues from designated areas of the Buyers shall be deposited in accordance with the Default Contingency Agreements and the Default Security Agreements.

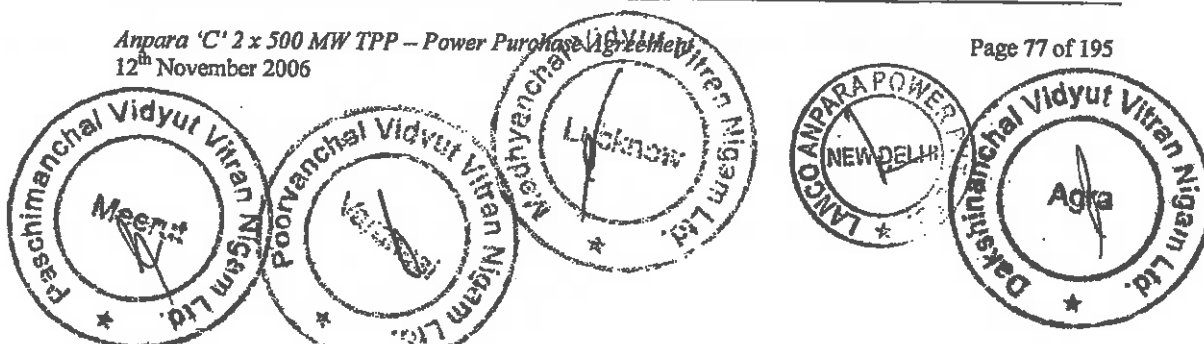
10.6.2 The Parties shall also enter into Default Security Agreements in the Agreed Form whereby the Buyers shall hypothecate to the Seller the amounts deposited into the Default Contingency Accounts and the Receivables (as defined thereunder).

10.6.3 The Seller shall draw upon the Default Contingency Accounts in accordance with the terms of the Default Contingency Agreements and Default Security Agreements in respect of unpaid sums of money due and owing under a Monthly Tariff Invoice.

10.7 [Omitted]

10.8 Priority of supports

For the purposes of clarification, Parties agree that in the event full payment is not made in respect of a Monthly Tariff Payment in immediately available and

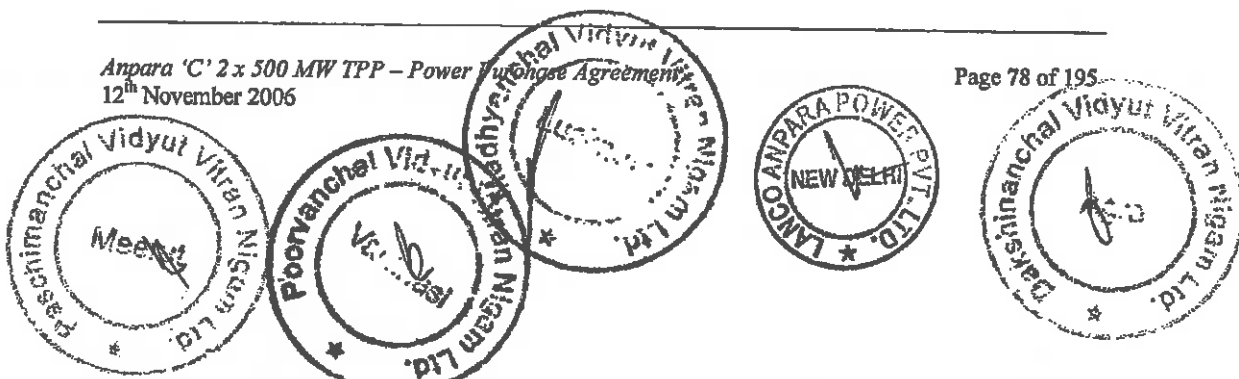




freely transferable cleared funds for value on or before the Due Date by a particular Buyer, the Seller shall then and only then, have recourse to the said Buyer's Buyer Standby Letter of Credit and if full payment in respect of the said Monthly Tariff Payment is not available under the said Buyer's Buyer Standby Letter of Credit either, the Seller shall then, and only then provided a period of 7 days has elapsed, have the right to recourse to the Default Contingency Account relatable to the said defaulting Buyer for pending payments.

10.9 Payment Security Mechanism

Notwithstanding anything contained in this Agreement, both the Buyer and Seller accept that only the Default Security Agreement is a payment security mechanism and the Buyer Standby Letter of Credit is merely a standby payment mechanism.





ARTICLE 11 **INSURANCES**

11.1 Insurance during the Construction Period

The Seller shall effect and maintain or cause to be effected and maintained during the Construction Period Insurances against such risks, with such deductibles and with such endorsements and co-insured(s) as are to be specified in Paragraph 1 of Schedule 11 by the Parties, such Schedule to be filled up and completed prior to Financial Close, together with:

- (a) such Insurances as may be required under:
 - (i) any of the Financing Agreements; and
 - (ii) the laws of India; and
- (b) such other Insurances Prudent Utility Practices would ordinarily require.

11.2 Insurance during the Operating Period

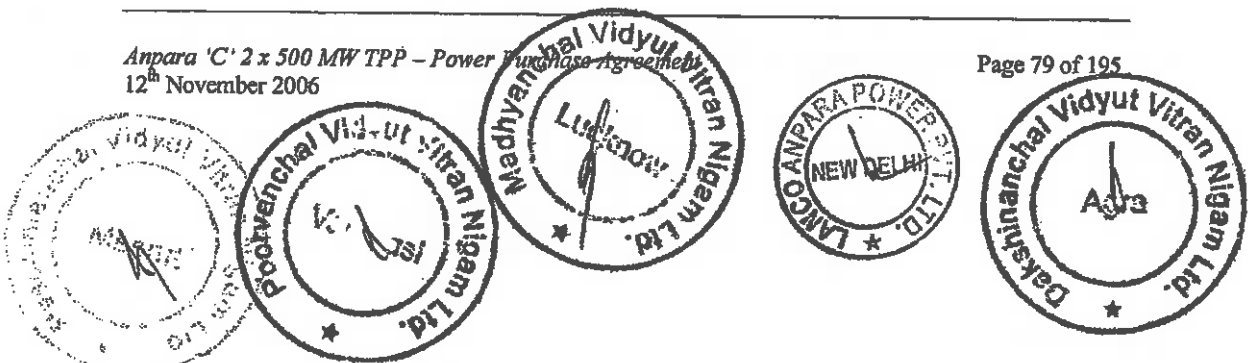
Not later than three (3) months prior to the Scheduled Synchronisation Date of the first Unit, the Seller shall effect and maintain during the Operating Period Insurances against such risks, with such deductibles and with such endorsements and co-insured(s) as are to be specified in Paragraph 2 of Schedule 11, which Schedule shall be filled up and completed prior to the Financial Close, together with:

- (a) such Insurances as may be required:
 - (i) under any of the Financing Agreements; and
 - (ii) the laws of India; and
- (b) such Insurances Prudent Utility Practices would ordinarily require.

11.3 Excuse in Failing to Insure

11.3.1 The Seller shall not be in breach of its obligations to procure an Insurance under Articles 11.1 and 11.2 to the extent and only for the period that:

- (a) the particular insurance is not available to it in the international and Indian insurance markets for reasons other than any negligence or





default by, or condition (financial or otherwise) of the Seller or the Seller's Contractors; and

- (b) the Seller effects and maintains for the period referred to in Article 11.3.1(a) complimentary Insurance cover having regard to the capacity of the international and Indian insurance markets.

11.3.2 In the event of any Dispute between the Seller and any of the Buyers' as to the capacity of any Insurance or reinsurance markets for the purposes of this Article 11.3 the matter shall be referred to a leading independent insurance broker in India experienced in the insurance market and mutually acceptable to the Seller and the Buyers' or, in default of agreement between the Parties, nominated on the application of any Party by the Chairman of the Insurance Regulatory and Development Authority, and the broker so appointed shall be deemed to be an Expert acting pursuant to the provisions of Article 18.4.

11.4 No change to Insurances

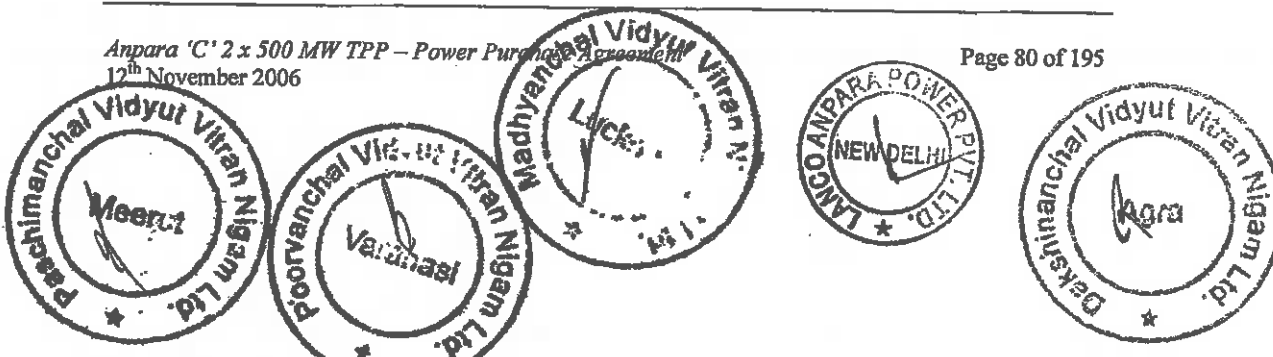
The Seller may only effect the Insurances covering different risks, deductibles, endorsements, co-insured(s) or other terms different to those referred to in this Article 11 with the prior written consent of the each of the Buyers' which consent shall not be unreasonably withheld or delayed.

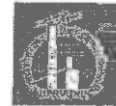
11.5 Non Payment of Premiums

The Seller shall ensure that each policy of Insurance contains an endorsement providing that it may not be cancelled (except for non-payment of premiums) or reduced without at least thirty (30) days prior written notice being given by the insurer to, among others, the Buyers':

Provided that, each such endorsement shall provide:

- (a) that the insurer may not cancel the coverage for non-payment of premium without first giving all the Buyers ten (10) days written notice that the Seller has failed to make timely payment of the premium (including details of the amount owing); and
- (b) that the Buyers shall after having received the notice referred to in paragraph (a) above have the right to pay such premium directly to the relevant insurer, without prejudice to any other rights it may have as against the Seller under the terms of this Agreement.





11.6 Evidence of Insurance Cover

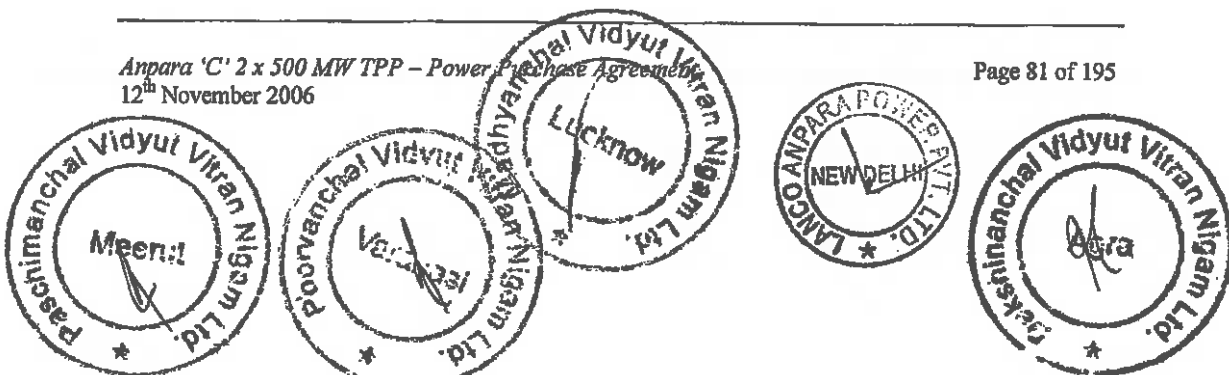
- 11.6.1 The Seller shall furnish to all the Buyers copies of certificates and policies of the Insurances as soon as they are effected and renewed by or on behalf of the Seller and from time to time (and at the request of the Buyers) shall furnish evidence to the Buyers that all relevant premiums have been paid as soon as they have been so paid, and that the relevant policy or policies remain in existence.
- 11.6.2 Failure by the Seller to obtain the insurance coverage or certificates of insurance required pursuant to this Article 11 shall not relieve the Seller of its obligations under this Article 11 or in any way relieve or limit the Seller's obligations or liabilities under any other provision of this Agreement.
- 11.6.3 If the Seller shall fail to effect and / or maintain any of the Insurances, the Buyers may effect such Insurances during the period in which the Seller does not effect and / or maintain any of the Insurances. Full cost and expense of effecting and/or maintaining any of the Insurances shall be borne by the Seller and shall be due and payable within thirty (30) days of a notice, from any of the Buyers to the Seller.

11.7 Preference for Indian Insurers

- 11.7.1 The Insurances shall be effected with Indian insurance companies to the extent that the Insurances can be effected with them in accordance with this Agreement and subject to the cost of procuring such Insurances and relatable terms being commercially reasonable.
- 11.7.2 In the event of any Dispute between the Seller and any one of the Buyers as to whether any one of the Insurances are capable of being effected with Indian insurance companies, for the purposes of this Article 11.7, the matter shall be referred to a leading independent insurance broker in India experienced in the insurance market and mutually acceptable to the Seller and the Buyers or, in default of agreement between the Parties, nominated on the application of any Party by the Chairman of the Insurance Regulatory and Development Authority and the broker so appointed shall be deemed to be an Expert acting pursuant to the provisions of Article 18.4.

11.8 Application of Insurance Proceeds

- 11.8.1 Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Project or any part of the Project shall be first applied towards removal of such loss or damage by reinstatement, replacement of the Project or any part of the Project.

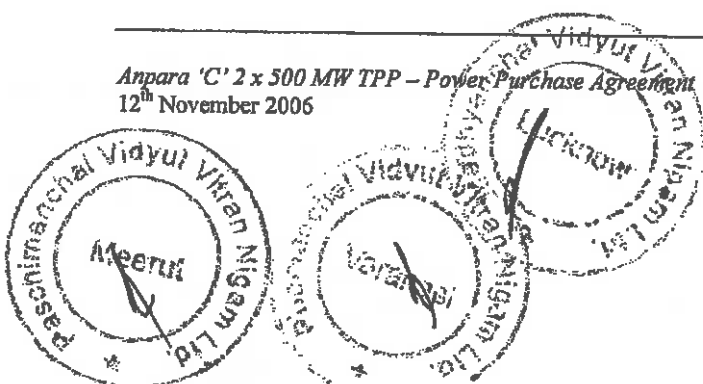




11.8.2 If a Force Majeure Event or a similar natural event or circumstance renders the Power Station no longer economically and technically viable and the insurers under the Insurances make payment on a "total loss" or equivalent basis, the portion of the proceeds of such Insurance available to the Buyers (after payment to the Lenders of the Total Debt Amount) and after the Buyers to the Initial Equity Investors shall be as is determined by the Expert.

11.8.3 Any Dispute or difference between the Parties as to whether the Power Station is no longer economically and technically viable due to a Force Majeure Event or a similar natural event or circumstance or whether that event was adequately covered in accordance with this Agreement by the Insurances shall be determined by the Expert in accordance with Article 18.4.

11.8.4 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense for which compensation is due to the Seller under any Insurance shall not be charged to or payable by the Buyers.





ARTICLE 12 **FORCE MAJEURE**

12.1 Available Relief for a Force Majeure Event.

Subject to this Article 12:

- (a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event; and
- (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event under Article 4.5 or this Article 12.

12.2 Duty to Report

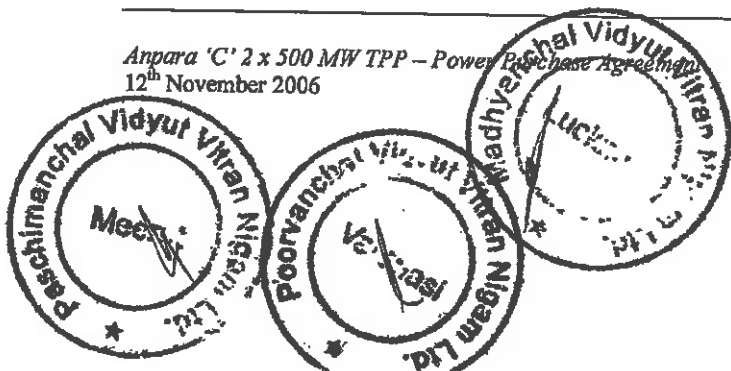
12.2.1 No Party may claim relief for a Force Majeure Event unless it shall have notified the other Parties in writing of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event within seven (7) days after the affected Party knew, or ought reasonably to have known, of its occurrence and that the Force Majeure Event would be likely to have a material impact on its performance of its obligations under this Agreement.

12.2.2 Any notice pursuant to Article 12.2.1 shall include full particulars of:

- (a) the nature of each Force Majeure Event which is the subject of any claim for relief under this Agreement;
- (b) the effect which such Force Majeure Event is having on the affected Party's performance of its obligations under this Agreement;
- (c) the measures which the affected Party is taking, or proposes to take, to alleviate the impact of those Force Majeure Events; and
- (d) any other information relevant to the affected Party's claim.

12.2.3 For so long as the affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Parties with regular (and not less than monthly) written reports containing:

- (a) the information called for by Article 12.2.2; and
- (b) such other information as the other Parties may reasonably request about the affected Party's claim.





12.2.4 Where the Seller is the affected Party, it shall promptly notify the Buyers in writing when any Force Majeure Event which is the subject of any claim under this Agreement ceases or when there is any material change in its impact on the Seller's performance of its obligations under this Agreement.

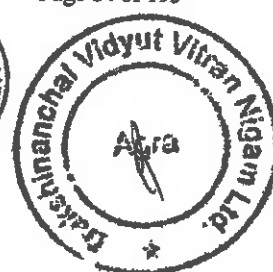
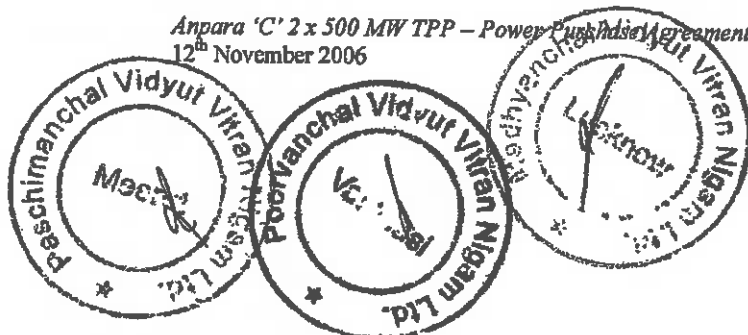
12.3 Force Majeure Events Defined

A "Force Majeure Event" means any of the events or circumstances, or combination of events and circumstances, referred to below but only to the extent that the person affected by such event or circumstance could not have reasonably foreseen the event of circumstance and mitigated its effects:

- (a) to the extent that it could not reasonably have been expected to occur at the place, and at the time of year, in question, the effect of any natural elements or other acts of god, including, but not limited to exceptionally adverse weather conditions, lightning, flood, cyclone, earthquake, volcanic eruption or (to the extent originating from a source external to the Site) fire, landslide or explosion.
- (b) epidemic, famine or plague;
- (c) [intentionally omitted].
- (d) strikes or boycotts interrupting supplies and services to the Power Station or the Buyers' Facilities, (but not involving the Seller, the Seller's Contractors or their respective employees, agents or representatives or any strike or boycott attributable to any unfair policy or practice of the aforementioned persons) not being an Indian Political Event; and
- (e) Radio active contamination or ionising radiation originating from a source in India (excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the site by the affected party or those employed or engaged by the affected party);
- (f) any event or circumstance of a nature analogous to any of the above.

in all or any of the above cases, only to the extent not:

- (a) due to or arising out of defects, latent or patent, in the equipment comprising the Project or the Buyers' Facilities; or
- (b) due to or arising out of failure to operate the Project or the Buyers' Facilities in accordance with Prudent Utility Practices; or
- (c) within the reasonable control of the affected Party or its Contractors.





12.4 Force Majeure – Exclusions

None of the following conditions shall constitute a Force Majeure Event unless due to a Force Majeure Event affecting the Seller's Contractors:

- (a) late delivery of plant, machinery, equipment, materials, spare parts, fuel, water or consumables for the Project; or
- (b) a delay in the performance of any of the Seller's Contractors.

12.5 Insufficiency of funds

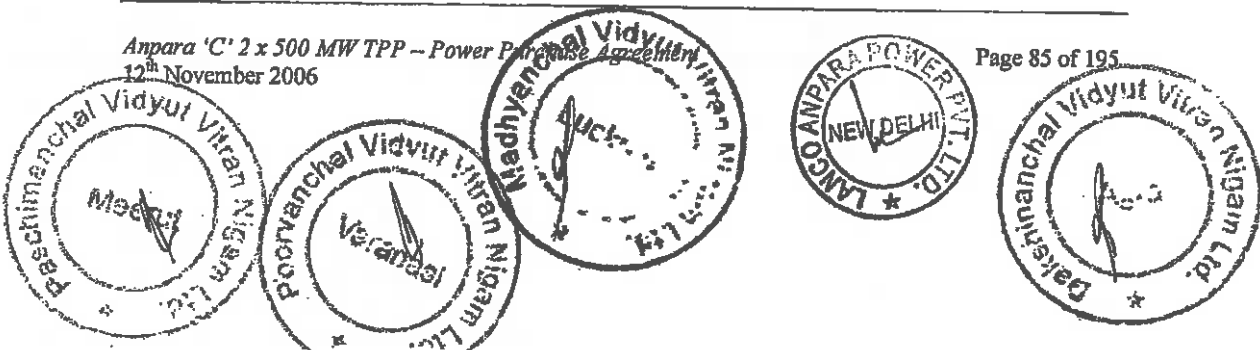
Notwithstanding anything contained in this Article 12, insufficiency of funds shall not constitute a Force Majeure Event.

12.6 Duty to Mitigate

For so long as a Force Majeure Event which is the subject of any claim under this Agreement is continuing, the affected Party shall use its best endeavours to alleviate its effects on the affected Party's performance of its obligations under this Agreement.

12.7 Breakdown of Communications

If a Force Majeure Event causes a breakdown of communications so that a Party is unable to serve any notice under this Agreement, the period for the serving of such notice (if any) shall be extended for every day whilst such Force Majeure Event prevents the service of such notice.





ARTICLE 13
INDIAN POLITICAL EVENTS

13.1 Available Relief for Indian Political Events

13.1.1 Subject to Articles 13.2 and 13.4, the Seller:

- (a) shall not be in breach of its obligations pursuant to this Agreement to the extent the performance of its obligations was prevented, hindered or delayed due to an Indian Political Event; and
- (b) shall be entitled to the following relief in relation to Indian Political Events:
 - (i) Reduction in Available Capacity due to Indirect Indian Political Events:

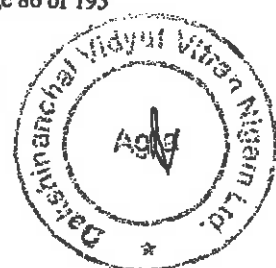
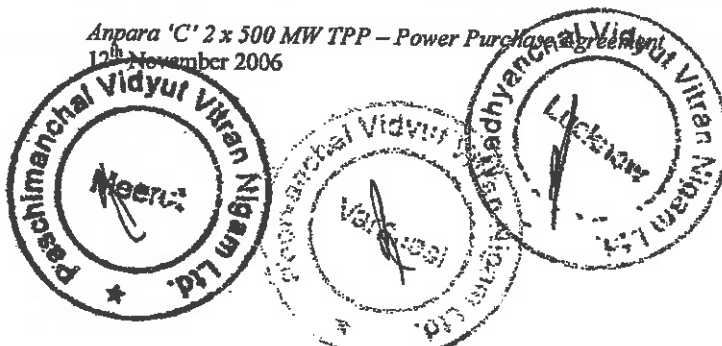
If the average Availability Factor of the Power Station is reduced below sixty (60) percent for over seven (7) consecutive days, as a result of an Indirect Indian Political Event, then, with effect from the end of that period and for so long as the daily average Availability Factor of the Power Station continues to be reduced below sixty (60) percent as a result of an Indirect Indian Political Events of any kind, the Seller may elect in a written notice to the Buyers, to deem the Availability Factor of the Power Station to be sixty (60) percentage from the end of such one (1) week, regardless of its actual Available Capacity.

Provided that, at any time after the Total Debt Amount is repaid or the end of fifteen (15) years from the date of Commercial Operations Date of the first Unit, whichever is earlier, this sub-article (b)(i) shall cease to apply.

Provided further that, the Buyers shall be entitled at all times to request Testing of the Units to determine whether, in the absence of such Indirect Indian Political Event, the Power Station would have been Available at sixty (60) percent. If the Test indicates that the Power Station would not have been Available at this level, instead of deeming the Availability Factor sixty (60) percent, the Availability Factor shall instead be deemed at the level indicated in the Tests.

- (ii) Reduction in Available Capacity due to Direct Indian Political Events other than those covered in sub-clause (iii) below:

If the Availability Factor of the Power Station in any Settlement Periods is reduced below eighty (80) percent as a result of Direct





Indian Political Events, the Seller may elect in a written notice to the Buyers to deem the Availability Factor of the Power Station in those Settlement Periods to be eighty (80) percent, regardless of its actual Available Capacity, provided that, the Buyers shall be entitled at all times to request Testing of the Units to determine whether, in the absence of such Direct Indian Political Event, the Power Station would have been Available at eighty (80) percent. If the Test indicates that the Power Station would not have been Available at this level, instead of deeming the Availability Factor eighty (80) percent, the Availability Factor shall instead be deemed at the level indicated in the Tests.

(iii) **Change in Law:**

The Seller shall be entitled to apply for relief under and in accordance with Article 14.1 in relation to any increased costs or reductions in revenue attributable to a Change in Law.

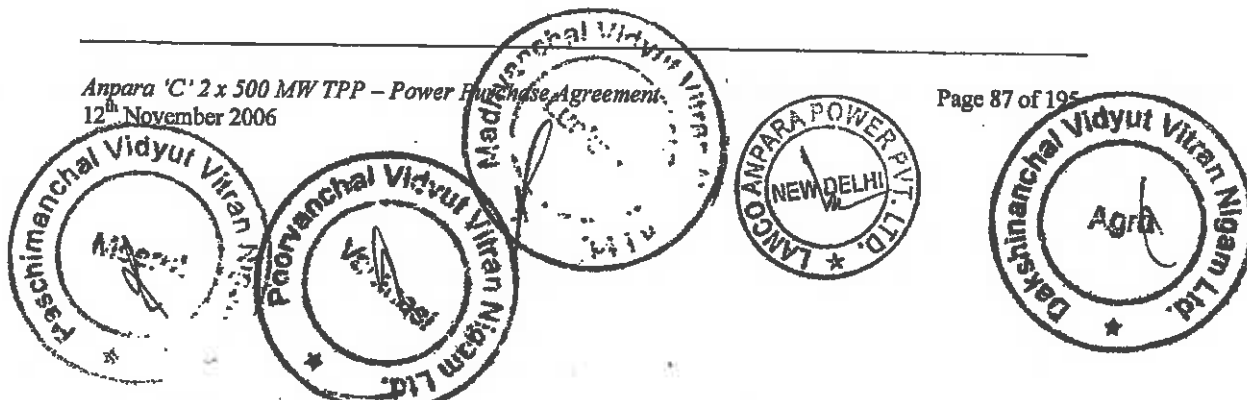
13.1.2 Written elections under Article 13.1.1 may be made either in the Monthly Tariff Invoice for the periods covered by the election or separately, provided that any separate notice shall be delivered to the Buyers not later than the Monthly Tariff Invoice.

13.2 Duty to Report

13.2.1 It shall be a condition of the Seller's entitlement to claim relief under this Agreement for an Indian Political Event that it shall notify the Buyers and GOUP in writing of its occurrence as soon as reasonably practicable, and in any event within seven (7) days after the Seller knew, or ought reasonably to have known, of its occurrence and that it would be likely to have a material impact on the Seller's performance of its obligations under this Agreement or on the availability of any Commissioned Units.

13.2.2 Any notice pursuant to Article 13.2.1 shall include full particulars of:

- (a) the nature of each Indian Political Event which is the subject of any claim for relief under this Agreement;
- (b) the effect which such Indian Political Events are likely to have on the Seller's performance of its obligations under this Agreement or on the availability of any Commissioned Units;
- (c) the measures which the Seller
is taking, or proposes to take, to alleviate the impact of those Indian Political Events; and





(d) any other information relevant to the Seller's claim.

13.2.3 For so long as the Seller continues to claim to be affected by an Indian Political Event, it shall keep the Buyers advised in writing of any significant developments relating to the Indian Political Event and of such other information as the Buyers may reasonably request about the Seller's claim.

13.2.4 It shall be a condition to any claim by the Seller under Articles 13.1 and 13.6 that the Seller declare the extent to which the Declared Capacity of a Unit has been reduced as a result of an Indian Political Event.

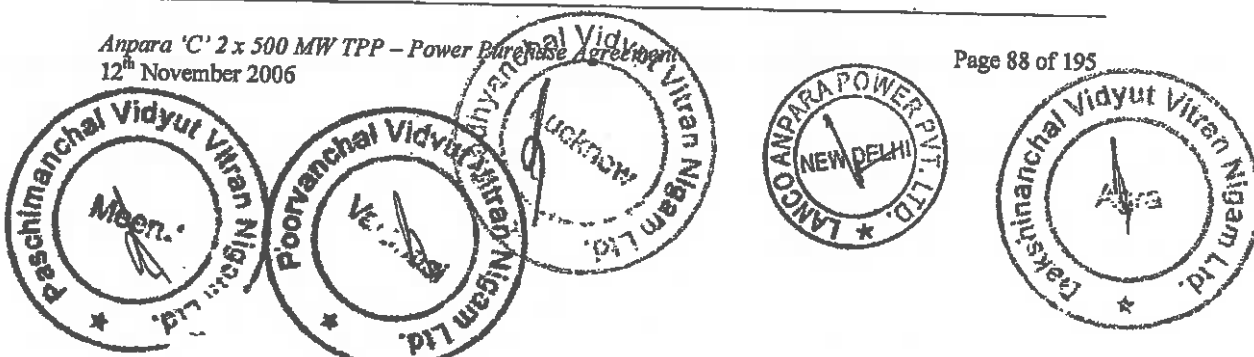
13.2.5 For so long as the Seller is claiming relief due to an Indian Political Event under this Agreement the Buyers may from time to time on one (1) days notice inspect the Power Station and carry out any tests reasonably required by the Buyers to determine whether the Power Station could have operated at its Declared Capacity but for the applicable Indian Political Event. The Seller shall provide Buyers' personnel with access to the Power Station to carry out such inspections or tests, subject to the Buyers' personnel complying with all reasonable safety precautions and standards.

13.2.6 The Seller shall promptly notify the Buyers and GOUP in writing when any Indian Political Event which is the subject of any claim under this Agreement ceases or when there is any material change in its impact on the Seller's performance of its obligations under this Agreement or on the availability of any Commissioned Unit.

13.3 Indian Political Events Defined

13.3.1 An Indian Political Event means any of the events or circumstances, or combination of events and circumstances, referred below occurring in India or directly involving India which result directly or indirectly in the Seller's performance of its obligations being prevented, hindered or delayed or in the Availability Factor of the Power Station being reduced but only to the extent that such events and circumstances are not a lawful and reasonable response to the default, neglect or other wrongful act of the Seller, its employees or the Seller's Contractors and their consequences are beyond the Seller's reasonable control:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) politically motivated strikes or industrial action (other than those involving primarily the Seller's own employees or those of any of the Seller's Contractors);





- (c) Change in Law;
- (ca) a default or event of Force Majeure analogous to those set forth herein under the Facilities and Services Agreement but not including any Seller induced default or breach under that agreement and also not including any Force Majeure affecting the Seller as defined under this Agreement.

Provided that, the Seller shall have, during such default or an event of force majeure, has made all reasonable efforts to procure such facilities from other sources and a period of at least fifteen (15) days has already expired since the date of such event of default or force majeure;

- (d) expropriation or compulsory acquisition by any Indian Governmental Agency of any material assets or rights of the Seller or the Seller's Contractors;
- (e) the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consent required by the Seller or any of the Seller's Contractors to perform their obligations under the Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any such Consent (other than a Consent the obtaining of which is a condition precedent the Parties' obligations under Article 3.1:

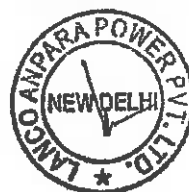
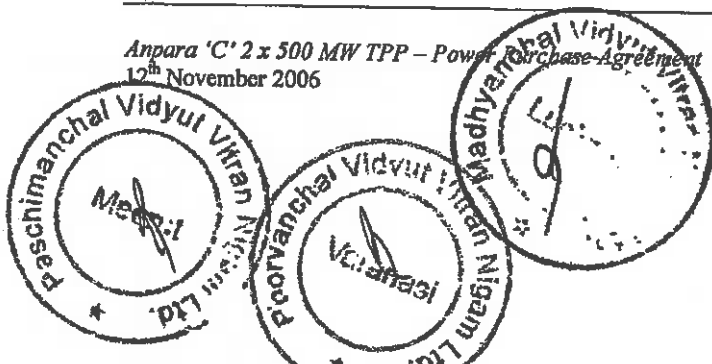
Provided that an appropriate court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or

- (f) any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality occurring after Financial Close which is directed against the Project (other than action taken in connection with or pursuant to a commercial contract between the relevant Indian Government Instrumentality and the Seller or, as the case may be, one of the Seller's Contractors).

Provided that an appropriate court of law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down.

- (g) Radio active contamination or ionising radiation originating from a source in India or resulting from another event of Political Force Majeure excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the site by the affected party or those employed or engaged by the affected party.

13.3.2 The events and circumstances described in Articles 13.3.1(a), 13.3.1(b), and 13.3.1(ca) are referred to in this Agreement as "Indirect Indian Political Events". All others are referred to as "Direct Indian Political Events".





13.3.3 It is expressly understood that a fuel supply interruption caused by the Fuel Supplier or the Seller shall not constitute an Indian Political Event.

13.3.4 If the Parties disagree as to the occurrence of a Indian Political Event, or, its nature, or on any other matter related thereto, they shall refer the matter for resolution to the Expert pursuant to Article 18.4.

13.4 Duty to Mitigate

For so long as an Indian Political Event which is the subject of any claim under this Agreement is continuing the Seller shall use all reasonable endeavours to alleviate its effects on the Seller's performance of its obligations under this Agreement and on the availability of any Commissioned Units.

13.5 Additional Compensation and Buyers' Subrogation

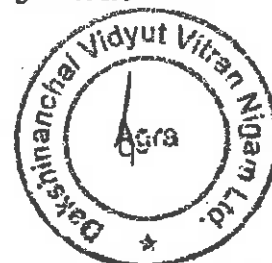
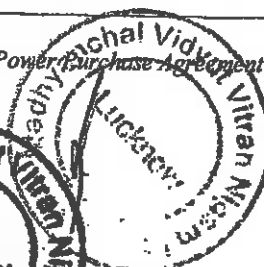
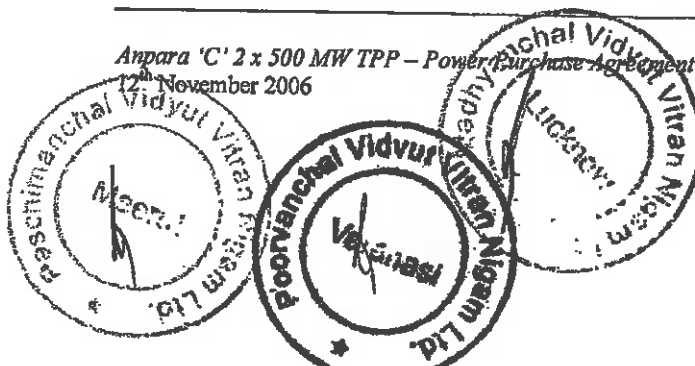
If the Seller is entitled, whether actually or contingently, to be compensated by any person other than the Buyers as a result of the occurrence of an Indian Political Event for which it has received compensation from the Buyers pursuant to this Article 13, including without limitation, payments made which payments would not have been made in the absence of Article 13.1.1, the Buyers shall be fully subrogated to the Seller's rights against that person to the extent of the compensation paid by the Buyers to the Seller.

13.6 Termination and Buy-Out for Indian Political Events

13.6.1 If the Seller's performance of its material obligations is significantly prevented, hindered or delayed or the average Availability Factor of the Power Station is less than sixty five (65) percent in any period of two hundred and seventy (270) consecutive days as a result of Indian Political Events, any Party may elect in a written notice to the other Parties to terminate this Agreement and require the Project to be sold to the Buyers, in accordance with Article 13.6.2.

13.6.2 Subject to Article 13.6.3, upon receipt of a notice under Article 13.6.1, the Buyers shall purchase the Project from the Seller pursuant to Schedule 10. Upon full and final payment by the Buyers and receipt by the Seller of the Buy-out Price in immediately available funds, this Agreement shall terminate.

13.6.3 Notwithstanding Schedule 10, during the following the service of a notice pursuant to Article 13.6.1 and prior to the Transfer Date the Party which served the notice pursuant to Article 13.6.1 may elect by written notice to the other Parties not to terminate this Agreement in which case this Agreement



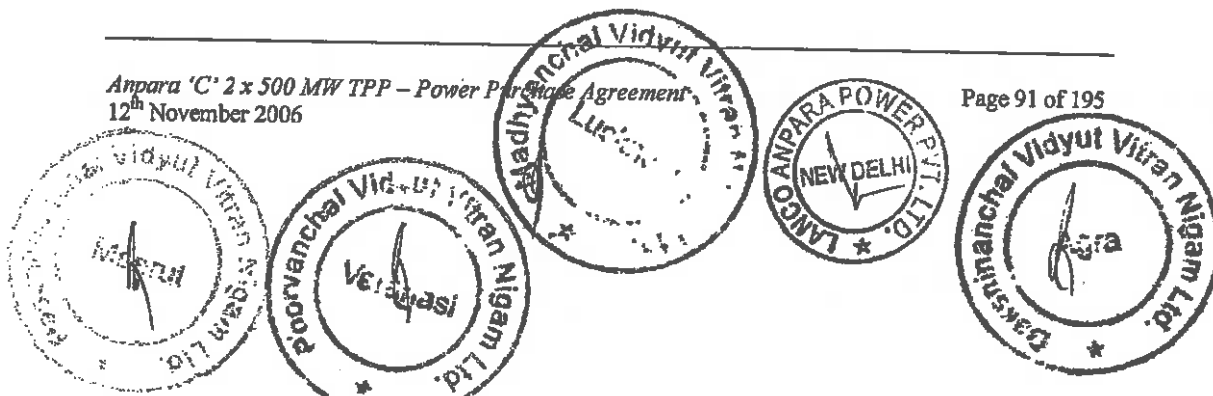


shall continue in full force and effect and the costs of the other Party and of the Appraiser in connection with the Valuation shall be paid within sixty (60) days by the Party which served the Termination Notice.

- 13.6.4 Any Party serving a notice pursuant to Article 13.6.1 who subsequently elects not to terminate this Agreement pursuant to Article 13.6.3 shall not be entitled to serve a notice pursuant to Article 13.6.1 for a period of six (6) months after serving that notice pursuant to Article 13.6.1.

13.7 Breakdown of Communications

In the event that an Indian Political Event causes a breakdown of communications so that a Party is unable to serve any notice under this Agreement, the period for the serving of such notice (if any) shall be extended for every day whilst the Indian Political Event prevents the service of such notice.





ARTICLE 14 CHANGE IN LAW

14.1 Change in Law

If directly due to one or more Changes in Law:

- (a) the Seller's revenue or costs directly attributable to the Project are increased or decreased by not less than fifty (50) lakh Rupees in a Contract Year; or
- (b) the Seller is required to undertake capital expenditure directly attributable to the Project of not less than fifty (50) lakh Rupees in order to perform its obligations or exercise its rights pursuant to this Agreement,

then this Article 14 shall apply.

Provided that the amounts mentioned in sub-articles (a) and (b) above shall escalate from year to year based on the Indian Wholesale Price Index (WPI).

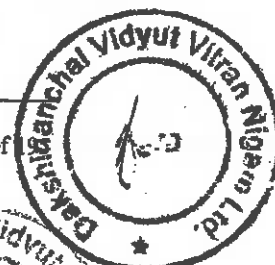
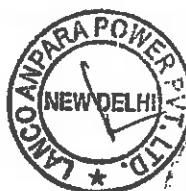
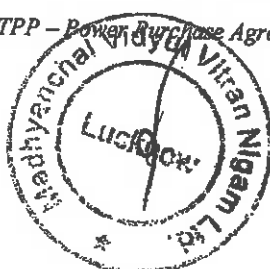
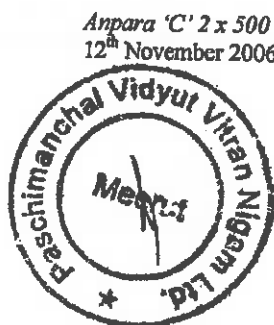
14.2 Notification of Change in Law

14.2.1 If the Seller is affected by a Change in Law in accordance with Article 14.1 wishes to claim a Change in Law under this Article 14 it shall give notice in accordance with Article 14.2.3 to the Buyers of such Change in Law as soon as reasonably practicable after becoming aware of the same.

14.2.2 Notwithstanding Article 14.2.1, the Seller shall be obliged to serve a notice to the Buyers under this Article 14.2 if it is beneficially affected by a Change in Law. Without prejudice to the factum of materiality of other provisions contained in this Agreement, the obligation to inform the Buyers contained herein shall be material for the purposes of Article 15.1(m) of this Agreement.

14.2.3 Any notice served pursuant to this Article 14.2 shall provide, amongst other things, precise details of:

- (a) the Change in Law; and
- (b) the effects on the Seller of the matters referred to in Article 14.2.3(a).





14.3 Amendment to this Agreement

14.3.1 Within sixty (60) days of a notice being served pursuant to Article 14.2, the Parties shall meet and endeavour to agree on what amendment needs to be made to this Agreement through the Monthly Tariff Payment to provide that the Seller is put into the same financial position as it would have been but for the and immediately prior to the occurrence of the Change in Law.

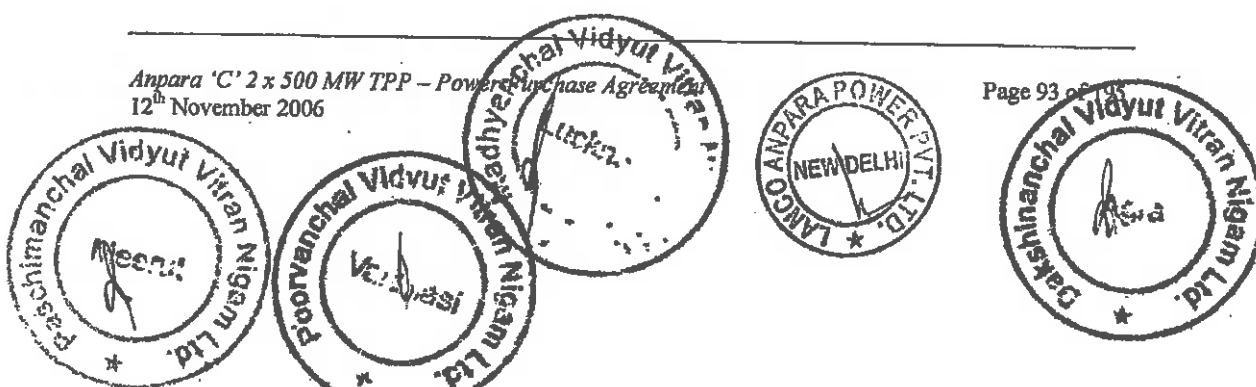
14.3.2 Upon reaching agreement on the amendment required to this Agreement pursuant to Article 14.3.1 the Parties shall execute such amending agreement to give effect to that agreement within thirty (30) days thereof.

14.3.3 If within sixty (60) days of the commencement of the meetings between the Parties pursuant to Article 14.3.1:

- (a) the Parties are unable to reach agreement on the amendment required pursuant to Article 14.3.1; or
- (b) having reached agreement on the amendment required pursuant to Article 14.3, no amending agreement has been executed within a further thirty (30) days of such agreement.

any Party may refer any areas of disagreement to be settled in accordance with Article 18.2 so that the necessary amendment to this Agreement pursuant to Article 14.3.2 is executed. The Parties shall execute such amending agreement so determined in accordance with Article 18.2 as soon as reasonably practicable after the recommendation under Article 18.2 is received.

14.3.4 Notwithstanding the other provision of this Article 14, in case of any Change in Law, the impact of Change in Law shall be restricted to that in relation to any variation in costs of revenues directly attributable to such Change in Law only, and shall not include an variation in costs of revenues on account of any change in NQHR, and shall be put up to the UPERC for its approval after the impact of such Change in Law has been duly certified by the Expert under Article 18. Provided such Expert shall be an auditor in case the Change in Law relates to change in tax on generation or sale of electricity.





ARTICLE 15
TERMINATION FOR DEFAULT

15.1 Termination for Seller Events of Default

All Buyers, or any one of them, as the case may be, must give a notice of their intention to terminate this Agreement upon them noticing the existence or occurrence and continuation of any of the following events (each a "Seller Event of Default"), unless any such Seller Event of Default occurs as a result of a breach by any Buyer of its obligations under this Agreement, a Buyer Event of Default or a Force Majeure Event or an Indian Political Event:

- (a) the failure of any Unit or the Power Station as a whole to be Commissioned by the date falling six (6) months after its Required Commercial Operations Date;
- (a1) the failure of the Seller to achieve Financial Close within fourteen (14) months of the date of issue of the Letter of Acceptance, if such failure takes place despite the fulfilment of the conditions precedent for which the Buyers were jointly or singly responsible under Article 3;
- (b) the failure of the Seller or the Seller's Contractors to commence actual construction of the Project within six (6) months of Financial Close or the failure of the Seller to give notice to proceed to the Construction Contractor within thirty (30) days of Financial Close;

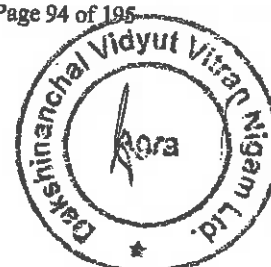
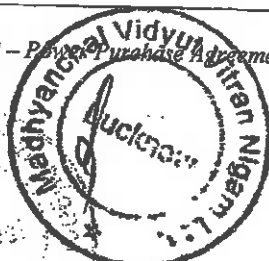
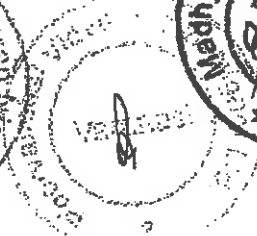
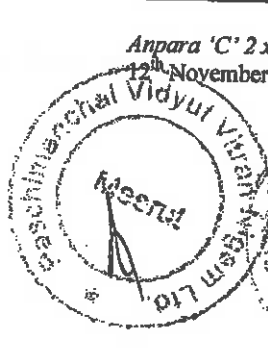
Provided that, in such case, the Buyer or Buyers entitled to issue of notice of their intention to terminate this Agreement, shall have already given a written notice of fifteen (15) days to the Seller stating that the said Buyer or Buyers are of the opinion that there has been either a failure of the Seller or the Seller's Contractors to commence actual construction as required or a failure to give notice to proceed to the Construction Contractor, before issuing a notice under this sub article (b);

- (c) after the commencement of construction of the Project, the abandonment by the Seller or the Seller's Contractors of the construction of the Project:

Provided that, the Seller and the Seller's Contractors shall not be deemed to have abandoned construction of the Project, if and for so long as they are using their diligent efforts to recommence such construction:

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006

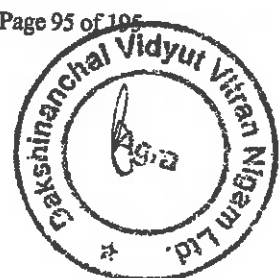
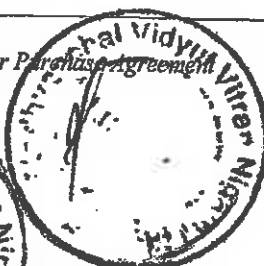
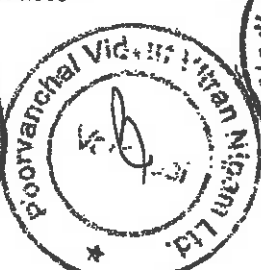
Page 94 of 195





Further provided that, in such case, the Buyer or Buyers entitled to issue of notice of their intention to terminate this Agreement, shall have already given a written notice of fifteen (15) days to the Seller stating that the said Buyer or Buyers are of the opinion that abandonment of the construction of the Project by the Seller or the Seller's Contractors has occurred, before issuing a notice under this sub article (c);

- (d) at any time after the Commissioned Date of the first Unit, the unexcused, breach by the Seller of any of its obligations pursuant to Article 4.1;
- (e) if, without the prior written consent of all the Buyers and also of any other entity involved with the Interconnection and Transmission Facilities (whom the Buyers may collectively nominate in such regard), any employee, agent or representative of the Seller or a Seller's Contractor tampers with the Interconnection and Transmission Facilities unless the same is to take reasonable precautions to prevent imminent material danger to persons or an imminent danger of material damage to property;
- (f) if the average Availability Factor is less than eighty (80) percent over any period of twelve (12) consecutive months or over any period of twelve (12) months in any consecutive period of forty eight (48) months;
- (g) if at any time following a Unit being Commissioned and during its retest, such Unit's Tested Capacity is less than ninety two (92) percent of its Contracted Capacity at the time of Financial Close, provided such Tested Capacity remains below ninety two (92) percent even three (3) months thereafter;
- (h) if the Seller:
 - (i) assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights except in so far as expressly permitted by the Article 17 of this Agreement; or
 - (ii) transfers or novates any of its obligations pursuant to this Agreement in a manner contrary to the provisions of Article. 17;
- (i) if any Initial Equity Investor ceases to be an Investor in accordance with the terms of the clause 4.7 of the RFQ without the prior written consent of all the Buyers, unless such event is the result of the exercise of the rights of any Lender under the Financing Agreements;
- (j) the transfer, pursuant to law, of either

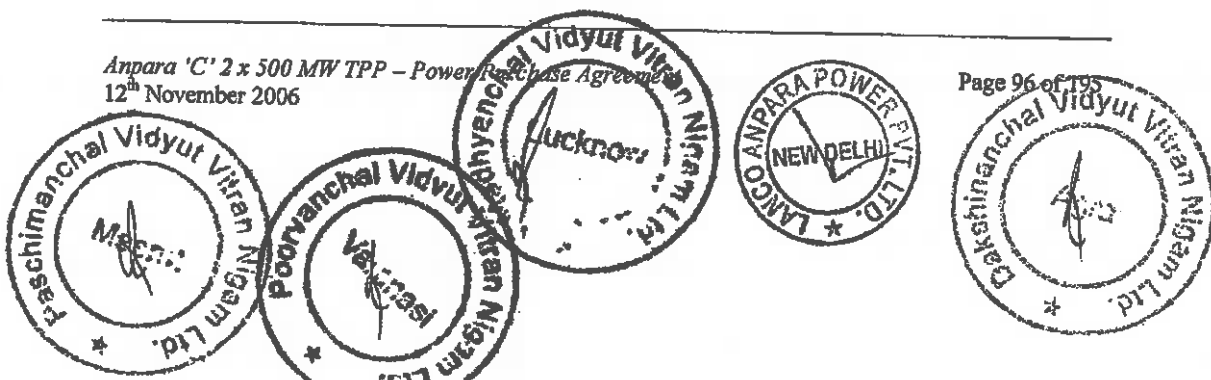




- (i) the rights and / or obligations of the Seller under any of the Project Documents; or
 - (ii) all or a substantial portion of the assets or undertakings of the Seller, except where such transfer:
 - (a) does not affect the ability of the transferee to perform, and such transferee has the financial and technical capability to perform, its obligations under the Project Documents; and
 - (b) is to a transferee of at least equivalent financial standing to the Seller; and
 - (c) such transferee expressly assumes such obligations under the Project Documents and such obligations remain effective with respect to the transferee;
 - (k) the dissolution, pursuant to law, of the Seller, except for the purpose of a merger, consolidation or reorganisation that does not affect the ability of the resulting entity to perform its obligations under this Agreement and provided that such resulting entity expressly assumes such obligations;
 - (l) any misrepresentation or untrue statement made in the representation and warranties made by the Seller in Schedule 13 of this Agreement;
 - (m) except where due to a Buyer's failure to comply with its obligations, the Seller is in material breach of any of its obligations pursuant to this Agreement
- Provided that, in such case, the Buyer or Buyers entitled to issue of notice of its their intention to terminate this Agreement, shall have already given a written notice of fifteen (15) days to the Seller stating that the said Buyer or Buyers is are of the opinion that there has been a material breach of the Seller's obligations by the Seller, before issuing a notice under this sub article (m); or
- (n) the Seller fails to pay to a Buyer any outstanding sum within ninety day's (90) of the Due Date of a valid Invoice raised by the said Buyer on the Seller provided that the Buyer has complied with its material obligations under this Agreement.

15.2 Termination for Buyer Events of Default

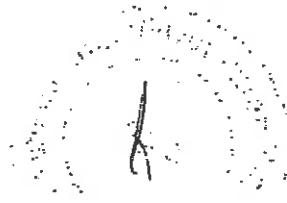
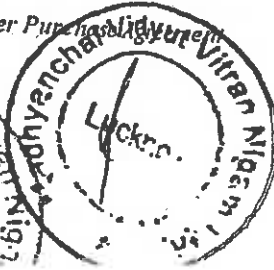
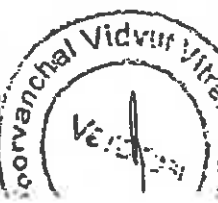
The Seller may give notice of its intention to terminate this Agreement upon noticing the existence or occurrence and the continuation of any of the following events (each a "Buyer Event of Default"), unless any such Buyer





Event of Default occurs as a result of a breach by the Seller of its obligations under this Agreement, a Seller Event of Default or a Force Majeure Event:

- (a) the expropriation, compulsory acquisition, requisition or nationalisation by any Indian Governmental Instrumentality of:
- (i) any shares in the Seller (excluding shares in the Seller owned by any Indian Governmental Instrumentality) if the result would be for such Indian Governmental Instrumentality (whether alone or together with any other Indian Governmental Instrumentality) to acquire ownership or control of a majority of the shares in the Seller or the right to control or direct the composition or decisions of the board of directors or the management of the Seller; or
 - (ii) any material assets or rights of the Seller, the Lenders, the Investors or any Seller's Contractors or any other similar act of such Indian Governmental Instrumentality that materially adversely affects the enjoyment by the Seller, the Lenders, the Investors or the Seller's Contractors of the benefits contemplated by this Agreement, or the performance by the Seller, the Lenders, the Investors or the Seller's Contractors of any of their obligations under or pursuant to the whole or any part of the Security Package;
- (b) the transfer or dissolution, pursuant to a law, of either:
- (i) the rights and / or obligations of a Buyer under this Agreement or the rights and / or obligations of GOUP under the Implementation Agreement; or
 - (ii) all or a substantial portion of the assets or undertakings of a Buyer except where such transferee or resulting entity:
 - (I) is either the owner or operator of all or substantially all of the distribution system of Uttar Pradesh and / or is the purchaser and seller of all or substantially all of the bulk supplies of electricity distributed in the area which was originally under the Buyer in question; and
 - (II) expressly assumes such obligations and all the Government Agreement remain in full force and effect and are effective with respect to any transferee or resulting entity of the rights and / or obligations of the Buyer in question;
- (c) a Buyer fails to observe or perform any of its material obligations under Article 10.3 within ninety day's (90) of the Due Date of a valid Invoice or, where such payment obligation exceeds Rupees twenty (20)





crores, within sixty (60) days of the Due Date of the valid Invoice (a "Payment Shortfall Default"), provided that the Seller has complied with its material obligations under this Agreement and has first made demand without satisfaction under the relevant Buyer Standby Letter of Credit and the relevant Default Contingency Account against a valid Invoice;

- (d) (Omitted)
- (e) except where due to the Seller's failure to comply with its obligations, a Buyer, is in material breach of any of its obligations pursuant to this Agreement:

Provided that, in such case, the Seller shall have already given a written notice of fifteen (15) days to the Buyer or Buyers, as the case may be, stating that the Seller is of the opinion that there has been a material breach of the Buyer's or Buyers' obligations, before issuing a notice under this sub article (e);

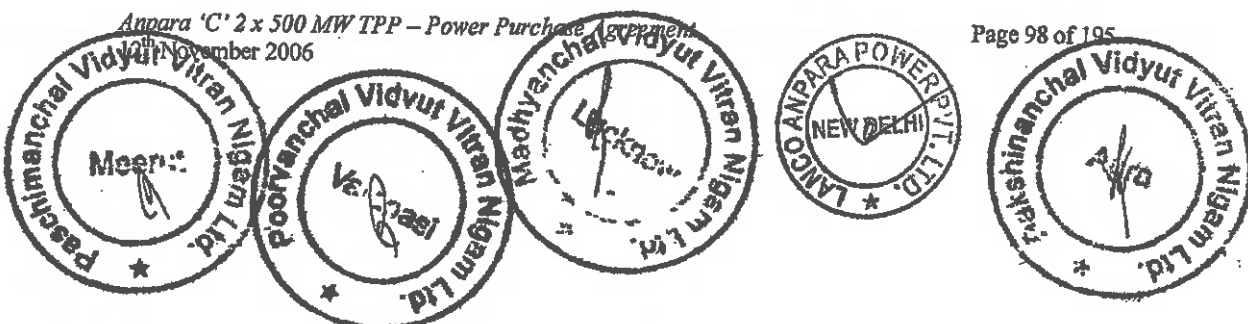
- (f) any misrepresentation or untrue statement made in the representation and warranties by a Buyer mentioned in Schedule 13 of this Agreement;
 - (g) except where due to the Seller's failure to comply with its obligations, the GOUP shall be in material breach of its obligations under the Implementation Agreement;
- or
- (h) any Default Contingency Agreement shall have been terminated other than through natural expiry.

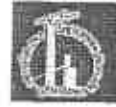
15.3 Termination Procedure for Seller Events of Default

15.3.1 A notice of termination given by a Buyer or the Buyers to the Seller pursuant to Article 15.1 (a "Preliminary Termination Notice") shall specify in reasonable detail the circumstances giving rise to the Preliminary Termination Notice and a copy of such Preliminary Termination Notice must also be given to the Lenders:

Provided that, as long as a Performance Bond is subsisting as per the terms of this Agreement, before issuing a Preliminary Termination Notice, the Buyers shall, in all cases, comply with the procedure set forth in Article 3.7 herein and shall only issue a Preliminary Termination Notice as specifically provided for in Article 3.7.5.

Provided further that, at any time after the issue of the Preliminary Termination Notice, the Lenders shall be permitted, by notice to the Buyers to,





seek their right to operate the Project through a selectee in accordance with the provisions of the Direct Agreement.

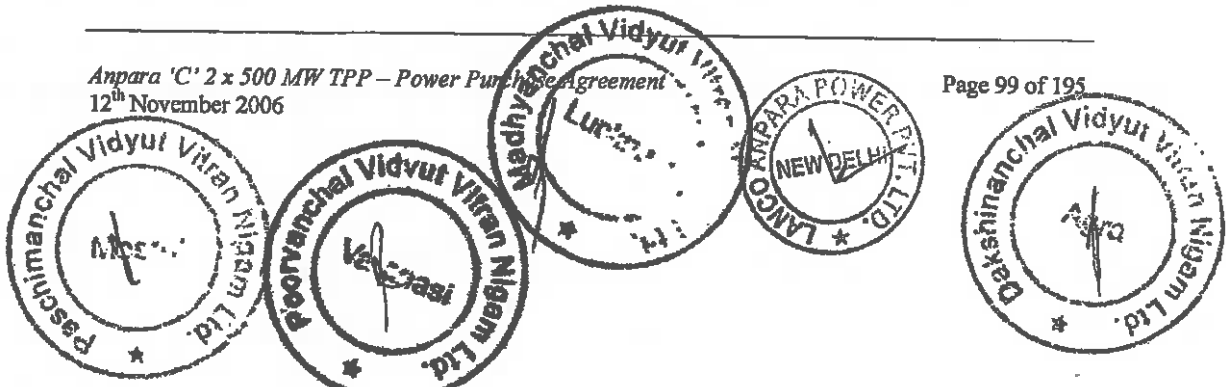
15.3.2 Following the issuance of a Preliminary Termination Notice under Article 15.3.1, all Parties and the Lenders shall consult for a period of up to two (2) months (or such longer period as they may agree) (the "Suspension Period") as to what steps shall be taken with a view to mitigating the consequences of the relevant event having regard to all the circumstances:

Provided that:

- (a) subject to Articles 15.3.2(b) and 15.3.2(c), the Suspension Period shall be increased to six (6) months where a Buyer or Buyers have served a Preliminary Termination Notice under paragraphs (f) or (g) of Article 15.1 and the Seller or the Lenders (or an agent, representative or trustee on their behalf) are in compliance with all other obligations of the Seller under this Agreement;
- (b) subject to Article 15.3.2(c), the Suspension Period shall be reduced to five (5) days in the case of a Preliminary Termination Notice served under paragraphs (a), (k), (l), (m) and (n) of Article 15.1 unless the Seller or the Lenders (or an agent, representative or trustee on their behalf) provides evidence acceptable to the Buyer or Buyers issuing the Preliminary Termination Notice of the reason for such default and the how the default is proposed to be cured whereupon the five (5) day period, shall be extended day by day (but for no longer two (2) months) for so long as the aforementioned entities continue to show to the satisfaction of the Buyer or Buyers issuing the Preliminary Termination Notice that it or they are taking adequate steps to cure the default.
- (c) The Seller may, with the prior written consent of the Lenders' Representative served on the Seller and the Buyers, waive the Suspension Period in respect of a Preliminary Termination Notice served by a Buyer or Buyers.

15.3.3 During any Suspension Period, all Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.

15.3.4 Within the period of five (5) days following the expiry of the Suspension Period or as soon as permitted under Article 5.1 of the Direct Agreement, whichever is later, unless the Parties shall have otherwise agreed or the circumstances giving rise to the Preliminary Termination Notice shall have ceased to exist or shall have been remedied, the Buyer or Buyers having given the Preliminary Termination Notice may terminate this Agreement by giving a written notice (a "Termination Notice") to the other Parties or to the Seller, respectively and to the Lenders' Representative, whereupon, subject to the





terms and conditions of Schedule 10 and the Direct Agreement, this Agreement shall terminate on the date of such Termination Notice.

15.4 Termination Procedure for Buyer Events of Default

15.4.1 A notice of termination given by the Seller to a Buyer or Buyers pursuant to Article 15.2 (also a "Preliminary Termination Notice") shall specify in reasonable detail the circumstances giving rise to the Preliminary Termination Notice and a copy of such Preliminary Termination Notice must also be given to the Lenders and other Buyers.

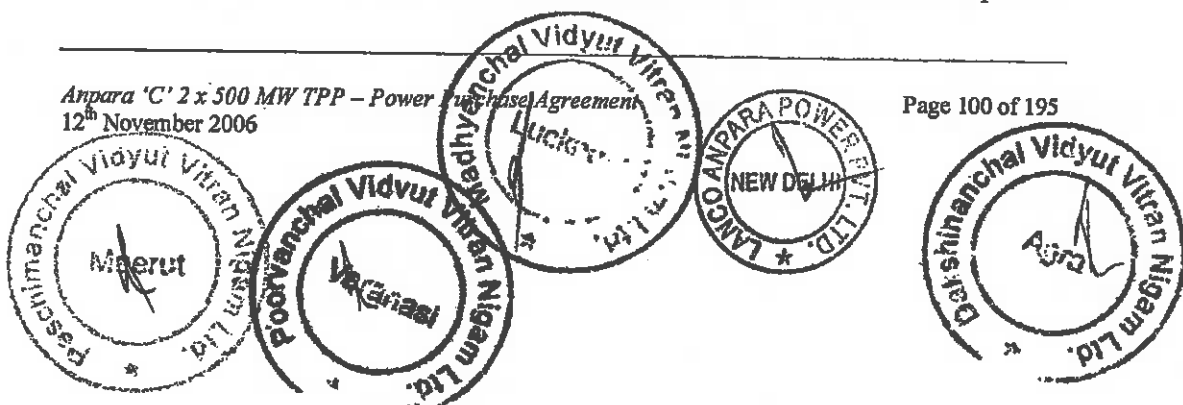
15.4.2 Following the issuance of a Preliminary Termination Notice under Article 15.4.1, and subject to Article 15.4.4 as regards the period commencing five (5) days prior to the anticipated expiry of the Suspension Period, all Parties shall consult for a period of up to two (2) months (or such longer period as they may agree) (also the "Suspension Period") as to what steps shall be taken with a view to mitigating the consequences of the relevant event having regard to all the circumstances:

Provided that:

- (a) subject to Articles 15.4.2(b), the Suspension Period shall be reduced to five (5) days in the case of a Preliminary Termination Notice served under paragraphs (b), (c), of Article 15.2 unless the Buyer or Buyers receiving the Preliminary Termination Notice ("Defaulting Buyer" or "Defaulting Buyers") in question provide evidence acceptable to the Seller of the reason for such default and the how the default is proposed to be cured whereupon the five (5) day period, shall be extended day by day (but for no longer two (2) months) for so long as the said Defaulting Buyer or Defaulting Buyers continue to show to the satisfaction of the Seller that they are taking adequate steps to cure the default.
- (b) the Defaulting Buyer or Buyers, with the prior written consent of the other Buyers, may waive the Suspension Period in respect of the said Preliminary Termination Notice.

15.4.3 During any Suspension Period, all Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.

15.4.4 Five (5) days prior to the expected expiry of the Suspension Period, unless the Parties shall have otherwise agreed or the circumstances giving rise to the Preliminary Termination Notice shall have ceased to exist or shall have been remedied, the non defaulting Buyer or Buyers, shall be entitled to require in



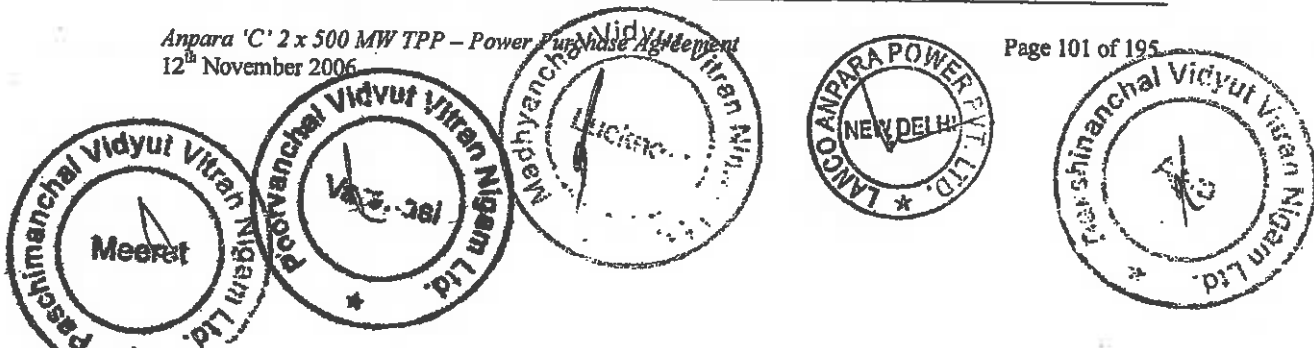


every case where the Suspension Period was triggered by a Payment Shortfall Default by the Defaulting Buyer or Buyers, that the Seller accept from the said non defaulting Buyer or Buyers monies representing the extent of the payment shortfall. If the payment is made by the non defaulting Buyer or Buyers, such non defaulting Buyer or Buyers would acquire a claim against the defaulting Buyer whose default has been cured.

15.4.5 If the payment referred to in Article 15.4.4 is duly made by the non defaulting Buyer or Buyers within ten (10) days of such notification to the Seller:

- (a) the Payment Shortfall Default being a Buyer Event of Default shall be deemed to have cease to exist from the date of receipt of payment; and
- (b) entitlement to such portion of the Available Capacity and Electricity produced which was originally earmarked for the Defaulting Buyer or Buyers, as had not been paid for by the said Defaulting Buyer or Buyers, thus leading to the Payment Shortfall Default referred to hereinabove, shall stand transferred to the non defaulting Buyer or Buyers, as the case may be, (and in the case of more than one non defaulting Buyer making payments contemplated by this sub Article, on a pro rata basis proportionate to the said non defaulting Buyers' then existing entitlement to Available Capacity) on the same terms and conditions as listed herein for a period of thirty (30) days or till the time when the Payment Shortfall Default is finally cured and the non defaulting buyer or Buyers have received from the defaulting Buyer or Buyers the full sums of monies paid by the non defaulting Buyer or Buyers under Article 15.4.4. to the Seller. Till such time and during such period, notwithstanding anything to the contrary contained anywhere in this Agreement or otherwise, the reduced entitlement of the Defaulting Buyers to Available Capacity and dispatched Electrical Output of the Power Station shall be deemed to be its or their original entitlement under this Agreement and this Article 15.4.5, if applied at a subsequent point in time shall be applied in respect of such reduced entitlement.

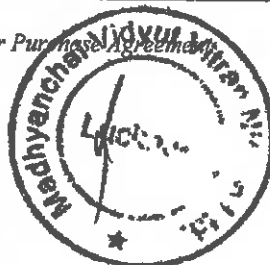
For the purposes of clarification, Parties expressly agree that in such situation, the Defaulting Buyer or Buyers shall cease to have any rights in respect of such portion of the Available Capacity and associated Electricity produced earmarked for him or them which was the subject of the Payment Shortfall Default and paid for instead by the non defaulting Buyer or Buyers and this agreement and its provisions shall be construed accordingly. Parties further agree that if the defaulting Buyer or Buyers are in complete default of his or their payment obligations as provided for in Article 15.2(c) and the non defaulting Buyer or Buyers make the entire payment which is the subject of the said Payment Shortfall Default, the non defaulting Buyer or Buyers shall in such circumstances be permanently and for the rest of the term





of the Agreement have a right to the entire allocation of Available Capacity and dispatched Electrical Output originally intended for the Defaulting Buyer or Buyers, who shall in turn cease to have any rights and obligations under this Agreement save those already accrued prior to the date of such payment.

- 15.4.6 Within the period of five (5) days following the expiry of the Suspension Period or as soon as permitted under Article 5.1 of the Direct Agreement, whichever is later, unless the Parties have otherwise agreed that the circumstances giving rise to the Preliminary Termination Notice have ceased to exist and / or remedied or the non defaulting Buyers have made a payment representing the Payment Shortfall Default amount, the Seller may terminate this Agreement by giving a written notice (a "Termination Notice") to all the Parties and the Lenders' Representative, whereupon, subject to the terms and conditions of Schedule 10, this Agreement shall terminate on the date of such Termination Notice.





ARTICLE 16 LIABILITY AND INDEMNIFICATION

16.1 Limitation of Liability

Notwithstanding any other term or provision of this Agreement, the aggregate liability which each of the Parties shall have for all claims made under this Article 16 shall not exceed Rs. Five (5) crore rupees in any given year over the term of this Agreement.

16.2 Indemnification by the Buyers

Each Buyer (in so far as a Buyer is concerned individually, the "Indemnifying Buyer") agrees with the:

- (a) Seller, on its own behalf and as trustee on behalf of the Seller's Contractors to indemnify and hold harmless the Seller and each of the Seller's Contractors;
- (b) Other Buyer, on its own behalf and as trustee on behalf of any of the said other Buyer's Contractors to indemnify and hold harmless the other Buyer and each of the other Buyer's Contractors;

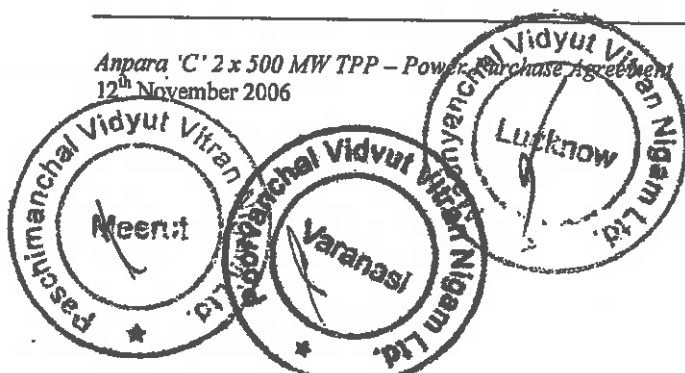
for any loss of or damage to property, death or injury to person (or any claim against the Seller and / or any of the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors in respect of any loss of or damage to property, death or injury to person) and all related expenses (including without limitation reasonable legal fees) suffered by the Seller and / or any of the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors in connection with the Project and the Interconnection and Transmission Facilities to the extent resulting from any negligent act or omission of the Indemnifying Buyer and / or any of the Indemnifying Buyer's Contractors or their respective employees, without recourse to the Seller and / or any of its Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors and hold the Seller and / or the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors fully indemnified in respect of any such loss of or damage to property, death or injury to person

Provided that:

- (a) such indemnity shall not extend to any loss, damage, death or injury (or any related claim) or any related expenses to the extent that:
 - (i) it arose from a claim made outside India; or

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006

Page 103 of 195





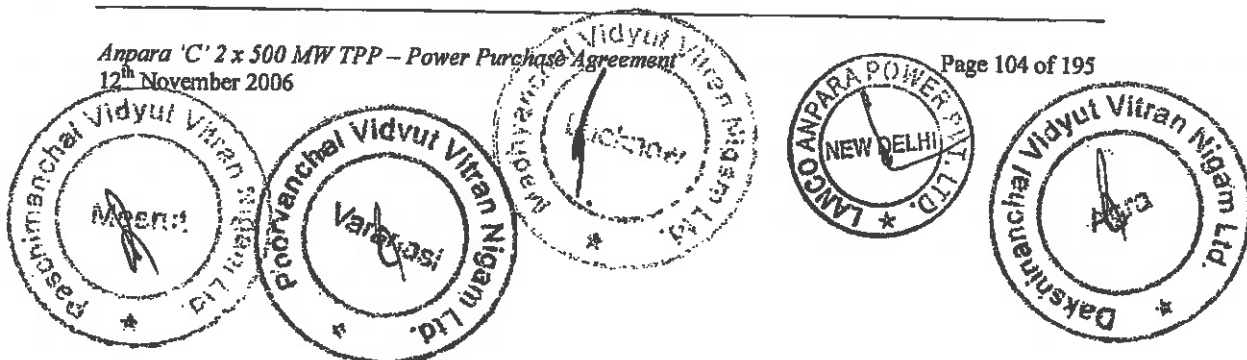
- (ii) it was caused by any act or omission of the Seller and / or any of the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors or the failure of the Seller and / or any of the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors to take reasonable steps to mitigate that loss, damage, death or injury; and
- (b) nothing in this Article 16.2 shall apply to any loss, damage, cost or expense in respect of and to the extent that the Seller and / or any of the Seller's Contractors and / or other Buyer and / or the other Buyer's Contractors are compensated pursuant to the terms of any agreement (including but not limited to any Project Document) or under any policy of insurance (including but not limited to the Insurances).

16.3 Indemnification by the Seller

The Seller agrees with the Buyers on its own behalf and as trustee on behalf of any of Buyers' Contractors to indemnify and hold harmless all the Buyers and each of Buyers' Contractors for loss of or damage to property, death or injury to person (or any related claim against the Buyers and / or any of the Buyers' Contractors) and all related expenses (including without limitation reasonable legal fees) suffered by the Buyers and / or any of the Buyers' Contractors in connection with the Project and the Interconnection and Transmission Facilities to the extent resulting from any negligent act or omission of the Seller and / or any of the Seller's Contractors or their respective employees, without recourse to the Buyers and / or any of the Buyers' Contractors and will hold the Buyers and / or any of the Buyers' Contractors fully indemnified in respect of any such loss of or damage to property, death or injury to person

Provided that:

- (a) such indemnity shall not extend to any loss, damage, death or injury (or any related claim) or any related expenses to the extent that:
 - (i) it arose from a claim made outside India; or
 - (ii) it was caused by any act or omission of the Buyers and / or any of the Buyers' Contractors or the failure of any of the Buyers and / or any of the Buyers' Contractors to take reasonable steps to mitigate that loss, damage, death or injury; and
- (b) nothing in this Article 16.3 shall apply to any loss, damage, cost or expense in respect of, and to the extent that any Buyers and / or the Buyers' Contractors are compensated pursuant to the terms of any policy of insurance including but not limited to the Insurances.





16.4 Assertion of Claims

Each Party shall notify the other Parties promptly of its entitlement, and intention, to make any claim for indemnification pursuant to this Article 16.

16.5 Defence of claims

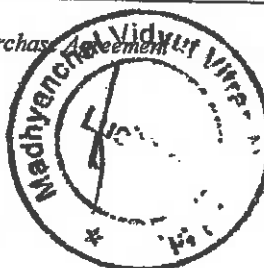
16.5.1 The person or persons indemnified pursuant to this Article 16 shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such person in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified under this Article 16 and the reasonable cost and expenses incurred by the person indemnified shall be subject to the indemnification obligation of the person indemnified under this Article 16:

Provided that, if the person indemnifying acknowledges in writing its obligation to indemnify the person or persons indemnified in respect of loss to the full extent provided by this Article 16, the person indemnifying shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding liabilities, payments and obligations at its expense and through counsel of its choice if it gives prompt notice of its intention to do so to the person or persons indemnified and reimburses the person or persons indemnified for the reasonable cost and expenses incurred by the person or persons indemnified prior to the assumption by the person indemnifying of such defence.

16.5.2 The person or persons indemnified which exercises its rights under Article 16.5.1 shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the person indemnifying (which consent shall not be unreasonably withheld or delayed).

16.5.3 Any person indemnified which exercises its rights under Article 16.5.1 shall have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such person indemnified, when and as incurred, unless:

- (a) the employment of counsel by such person indemnified has been authorised in writing by the person indemnifying;
- (b) the person indemnified shall have reasonably concluded that there may be a conflict of interest between the person indemnifying and the person indemnified in the conduct of the defence of such action;
- (c) the person indemnifying shall not in fact have employed independent counsel reasonably satisfactory to the person indemnified to assume the defence of such action and shall have been so notified by the person indemnified; or





- (d) the person indemnified shall have reasonably concluded and specifically notified the person indemnifying either that there may be specific defences available to it which are different from or additional to those available to the person indemnifying or that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

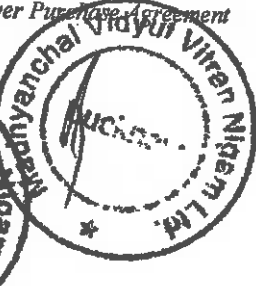
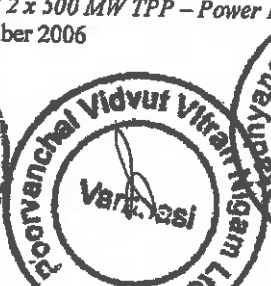
Provided that if Articles 16.5.3(b), 16.5.3(c) or 16.5.3(d) apply, counsel for the person indemnified shall have the right to direct the defence of such claim, action, suit or proceeding on behalf of the person indemnified and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses under this Article 16.

- 16.5.4 Any person other than the Parties seeking the benefit of the indemnity provided pursuant to this Article 16 must acknowledge, on request and in writing to all Parties to this Agreement, that, in consideration of receiving such indemnity, such person is bound by the terms of this Article 16.5.

16.6 Consequential and Indirect Losses

Except as required by this Article 16, no Party shall be liable to the other Party or Parties in contract, tort, or without limitation, in any applicable law for the time being in force or any other legal theory for any indirect, consequential, incidental, punitive or exemplary damages and no Party shall have any liability to the others except pursuant to, or for breach of, this Agreement:

Provided that, this provision is not intended to constitute a waiver of any rights of one Party against the other or others with regard to matters unrelated to this Agreement.





ARTICLE 17 ASSIGNMENTS AND CHARGES

17.1 Assignments

Subject to Article 17.2, this Agreement may not be assigned by any Party (and no Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement) other than by mutual agreement between the Parties to be evidenced in writing:

Provided that, such consent shall not be unreasonably withheld if any of the Buyers seeks to transfer to any transferee all of its rights and obligations under this Agreement; and

- (a) such transferee is either the owner or Operator of all or substantially all of the distribution system for Uttar Pradesh and / or is the purchaser and seller of all or substantially all of the bulk supplies of electricity distributed in the area originally under the Buyers; and
- (b) all Government Agreement shall remain in place and shall be effective as to such successor.

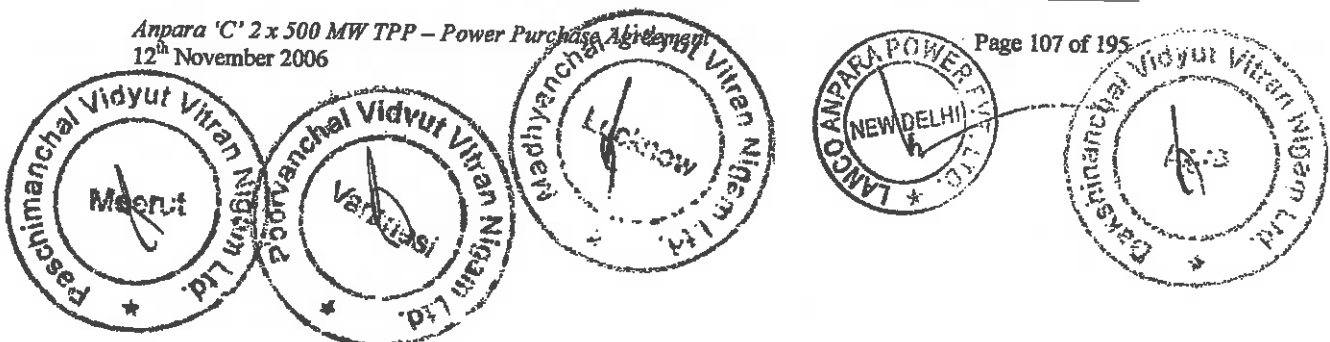
17.2 Permitted Charges

17.2.1 Notwithstanding Article 17.1, the Seller may create any encumbrance over all or part of the payment security mechanism and payment mechanisms or the other assets of the Project to the Lenders or the Lender's Representative on their behalf as security for:

- (a) amounts payable under the Financing Agreements; and
- (b) any other amounts agreed by the Parties,

Provided that:

- I the Lenders or the Lender's Representative on their behalf shall have entered into the Direct Agreement in the Agreed Form; and
- II any encumbrances granted by the Seller in accordance with this Article 17.2.1 shall contain provisions pursuant to which the Lenders or the Lender's Representative on their behalf agrees unconditionally with the Seller itself and as trustee of the Buyers:
 - (i) to release from such encumbrances all of the right, title and interest of the Seller to Additional Compensation so as to



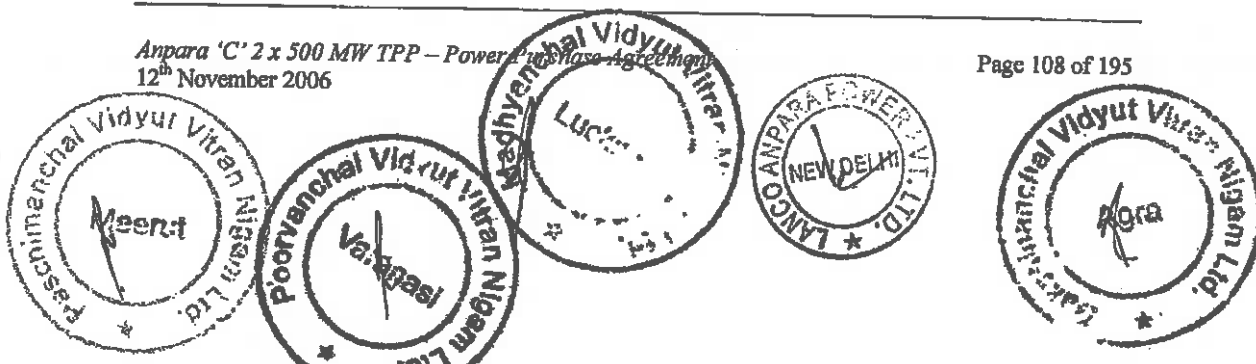


enable the Buyers to claim its right of subrogation pursuant to 13.5; and

- (ii) to release such encumbrances upon payment by either or all of the Buyers to the Seller of the aggregate amount payable by all the Buyers pursuant to Schedule 10.

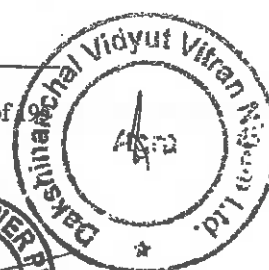
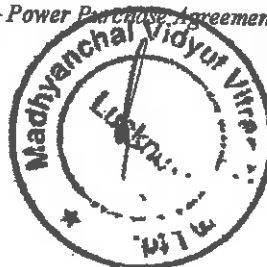
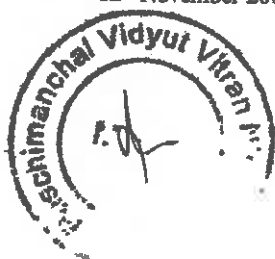
17.2.2 Article 17.1 does not apply to:

- (a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of the Seller carrying out the Project;
- (b) pledges of goods, the related documents of title and / or other related documents arising or created in the ordinary course of the Seller carrying out the Project; or
- (c) security arising out of retention of title provisions in relation to goods acquired in the ordinary course of the Seller carrying out the Project.





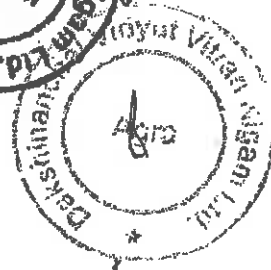
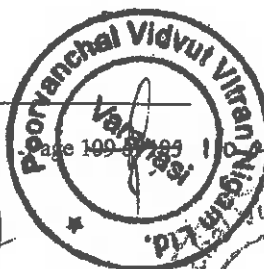
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Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006





ARTICLE 18
GOVERNING LAW AND DISPUTES

18.1 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of India.

18.2 Dispute Resolution

18.2.1 Save where expressly stated to the contrary in this Agreement, or where this Agreement provides that a Dispute shall be referred to the Expert for resolution, a Dispute between two or more Parties shall be referred to the dispute resolution procedures, first under Article 18.2.2 and then under Article 18.3.

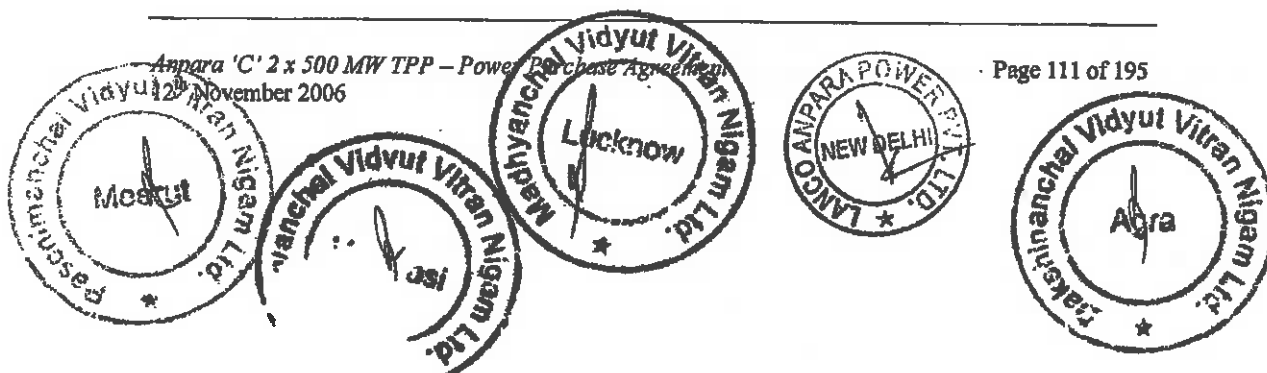
18.2.2 Panel for mediation:

Each Party:

- (a) shall select and appoint one or two high-level representative(s) not concerned with the day to day performance of their appointer's obligations under this Agreement to sit on a panel (the "Panel") as soon as reasonably practicable before Financial Close;
- (b) shall notify the other of the name and relevant qualifications of the Panel member(s) it has selected within thirty (30) days of their selection; and
- (c) may appoint, substitute or replace the Panel members from time to time and shall notify the other Party of the name and relevant qualifications of the substitute or replacement Panel members so appointed within thirty (30) days of their appointment.

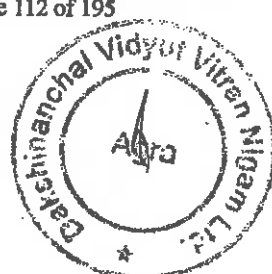
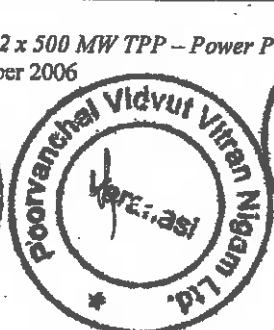
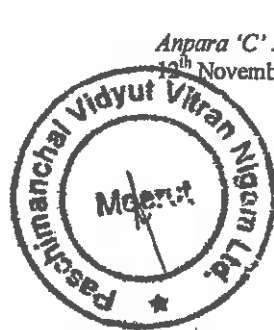
18.2.3 The Panel shall conduct the mediation in English, in Lucknow, as it thinks fit, guided by the principles of equity and justice.

18.2.4 In the case of a Dispute, any Party may approach the panel for commencement of dispute resolution proceedings. All Parties shall exchange, within fourteen (14) days of the Dispute being referred to the Panel, mediation briefs in English with principal supporting documentation summarising their respective cases and deliver copies of the briefs to the Panel.





- 18.2.5 The Panel may at any time during the mediation process request a Party to submit to it such additional information as it deems necessary.
- 18.2.6 The Panel shall fix a date for the mediation hearing at the earliest convenient date and in any event within sixty (60) days of the Dispute being referred to the Panel. Each meeting before the Panel shall be attended by representatives of the Parties with full settlement authority.
- 18.2.7 At the mediation hearing, each of the Parties (who may be represented) will first give a brief presentation of its position to the Panel following which the Panel will then proceed to mediate the Dispute in accordance with the provisions of Article 18.2.3.
- 18.2.8 The Panel will (unless a settlement has already been achieved between the Parties) produce a non-binding recommendation.
- 18.2.9 If a settlement is achieved, the Parties will draw up an appropriate settlement agreement (in relation to which the Panel may be called upon to assist).
- 18.2.10 No agreement as to the terms of any settlement reached during any mediation hearing shall be legally binding unless and until it is reduced to writing and signed by the duly authorised representatives of the Parties.
- 18.2.11 Any Party may at any time during the dispute resolution process before the Panel serve notice on the others that it is withdrawing from the mediation process, in which event the Panel will cease hearing, and will cease to have any authority or responsibility in relation to the Dispute.
- 18.2.12 The Panel's deliberation and recommendation will be confidential and without prejudice to any subsequent judicial or arbitration proceedings and unless the Parties otherwise agree, the members of the Panel shall not act or appear in any judicial or arbitration proceedings, whether as an arbitrator, representative of a Party or as a witness.
- 18.2.13 The Parties shall not, in any judicial proceedings:
- (a) introduce any concessions or admissions made by any other party to the Dispute or regarding any possible settlement, or the fact that another Party had incited a willingness to adopt a proposal put forward by the Panel; or
 - (b) refer to any settlement proposals as having been made or recommended by the Panel.
- 18.2.14 Save and to the extent that a settlement provides otherwise, the costs of the Panel and the costs of the mediation process will be borne equally by the Parties and each of the Parties will bear its own costs.
- 18.2.15 In the event that:





- (a) any such Dispute is not settled by the Parties through the mediation process;
- (b) a Party does not accept the Panel's recommendation (in whole, or in part); or
- (c) a Party gives notice of withdrawal pursuant to Article 18.2.11;

then any Party may refer the Dispute (or the relevant part of the Dispute) to arbitration in accordance with Article 18.3.

Provided that, in the event that the Dispute does not involve the Seller and is only one between the Buyers *inter se*, if the same is not resolved within 15 days by a committee consisting of 4 members, one nominated by each Buyer, it shall be immediately referred to the UPERC for resolution.

18.3 Arbitration

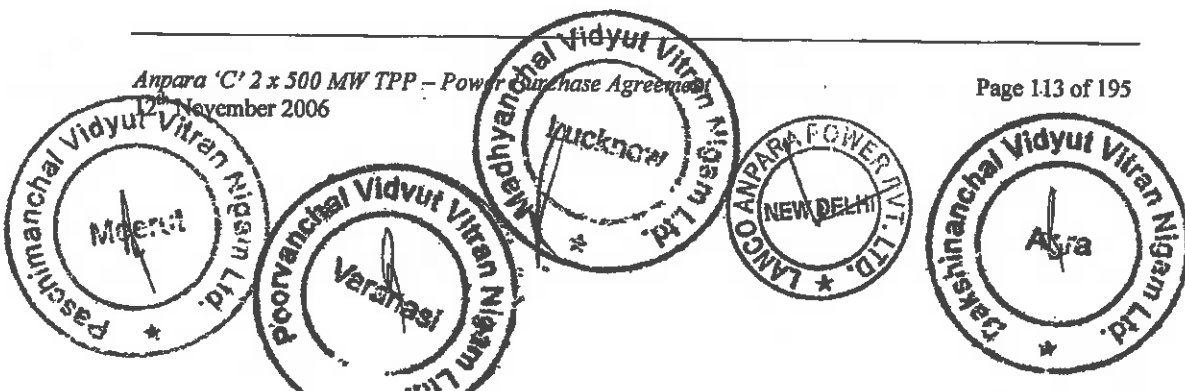
Where any Dispute is not resolved as provided for in Article 18.2, the following provisions shall apply:

- (a) an application for nomination of a Panel of three (3) arbitrators to carry out arbitration under the Arbitration and Conciliation Act, 1996, in respect of the Dispute may be made by any Party to the UPERC in accordance with Section 158 of the Electricity Act;
- (b) A copy of such application shall also be sent to the other Parties;
- (c) the place of arbitration shall be Lucknow;
- (d) the language of the arbitration shall be English;

18.4 Expert

The following provisions shall apply between the Parties in respect of any matter, difference or Dispute, which this Agreement provides is to be referred to the Expert:

- (a) prior to Financial Close, the Parties shall appoint in the following manner an Independent Engineer with international experience (including in India) in the design and operation power plants to act as the expert (the "Expert") in relation to technical matters ("Technical Expert") and an independent financial consultant with international experience (including in India) in the development and financing of power projects (also an "Expert") to act as the Expert in relation to financial matters ("Financial Expert") arising under this Agreement





for an initial term to be agreed between the Parties and the relevant Expert:

The Seller shall propose the names of five (5) suitable independent engineers and five (5) independent financial consultants who satisfy the criteria listed above. On being notified of the names of these five (5) independent engineers and independent financial consultants, the Buyers shall jointly, within thirty (30) days, choose one each, who shall on such choice being made stand designated as the Independent Engineer and independent financial consultant, both Experts for the purposes of this Agreement.

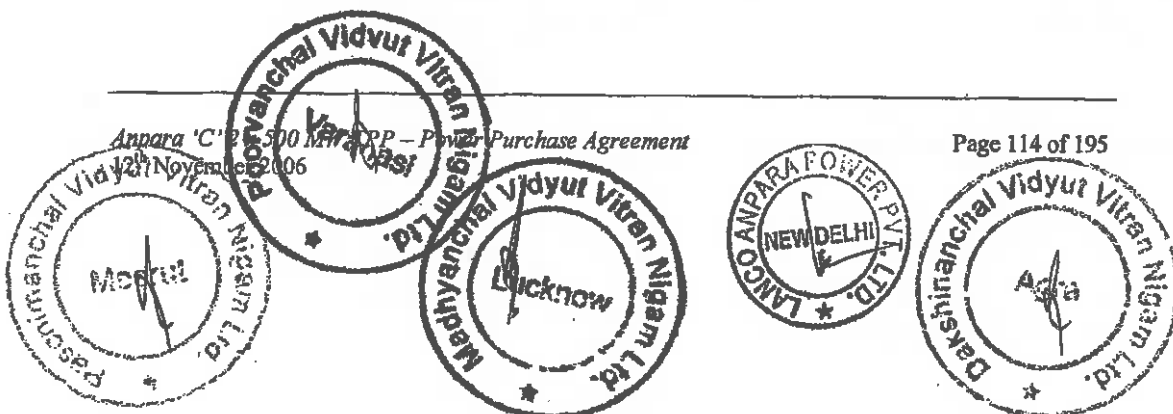
- (b) the Parties will refer matters, differences or Disputes in issue between them to whichever Expert they agree to (or, in the event of no agreement on such point, the aforementioned Independent Engineer shall decide);
- (c) the Expert will resolve or settle such matter or Dispute in such manner as he shall in his absolute discretion see fit;

To this effect, Parties agree that unless contested within seven (7) days of the final decision of the Expert in accordance with Article 18.2, the Expert's determination shall be considered a valid, legal and binding agreement as between the Parties and shall, to such extent, be deemed to form a part of this Agreement from such point on.

- (d) the Expert shall be required to make, within thirty (30) days of the matter being referred to him, his determination of the matter in Dispute:

Provided that, if he fails to make any determination within sixty (60) days of the matter being referred to him any Party may, by not less than seven (7) days notice to the others, require the appointment, pursuant to the terms of this Article 18, of a substitute Expert who shall then determine the matter in Dispute in accordance with this Article 18.4;

- (e) the Expert shall, subject to the following paragraphs below, determine which Party bears the costs (or a portion of the costs) of settling or determining such Dispute or difference;
- (f) if the Expert settles or determines a Dispute or difference in a manner entirely consistent with a Party's or Parties' initial position on such Dispute or difference, the Expert shall determine that the other Party or Parties bear the costs of settling or determining the dispute or difference;





- (g) the Expert shall determine that any Party which fails to comply with its decision in respect of a Dispute or difference shall bear the costs of settling or determining such Dispute or difference; and
- (h) If there is any further Dispute in relation to such decision of the Expert, or ability of the Expert to hear a Dispute, or to render a decision, or matters related therein, or if either Party alleges that the impugned decision is not a binding agreement, the Parties may only further agitate the matter under and in accordance with the arbitration related provisions of Article 18.3.

18.5 Waiver of Immunity

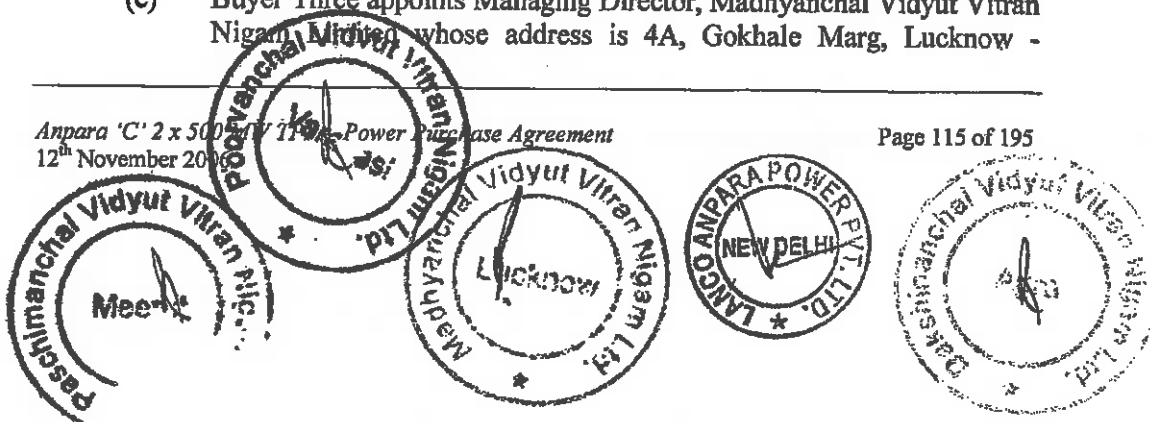
The Buyers unconditionally and irrevocably:

- (a) agree that the execution, delivery and performance by it of this Agreement and those agreements included in the Security Package to which it is a Party constitute private and commercial acts rather than public or governmental acts;
- (b) *(Omitted)*;
- (c) consent generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including, without limitation, the making, enforcement or execution against or in respect of any property irrespective of its use or intended use).

18.6 Service of Process

18.6.1 With respect to any proceedings of enforcement of an award pursuant to Article 18.3 against assets of either Party brought exclusively in the courts of Lucknow:

- (a) Buyer One appoints Managing Director, Pashchimanchal Vidyut Vitran Nigam Limited whose address is Hydrel Inspection House, Hydrel Colony, Victoria Park, Meerut - 250001 to receive for and on its behalf service of process in any such enforcement proceedings;
- (b) Buyer Two appoints Managing Director, Purvanchal Vidyut Vitran Nigam Limited whose address is Vidyut Nagar, Bhikharipur, P.O DLW, Varanasi - 221010 to receive for and on its behalf service of process in any such enforcement proceedings;
- (c) Buyer Three appoints Managing Director, Madhyanchal Vidyut Vitran Nigam Limited whose address is 4A, Gokhale Marg, Lucknow -



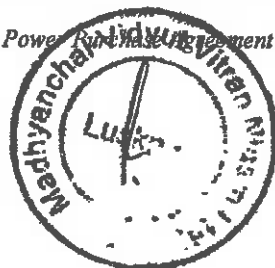
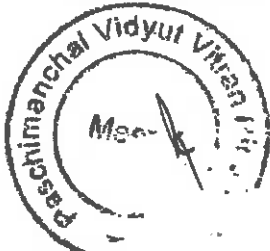


226001 to receive for and on its behalf service of process in any such enforcement proceedings;

- (d) Buyer Four appoints Managing Director, Dakshinanchal Vidyut Vitran Nigam Limited whose address is Urja Bhawan, Agra Mathura By Pass Road, Agra – 282007 to receive for and on its behalf service of process in any such enforcement proceedings;
- (e) The Seller appoints Director & CEO, Lanco Anpara Power Private Ltd. Whose address is Upper Ground Floor, Antriksh Bhawan, 22, K.G. Marg, New Delhi – 110 001 to receive for and on its behalf service of process in any such enforcement proceedings; and
- (f) each Party agrees to maintain in Lucknow duly appointed process agents, notified to the other Party, for the purposes of Articles 18.6.1(a), (b), (c), (d) and (e) and that it shall not withdraw the appointment of any such process agent until its successor shall have been validly appointed and notified to the other Party.

18.6.2 Each Party agrees that failure by any such process agent to give notice of any process to it shall not impair the validity of such service or of any judgment based on that process.

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006



Page 114 of 195



ARTICLE 19 CONFIDENTIALITY

19.1 Confidential Information

Subject to Article 19.2, all Parties shall at all times during the continuance of this Agreement:

- (a) use their reasonable endeavours to keep all information regarding the terms and conditions of this Agreement and any data or information acquired under or pursuant to this Agreement confidential and accordingly no Party shall disclose the same to any other person; and
- (b) not use any document or other information (whether technical or commercial) obtained by them respectively by virtue of this Agreement concerning another's undertaking for any purpose other than performance of that Party's obligations and exercise of its rights under this Agreement:

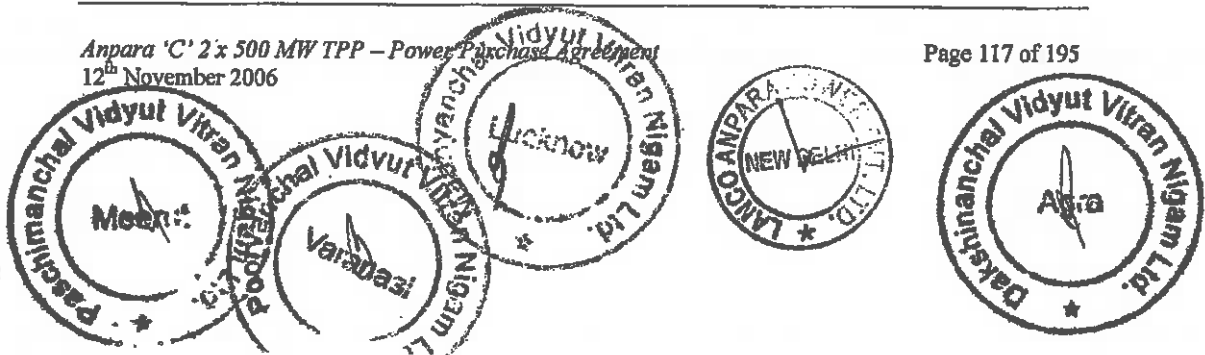
Provided that, the provisions of this Article 19.1 shall not apply to information which at the time of disclosure was in the public domain other than by breach of the foregoing obligations of confidentiality.

19.2 Disclosure of Confidential Information

19.2.1 Each of the Parties shall hold in confidence the agreements relating to the Project and all documents and other information (whether technical or commercial) which is of a confidential nature disclosed to it by or on behalf of the other Party or Parties relating to the Project and shall not, save as may be required by law or appropriate regulatory or statutory authorities, or to any Indian Governmental Instrumentality, or to prospective lenders, or to investors, or to the professional advisers of the Parties or to those prospective lenders or investors, publish or otherwise disclose or use the same for its own purposes otherwise than as may be required to perform its obligations under this Agreement.

19.2.2 The provisions of Article 19.2.1 shall not apply to:

- (a) any information in the public domain otherwise than by breach of this Agreement;
- (b) information relating to the Project in the possession of a Party before that information was disclosed to it by or on behalf of the other Party





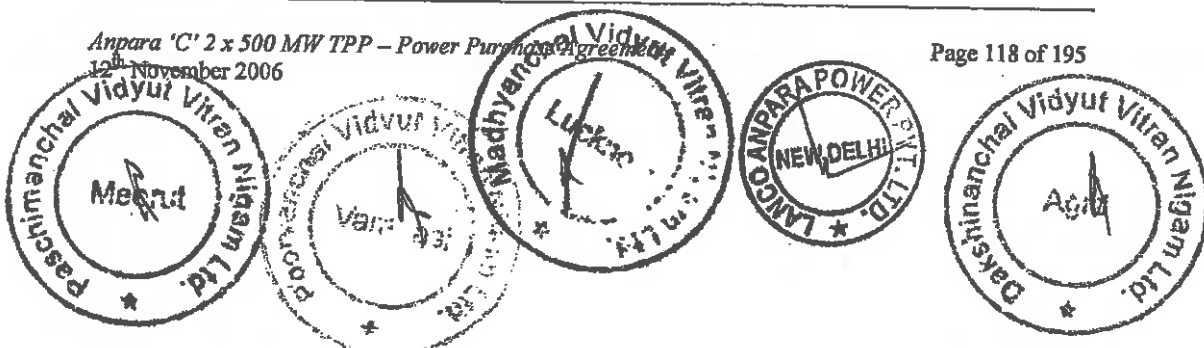
or Parties and which was not obtained under any obligation of confidentiality; and

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

19.2.3 Every Party shall be entitled to disclose the terms and conditions of this Agreement and any data or information acquired by it under or pursuant to this Agreement without the prior written consent of the other Party or Parties, as the case may be, if such disclosure is made in good faith:

- (a) to any affiliate of such Party, having made it aware of the requirements of this Article 19.2, or to any Indian Governmental Instrumentality; or
- (b) to any outside consultants or advisers engaged by or on behalf of such Party and acting in that capacity, having made them aware of the requirements of this Article 19.2; or
- (c) to the Lenders, the Lenders' Representative, any security trustee, any bank or other financial institution and its advisers from which such Party is seeking or obtaining finance, having made them aware of the requirements of this Article 19.2; or
- (d) to the extent required by the rules of a relevant and recognised stock exchange; or
- (e) to the extent required by any applicable law of India or pursuant to an order of any court of competent jurisdiction; or
- (f) to any insurer under a policy of Insurance; or
- (g) to directors, employees and officers of such Party having made them aware of the requirements of this Article 19.2,

and is necessary to enable such Party to perform this Agreement or to protect or enforce its rights under this Agreement or any other Project Document or to enable it to comply with any requirement referred to in Articles 19.2.3(d) and 19.2.3(e) or to carry on its ordinary business.





ARTICLE 20
MISCELLANEOUS PROVISIONS

20.1 Amendments

This Agreement may not be amended except by written agreement between the Parties and no other purported amendment shall be effective.

20.2 Third Parties

This Agreement is intended safely for the benefit of the Parties and their respective successors and permitted assigns and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a party to this Agreement.

20.3 No Waiver

20.3.1 No waiver by any Party of any default or defaults by the other Party or Parties in the performance of any of the provisions of this Agreement:

- (a) shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different character; or
- (b) shall be effective unless in writing duly executed by a duly authorised representative of such Party.

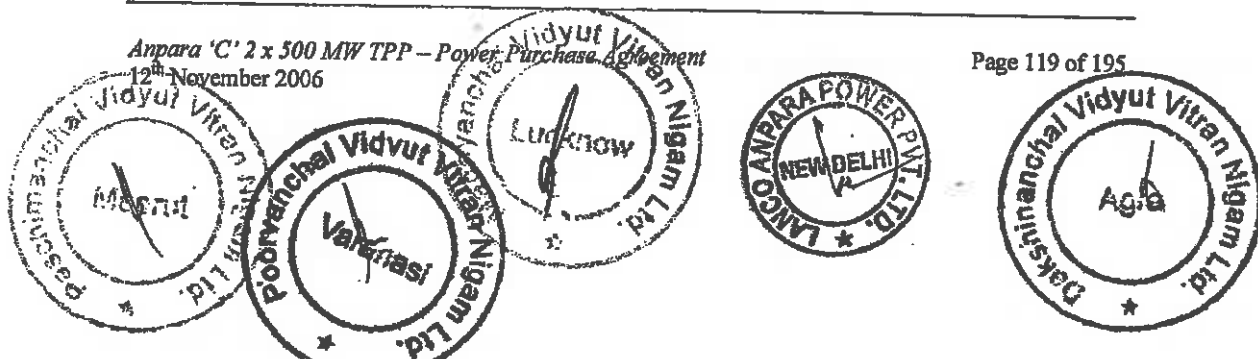
20.3.2 Neither the failure by a Party to insist on any occasion upon the performance of the terms, conditions, and provisions of this Agreement nor time or other indulgence granted by a Party to the other or others shall act as a waiver of such breach or acceptance of any variation or the relinquishment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

20.4 Relationship of the Parties

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon any Party and no 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 or Parties, as the case may be.

Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006

Page 119 of 195





20.5 Language

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

20.6 Entirety

20.6.1 This Agreement and the Schedules are intended by the Parties as the final expression of their agreement and are intended also as a complete and exclusive statement of the terms of their agreement.

20.6.2 All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement or the sale or purchase of Electrical Output and Contracted Capacity under this Agreement to the Buyers by the Seller are abrogated and withdrawn.

20.7 Successors and Assigns

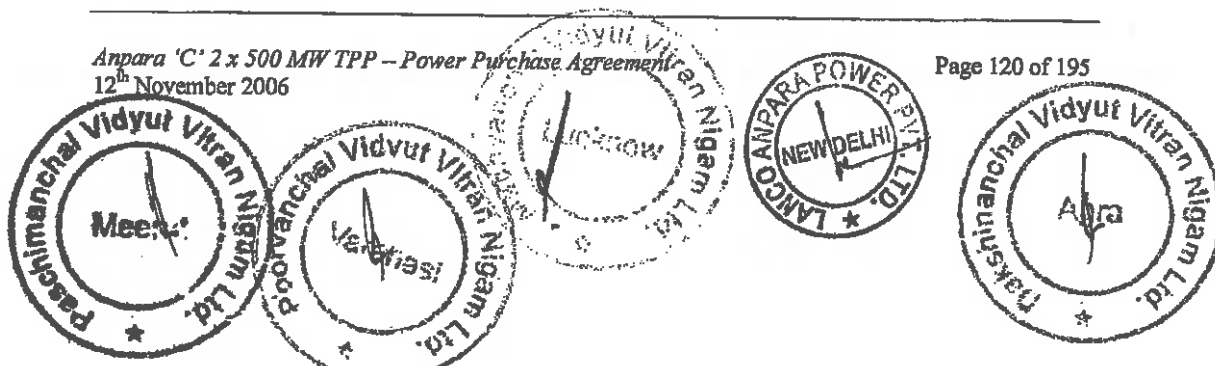
This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

20.8 Affirmation

The Seller and the Buyers declare an affirmation that no Party nor its directors, employees, any of its agents or, in the case of the Seller, its sponsors, has paid nor has it undertaken to pay and that it shall in the future not pay any unlawful commission, bribe, payoffs, 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 this Agreement and the Seller and the Buyers undertake not to engage in any of the said or similar acts during the term of and relative to this Agreement.

20.9 Notices

20.9.1 Save as otherwise expressly provided in this Agreement, all notice or other communications which are required or permitted under this Agreement shall be in writing and sufficient if delivered personally or sent by registered or certified mail, telecopier, email, telex or telegram addressed as per the addresses provided in Schedule 12. All notices or communications given by telecopier, email, telex or telegram shall be confirmed by depositing a copy of the same in the post office in an envelope properly addressed to the





appropriate Party for delivery by registered or certified mail. All Notices shall be deemed delivered upon receipt.

- 20.9.2 Any Party may by notice of at least fifteen (15) days to the other Parties change the address and / or addresses to which such notices and communications to it are to be delivered or mailed.

20.10 Severability

The invalidity or enforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder.

20.11 Breach of Obligations

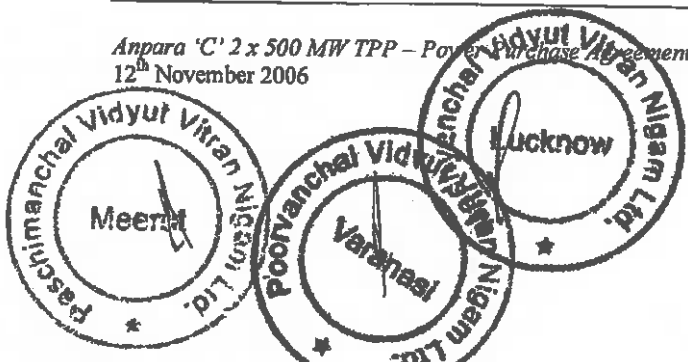
The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties acknowledge the damages alone shall not be adequate remedy for such breach. Accordingly each Party agrees that in addition to any other rights or remedy which the other Party or Parties, as the case may be, may have at Law or in equity, the non breaching Party or Parties shall be entitled to specific performance and injunctive relief in any court of competent jurisdiction for any breach or threatened breach by the other Party.

20.12 Nomination Restriction

Notwithstanding anything contained to the contrary in this Agreement, wherever a reference is made to the right of a Buyer to nominate a third Party to receive benefits under this Agreement, such Third Party shall have a financial standing not less than to the Buyer in question.

20.13 Dispatch Instructions

Notwithstanding anything contained to the contrary in this Agreement, wherever a reference is made to a Buyer or Buyers issuing a dispatch instruction to the Seller, where law so requires that dispatch instruction be issued only by a control centre, such references shall be construed as being references to the Seller receiving dispatch instructions from the said control centre and the same shall apply in relation to any other functions being exercised by any other entity or organisation in the future, from time to time.





20.14 Deviations from Standard Bid Documents/Competitive Bidding Guidelines

In case, any provision of this agreement is inconsistent with the provisions of the Standard Bid Documents or Competitive Bidding Guidelines issued by Government of India, this Agreement shall prevail as per the order of UPERC dated October 19th, 2005 and February 6th, 2006.

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

In the presence of:

**For LANCO ANPARA POWER
PRIVATE LTD.**

(Shri. K Raja Gopal)
Director & CEO

(A.C. RAE) (1)

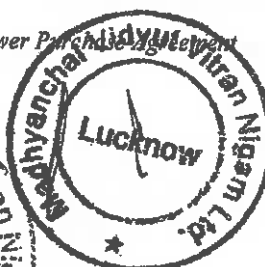
(Shekhar Kamchan) (2)

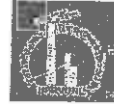
**For PASCHIMANCHAL VIDYUT
VITRAN NIGAM LTD.**

(Shri. SK Agarwal)
Director (Finance)

(H.K. Agrawal) (1)
Company Secretary
(H.K. AGRAWAL) (2)
Company Secretary
U.P. Rajya Vidyut Utpadan Nigam Ltd.
1-B, Gokhle Marg, (Lucknow)

Continued -





For POORVANCHAL VIDYUT
VITRAN NIGAM LTD.

(Signature)

(Shri. SK Agarwal)
Director (Finance)

(Signature)
(Manoj Kumar Shrestha)
Company Secretary

(1)

(Signature)

(H.K. AGRAWAL) (2)
Company Secretary

U.P. Rajya Vidyut Vitran Nigam Ltd.
4-B, Gokhale Marg, (Lucknow)

For MADHYANCHAL VIDYUT
VITRAN NIGAM LTD.

(Signature)

(Shri. SK Agarwal)
Director (Finance)

(Signature)
(Manoj Kumar Shrestha)
Company Secretary

(1)

(Signature)

(H.K. AGRAWAL) (2)
Company Secretary

U.P. Rajya Vidyut Vitran Nigam Ltd.
4-B, Gokhale Marg, (Lucknow)

For DAKSHINANCHAL VIDYUT
VITRAN NIGAM LTD.

(Signature)

(Shri. SK Agarwal)
Director (Finance)

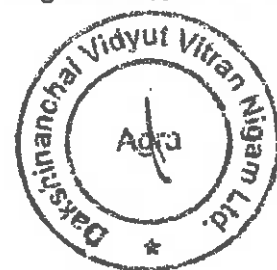
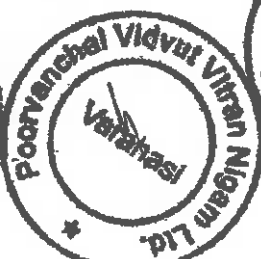
(Signature)
(Manoj Kumar Shrestha)
Company Secretary

(1)

(Signature)

(H.K. AGRAWAL) (2)
Company Secretary

U.P. Rajya Vidyut Vitran Nigam Ltd.
4-B, Gokhale Marg, (Lucknow)





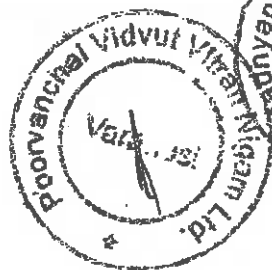
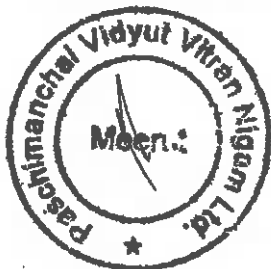
SCHEDULE I
(OMITTED)





SCHEDULE 2
THE SITE

[Insert Site Plan and Full Details of Location on or before Financial Close]





SCHEDULE 3
FUNCTIONAL SPECIFICATION

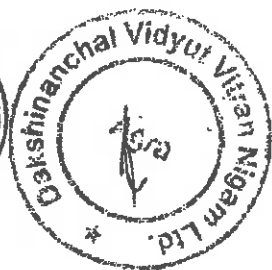
1. Electrical System Limits

- (a) **Voltage**
- (i) 765 KV (equipment should be suitable for voltage variations of (+)/(-)5%)
 - (ii) 400 kV (equipment should be suitable for voltage variations of (+)/(-)5%)
 - (iii) 132 kV (equipment should be suitable for voltage variations of (+)/(-)10%)
- (b) **Grid Frequency** 50 Hz (equipment should be suitable for frequency variations of (+) 3% and (-) 5%)
- (c) **Power Factor** Power factor operating range at the Interconnection Point is 0.85 (lag) to 0.95 (lead)

2. Unit Characteristics.

(a) Capacity of Generating Equipment

- (i) Reactive power capability in accordance with reactive capability curves to be developed during detailed design, which are hereby incorporated by reference into, and made an integral part of, this Schedule 3.
- (b) **Time period for synchronisation** The time period permitted to the Seller to start up a Unit and synchronise the unit with the Grid System under various starting conditions shall not exceed the following durations.





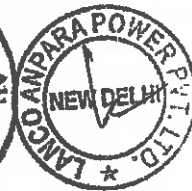
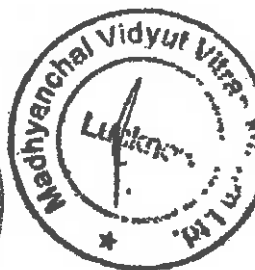
Hot Start	1 hour 30 minutes
Warm Start	4 hours
Cold Start	7 hours.

Wherein the various starting conditions are as defined below;

Starting Conditions	Time since last opening of high breaker in hours
Hot Start	<10
Warm Start	>10 and < 50
Cold Start	Above 50

(c) Maximum unit run up rates during starts for each Unit

Load Range	Hot Start	Warm Start	Cold Start
Block to 40% MCR	8 MW/min	n/a	n/a
Block to 100%	n/a	4 MW/min	n/a
Block to 30%	n/a	n/a	1 MW/min
40% to 100%	8 MW/min	n/a	n/a
30% to 100%	n/a	n/a	4 MW/min





(d) **Maximum Ramp up and Ramp down Rates for Each Unit.**

Maximum ramp up or ramp down rates for each Unit when operating at working pressure and having been working at continuous load level for a period greater than 3 hours;

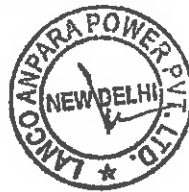
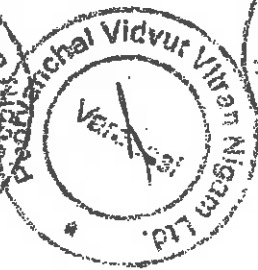
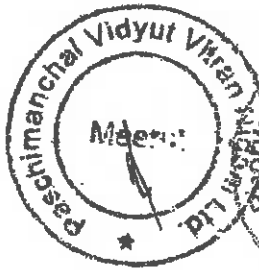
Load Range	Load Ramp Rate
20% to 50% MCR	not less than 3%/min
50% to 75% MCR	not less than 5%/min
75% to 100% MCR	not less than 10% MCR/min

However, the Power Station should be capable of accommodating full load rejection in an emergency or on instruction without any problem.

(e) **Dynamic Parameters**

Dynamic parameters are the essential operating characteristics, which define the limits within which a Unit or the Power Station is required to operate during normal operation. The requirements of Volume II of the RFP shall be a part of these dynamic parameters.

- (i) Minimum load for continuous operation without oil support – 40% MCR
- (ii) Minimum block load on synchronisation – 30 MW
- (iii) Turbine governor overspeed trip – 110% Nominal speed
- (iv) Generator protection settings
 - Minimum frequency 47.5 Hz, 3 second delay





➤ Maximum frequency 51.5 Hz, 3 second delay

- (v) The Power Station shall be capable of supplying all auxiliary loads (except black start) internally. Hence, in the event of isolation of the Power Station from the system each Unit together or alone will continue to operate with the generator supplying the auxiliaries.

3. **Emission Standards and Noise Levels**

In accordance with the laws of India and the provisions of Paragraph 4, 5 and 6 of Schedule 5.

4. **Conditions applying to tests or Functional Specification**

As provided in Schedule 5.

5. **Power Plant Parameters**

The blanks in this Paragraph 5 (Power Plant Parameters) shall be filled, on or before Financial Close, as per the values guaranteed by the Construction Contractor. Provided that such guaranteed values shall always comply with the requirements mentioned under Paragraphs 1 to 4 above and Volume II of the RFP. Provided further that such guaranteed values shall not excuse the Seller from any obligation created under any other part of this Agreement and nor shall it result in any additional payment of Tariff beyond what has been provided under Schedule 8.

1.0 Lay out

- a) Unit pitching
- b) Level of operating floor
- c) Mill / bunker bay width
- d) Location of mills
- e) Distance from Boiler 1st column to center line of Chimney.



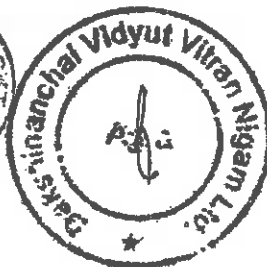
2.0 Steam Generator (SG)

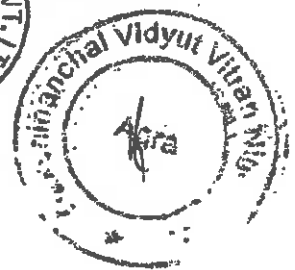
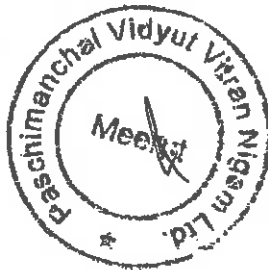
- a) Make/Model
- b) Numbers.
- c) Tower type / double pass
- d) Type of circulation
- e) Main Steam flow (Nominal)
- f) Main Steam flow (BMCR)
- g) Super heater outlet pressure (BMCR)
- h) Super heater outlet temp (BMCR)
- i) Feed water inlet temperature (BMCR)
- j) Steam Generator efficiency based on

HHV of design coal

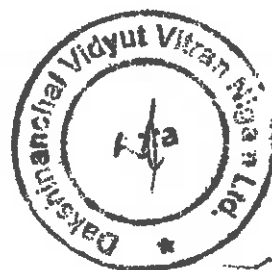
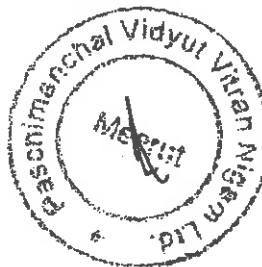
- k) Minimum load without oil support

3.0 Mills





- a) Numbers per S.G.
 - b) Type
 - c) Capacity
 - d) Number of mills working with design coal, and BMCR.
 - e) Number of mills working with worst coal, and TMCR.
 - f) Number of mills working with worst coal, and BMCR.
 - g) Input coal size
 - h) Pulverised coal fineness
- 4.0 Electrostatic precipitators
- a) Nos. of streams per SG
 - b) Capacity of each stream (% of BMCR)



- c) Number of fields
- d) Inlet dust burden(mg/Nm³) with
Design coal at TMCR.
- e) Outlet dust burden (mg/Nm³ with
Design coal, one field out of operation
and at TMCR.

5.0 Chimney

- a) Numbers.
- b) Construction
- c) Height
- d) Flue gas velocity at exit

6.0. Steam Turbine

- a) Make/Model
- b) Type



- c) Rated speed
- d) Number of Cylinders
- e) Number of Stages
- f) VVO output (MW) at rated steam conditions
77mm of Hg (abs) back pressure and 3% make up
- g) Maximum continuous rating in MW under rated
Rated steam conditions at 77mm Hg (abs)
Back pressure and 3% make up.
- h) Steam flow at TMCR
- g) Pressure at TMCR
- i) Temp. at TMCR
- j) Steam flow at VVO
- k) HP/LP bypass capacity
- 7.0 Condensers





- a) Type
- b) Tube Material
- c) Temp. rise (CW)
- d) C.W. flow
- e) Condenser inlet temperature (CW)
- f) Design back pressure.
- g) Whether on load cleaning system provided
- h) Type of air evacuation system provided
- 8.0 Boiler Feed Pumps / Feed Water Heaters**
- a) Number of pumps provided per unit
- b) Stand by pumps provided per unit
- c) Type of drive
- d) Number of LP heaters / HP heaters
- e) Type of Deaerator
- 9.0 Condensate Polishing Plant**
- a) Type



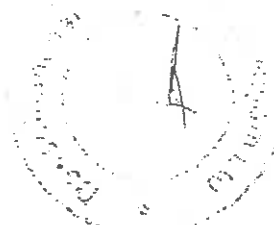
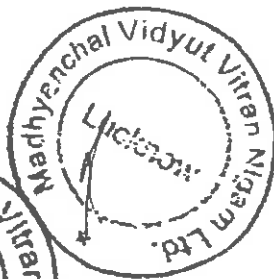
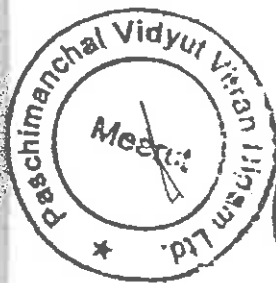
b) Capacity

10.0 Condensate Extraction Pump

- a) Number of pumps per unit
- b) Stand by pumps per unit
- c) Type of pumps

11.0 Generator

- a) Nos.
- b) Make / Model
- c) Active Power
- d) Rate / p.f.
- e) Rated voltage
- f) Rated frequency
- g) Cooling
- h) Insulation class



i) Type of excitation

12.0 Control & Instrumentation

- a) Proposed Suppliers
- b) DCS based, integrating the entire plant yes / no
- c) Trade name of supplier's DCS
- d) Redundancy in
- I / O level
 - Controllers
 - Communication (Local bus, Main system bus / data highway, MMI level)
- e) Hardwired back-up panel with PB / switches / Recorders etc for emergency shut-down of the plant yes / no
- f) System Parametric capabilities
- cycle time / controller reaction time for control system
 - Display response time for MMI
 - CRT update time
 - Processor spare duty cycle
 - System bus spare duty cycle

13.0 CW System



- a) Type
- b) Make up water quality (filtered / clarified / softened)

14.0 Make-up water system

- a) No of Pumps
- b) Capacity of pumps
- c) Number of stand by pumps
- d) Storage capacity of reservoir (No. of days & m3)

15.0 Cooling Tower

- a) Type
- b) Nos.
- c) Flow
- d) Range
- e) Approach
- f) Design wet bulb temperature.



g) Type of fill

h) Evaporation Loss

i) Cycle of Concentration

j) Blow down

16.0 CW Pump

a) No of pumps per unit

b) No. of stand by pumps per unit.

c) Type of pump

17.0 Auxiliary Cooling Water System

a) Type of heat exchanger

b) Flow (primary / secondary)

c) Type of water in primary side

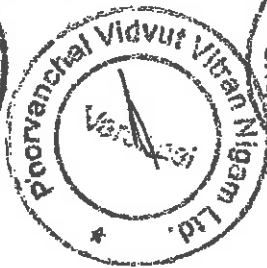
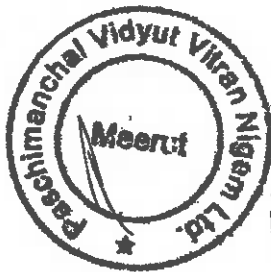
d) Type of water in secondary side

e) Make-up water quantity

e) Number of pumps per unit (ACW /ECW)

f) Number of stand by pumps per unit (ACW/ECW)





18.0 Water Treatment Plant

a) Pre-treatment Plant

(clarification / softening) Nos. & capacity

b) D.M. Plant – No. of trains

– capacity / train.

c) RO/Desalination Plant

- Type

- Water flow at inlet

- Water flow at outlet

19.0 Coal Handling Plant

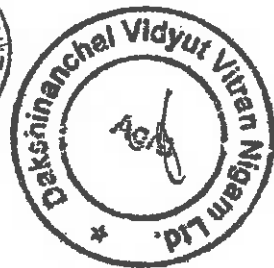
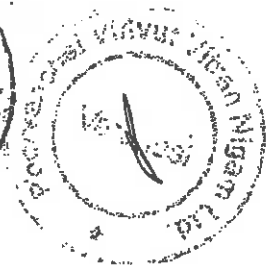
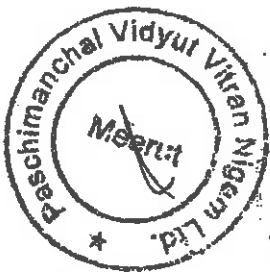
a) No. of streams

b) Conveying capacity (each)

c) Stacker reclaimers (Nos. & cap)

d) Type of stacker reclaimers

e) Number of days storage provided



20.0 Ash Handling Plant

- a) Type of system offered.
- i) Bottom ash handling system
- ii) Fly ash extraction
- iii) Fly ash transportation.
- b) Number of ash silos provided
- c) Capacity of ash silos
- d) Whether 100% fly ash extraction Provided.
- e) Whether 100% ash disposal (both bottom ash and fly ash) in slurry form is provided.
- f) Whether ash water recirculation system provided.

21.0 Fuel Oil System

- a) Distillate oil tanks (Numbers. & capacity.)



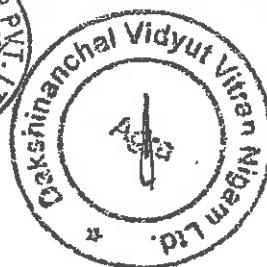
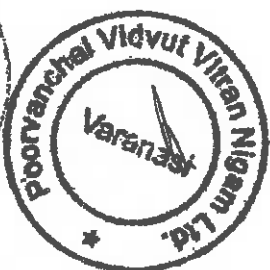
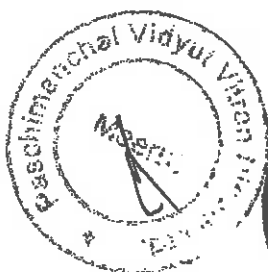
- b) Unloading pumps
- Number of pumps
 - Number of standby pumps
- c) Transfer pumps
- Number of pumps
 - Number of standby pumps

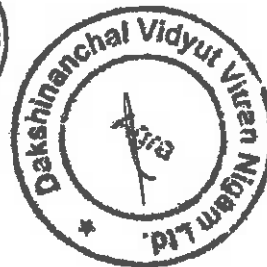
22.0 Effluent Treatment & Disposal System

- a) Type treatment for effluents
- b) Whether meeting all the statutory norms

23.0 Compressed Air System

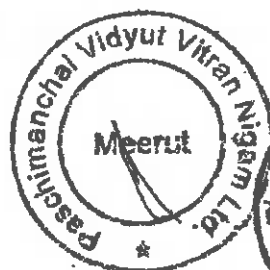
- a) Instrument Air Compressors (Numbers)
- b) Plant Air Compressors (Numbers)
- c) Type of compressors
- d) Type of air drying plant





24.0 Fire Fighting System

- a) Whether all the systems are designed as per the regulation of TAC- India and acceptable to TAC
- b) Type of fire detection and protection system provided for control rooms.
- c) Areas protected under HVW spray system.
- d) Areas protected under MVW spray system
- e) Type of detection system provided for
- i) Coal Handling Plant
 - ii) Transformers
 - iii) Turbine & BFP lube oil tanks
 - iv) Fuel oil tanks / pump houses
 - v) Cable galleries
 - vi) Control / control equipment rooms
- f) Type fire extinguishing system provided for control room / control equipment room



25.0 Turbine hall crane

- a) Number of cranes.
- b) Capacity (main/aux. Hoist)
- c) Whether tandem operation for Generator Stator removal is provided.

26.0 Transformers (Nos., rating, voltage ratio)

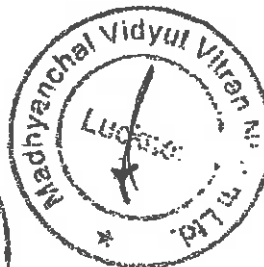
- a) Generator Transformers
- b) Station Transformers
- c) Unit Transformers
- d) L.T. Transformers
- e) Inter Connecting Transformers

27.0 EHV Switchyard

- a) Type & Scheme
- b) Step-up voltage



- c) No. of bays (with break-up)
d) Max. fault level



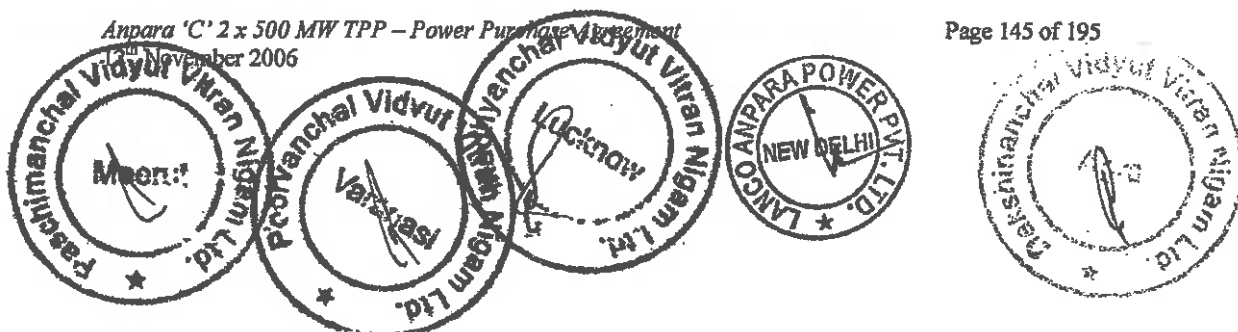


SCHEDULE 4 **METERING SYSTEM**

- 1.1 The metering system for the Project (the "Metering System") shall comprise of :
- (a) a meter on each Unit (the "Generator Meters");
 - (b) a meter at each of the Interconnection Point (the "Interconnection Meter");
 - (c) a meter at each of the station transformer (the "Import Meter"); and
 - (d) check meters for the Generator Meters, the Interconnection Meter and the Import Meter (the "Check Meters").
- 1.2.1 Each meter comprising the Metering System shall have an accuracy class of ± 0.2 or better. The instrument transformers to be utilized for the metering purposes shall also be of accuracy class 0.2 or better.
- 1.2.2 Each meter comprising the Metering System shall, as to their technical standards, description, accuracy and calibration, comply fully with any applicable requirements of the Electricity Rules and in particular the Metering System shall meet the following:

(i) Each of the Energy Meters:

- a) Shall be microprocessor based conforming to IEC:60687, IEC:1036, IEC:13779, IS:14697 and shall be suitable for ABT requirements..
- b) Shall carry out measurement of active energy (both import and export) and reactive energy (both import and export) by 3 phase, 4 wire principle suitable for balanced/ unbalanced 3 phase load.
- c) Shall have accuracy of energy measurement of 0.2 for active energy and 0.5 for reactive energy.
- d) The active and reactive energy shall be directly computed in CT & VT primary ratings The active energy shall be stored in two different registers as MWHr (Export) and MWHr (Import) , along with a plus (+) sign for export and minus (-) sign for import . The reactive energy shall be stored in four different registers as MVARHr (lag) when active export , MVARHr (Lag) when active import , MVARHr (lead) when active export , MVARHr (lead) when active import . In addition , two more registers shall be provided to record MVARH when system voltage is > 103% and





when system voltage is $< 97\%$ and stored in four different registers of memory of the meter as MWH(E), MWH(I), MVARH(E) and MVARH(I) along with a plus sign for export and minus sign for import. The VARH shall be computed and stored in four separate registers corresponding to various system voltage conditions, and these conditions shall be finalised during detailed engineering.

e) Shall compute the net MWHr and MVARHr energy sent out of the Power Station busbars during each successive Settlement Period and store in the respective register.

f) Each energy meter shall have a dedicated display unit. It shall display on demand the net MWHr and MVARHr energy sent out during the previous Settlement Period.

g) Shall continuously integrate the energy readings of each register upto the previous Settlement Period. All these readings shall be displayed on demand.

h) Cumulative reading of each register shall be stored in a separate non-volatile memory and displayed on line.

i) The readings shall be stored for a period of forty (40) days before being erased.

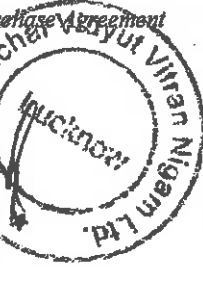
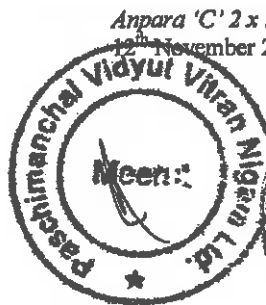
j) Shall have a built in clock and calendar having an accuracy of atleast one minute per month or better without assistance of external time synchronizing pulse.

k) Date/time shall be displayed on demand. The clock shall be synchronized by GPS time synchronization equipment to be installed by Seller, at his cost.

l) Each meter shall have a unique identification code provided by Buyers and shall be marked permanently on the front and also in the non-volatile memory.

m) The voltage monitoring of all the three voltages shall be provided. The meter shall normally operate with power drawn from the VT supplies.

n) The power supply to the meter shall be healthy even with a single-phase VT supply. An automatic backup, in the event of non availability of voltage in all the phases, shall be provided by a built in long life battery and shall not need replacement for atleast 10 years with a continuous VT interruption of atleast 2 years. Date and time of VT interruption and restoration shall be





automatically stored in a non-volatile memory. It shall be to take the readings of the meter when no VT supply is available.

o) Shall have an optical port on the front of the meter for data collection. Meter Reading Instrument (MRI) for downloading data from front optical ports on the meter shall be provided by the Seller.

p) The stored data shall be continuously transferred through necessary serial/parallel ports to a local IBM compatible PC to be provided by the Seller. Necessary hardware and software shall be provided for downloading data on the local PC for display and printing.

q) The necessary software shall be provided to accept the data on line and store in memory and on a floppy diskette and also to print the same.

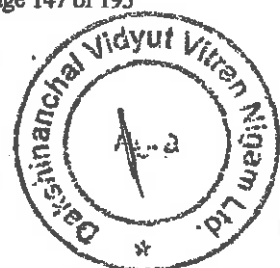
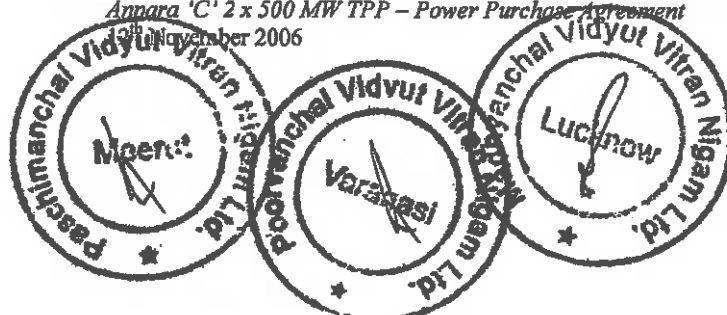
r) The meter shall have means to test MWH accuracy and calibration at site and test terminal blocks shall be provided for the same.

1.3 The SLDC may require the Seller at the Sellers expense, to install such additional remote monitoring equipment as the SLDC may reasonably require for the purpose of measuring and monitoring the performance of the Power Station.

1.4 The Metering System shall measure:

- (a) in respect of the two (2) Generator Meters and the corresponding two (2) Check Meters, the Generator Capacity of each Unit at its generator terminal;
- (b) in respect of the Interconnection Meters and the corresponding Check Meter, the Electrical Output delivered or electrical energy received at the Interconnection Points; and
- (c) in respect of the Import Meter and the corresponding Check Meter, energy imported by the Company into the Power Station at the station transformers.

1.5 The Check Meters shall be installed by the Buyers and the Seller shall provide all co-operation and assistance (including by providing sufficient space and right of way) to the Buyers for the same.



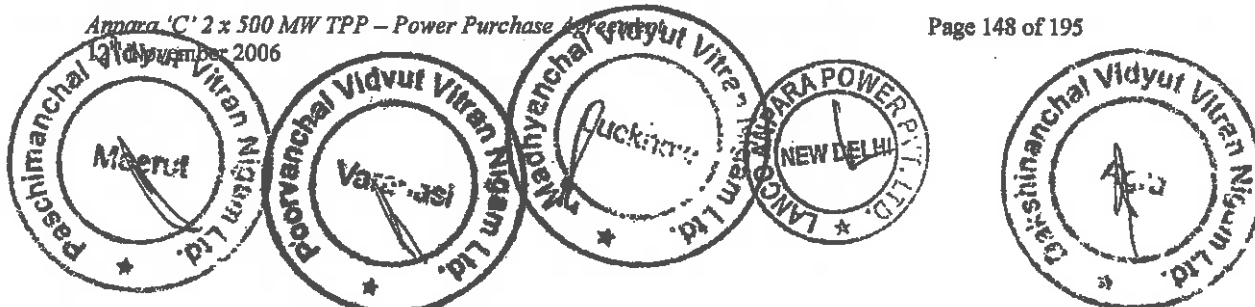


1.6 Test/Calibration Equipment

- 1.6.1 Solid state sub-standard meter suitable for checking the accuracy of class ± 0.2 meters shall be used. These shall be duly calibrated and sealed by government authorised meter testing house/lab or by a mutually agreed independent test house where such facilities are available.
- 1.6.2 Similarly, suitable primary/secondary injection sets should also be available at the Power Station.

1.7 RFP, Grid Code and UPERC Requirements

- 1.7.1 In addition to the requirements mentioned in Paragraph 1.1 to 1.6.2 above, the Seller is also required to comply with the Metering requirements of Volume II of the RFP and Grid Code and UPERC.





SCHEDULE 5
COMMISSIONING AND TESTING

1. General

Subject to Article 6.2 and 6.3, the Seller shall conduct with respect to each Unit:

- (a) a Performance Test in accordance with Paragraph 2 of this Schedule 5 and in accordance with the provisions of ASME PTC 46 and PTC 6; and
- (b) a Characteristics Test in accordance with Paragraph 3 of this Schedule 5.

2. Performance Test

- 2.1 (a) The Performance Test shall be run under any and all ambient conditions (temperature, humidity etc.) that may exist during the time of the Performance Test and no corrections in final gross output of the Unit will be allowed as a result of prevailing ambient conditions.

(b) The Performance Test shall be carried out with fuel of lowest quality permitted under the Fuel Supply Agreement and no adjustments shall be made on account of fuel quality or ambient conditions.

(c) The correction curves will only be used if the Grid System operation during the Performance Test exceeds Electrical System Limits.

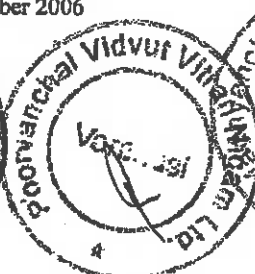
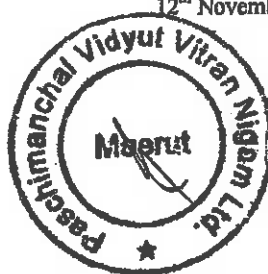
(d) Intentionally omitted

(e) The Seller shall perform in respect of each Unit a Performance Test, which such Unit shall be deemed to have passed if it operates continuously for seventy two consecutive hours at or above ninety five (95) percent of its Contracted Capacity and within the Electrical System Limits and the Functional Specifications.

- 2.2 For the purposes of any Performance Test pursuant to this Paragraph 2, the Electrical System Limits to be achieved shall be as follows:

(a) Voltage

The Unit must operate within the voltage levels described in the Functional Specification for the duration of the Performance Test. If, during the Performance Test, voltage tests cannot be performed due to Grid System, data supplied from tests of the generator step-up transformers and generators supplied by the manufacturers shall be





used to establish the ability of the Unit to operate within the specified voltage limits.

(b) Grid System Frequency

The Unit shall operate within the Grid System frequency levels described in the Functional Specification for the duration of the Performance Test.

(c) Power Factor

The Unit shall operate within the power factor range described in the Functional Specification for the duration of the Performance Test. If, during the Performance Test, power factor tests cannot be performed due to the Grid System, data supplied from tests of the generators and the generator step-up transformers supplied by the manufacturers shall be used to establish the ability of the Unit to operate within the specified power factor range.

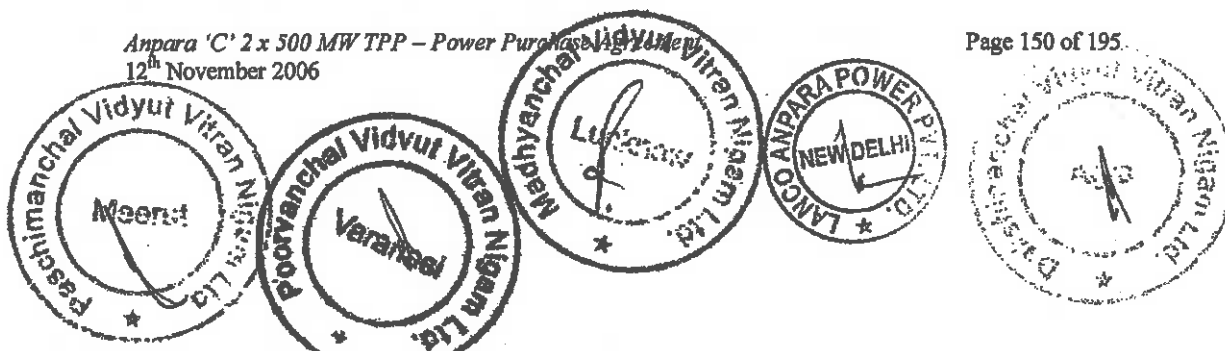
(d) Fuel quality and cooling water temperature

The Unit must operate to its Contracted Capacity with worst fuel quality and worst design water temperature value. No adjustment in the Contracted Capacity or Availability shall be allowed on account of fuel quality.

3. Characteristics Test

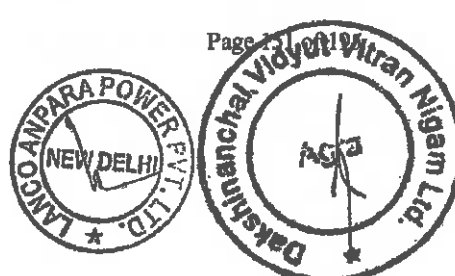
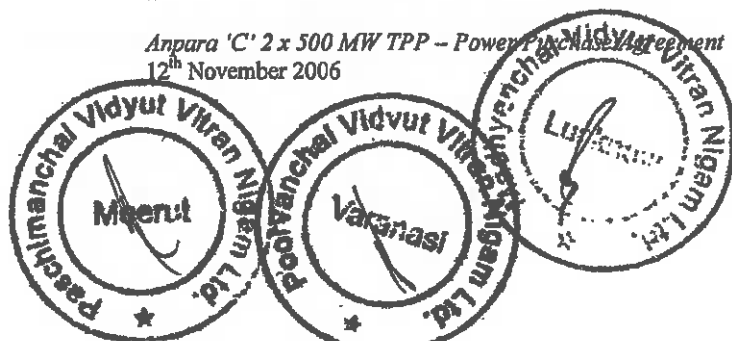
3.1 The Seller shall perform in respect of each Unit, at least the following set of tests (the "Characteristics Test") to determine that the Unit when tested complies with Paragraph 2 of the Functional Specification in accordance with Article 6.2 and 6.3.

- (i) A representative samples of ramp rates, by ramping up or down the gross turbine load while maintaining the required temperatures and temperature differences associated with each ramp rate within the turbine while maintaining all other operational parameters within equipment limits;
- (ii) Capacity for each Unit shall be tested for a period of at least two (2) hours with the turbine valves wide open and at normal turbine operation pressure.
- (iii) Automatic voltage regulator droop test;
- (iv) On load tap changer test;
- (v) Reactive capability test;
- (vi) Minimum load capability without oil support for at least two (2) hours;





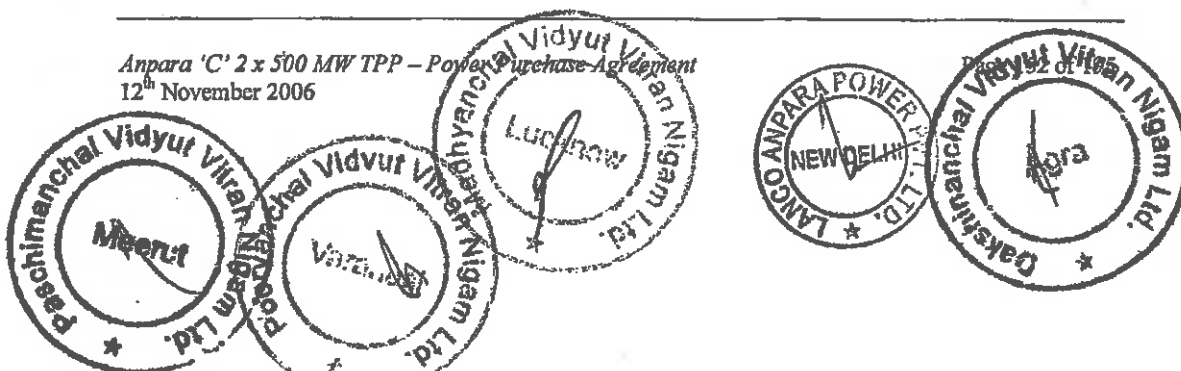
- (vii) House load operation test;
 - (viii) Response of a Unit to step load changes test;
 - (ix) Full load rejection test;
 - (x) Three days operation at variable loads tests; and
 - (xi) Tests for start up times for Cold, Warm and Hot Starts.
 - (xii) Electrostatic precipitator test to demonstrate its ability to limit particular emissions to the permitted values set forth under Functional Specification and RFP document using the fuel of worst quality.
- 3.2 A Unit shall pass a Characteristics Test if it achieves at least the same level as that referred to in Paragraphs 2 and 3 of the Functional Specification (or Technical Specifications, if such issue is not covered under the Functional Specifications) in respect of each of the characteristics referred to in Paragraph 3.1 of this Schedule 5.
4. **NOx Emission**
- 4.1 The maximum total NOx emission from the Unit shall not be more than 260 grams of NOx per giga joule of heat input (from thermal as well as fuel) to the boiler during the entire operating range of steam generator and w.r.t. load upto 50% of total load for the range of coals as may be available from the Fuel Supplier.
5. **Plant Effluent**
- 5.1 All effluents emerging out of the Unit shall meet the quality requirements of the laws of India including the permissions/clearances accorded by Uttar Pradesh Pollution Control Board and by the Ministry of Environments and Forests. The Seller shall demonstrate the above to the Buyers.
6. **Noise**
- 6.1 All the plant, equipment and systems of a Unit shall perform continuously without exceeding the noise level over the entire range of output and operating frequency. The Seller shall demonstrate the above to the Buyers.
- 6.2 Noise level measurement shall be carried out with a calibrated integrating sound level meter meeting the requirement of IEC 651 or BS 5969 or IS 9779.
7. The Seller shall obtain the approval of the Independent Engineer for the detailed procedures for Performance Test and Characteristics Test containing at least the following:
- (i.) Object of the test
 - (ii.) Various guaranteed parameters and tests.
 - (iii.) Method of conductance of test and test code.
 - (iv.) Duration of test, frequency of readings & number of test runs.





- (v.) Method of calculation.
- (vi.) Instrument list consisting of range, accuracy, least count, and location of instruments.
- (vii.) Scheme showing measurement points.
- (viii.) Sample calculation.
- (ix.) Any other information required for conducting the test.

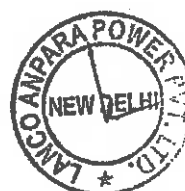
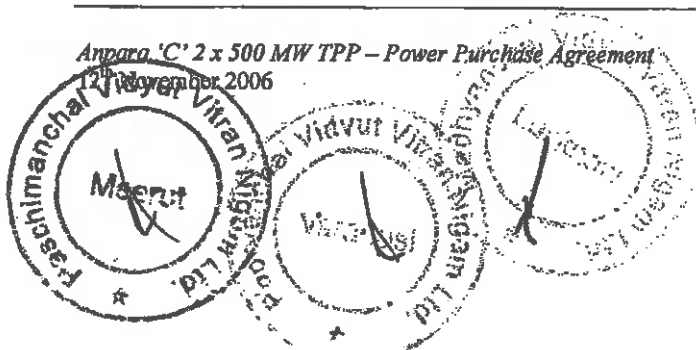
Anpara 'C' 2 x 500 MW TPP – Power Purchase Agreement
12th November 2006





SCHEDULE 6
AVAILABILITY FACTORS

1. **Intentionally Omitted**
2. **Capacity Notices (including capacity notices, time for capacity notices, revised capacity notice and any other item relating to capacity notices) shall be as per the Grid Code**
3. **Capacity Failure**
 - 3.1 A Capacity Failure occurs in a Settlement Period when
 - (a) the Power Station's Declared Capacity in that Settlement Period is less than the expected availability declared in the daily Capacity Notice (as provided to the SLDC) for that Settlement Period (a "Declared Capacity Failure");
 - (b) Intentionally Omitted
 - (c) the Power Stations level of generation in that Settlement Period (expressed in MW) and adjusted for Grid System frequency falls short of the Dispatched level after the time allowed for complying with the relevant Dispatch Instruction (determined consistently with the Operating Characteristics at that time) by any amount at any other time (an "Undeclared Capacity Failure"); and
 - (d) the Power Station's reactive power capability in that Settlement Period (expressed in MVar) falls short of the Dispatched level after the time allowed for complying with the relevant Dispatch Instruction (determined consistently with the Declared Operating Characteristics at that time) by any amount at any other time (an "Undeclared Reactive Power Failure").
 - 3.2 The Permitted Tolerance shall be nil.
 - 3.3 Whenever the Buyers have reasons to believe that the Power Station may not be capable of performing consistently with the declarations contained in the current Capacity Notice or Revised Capacity Notice, they may jointly issue a notice (a "Monitoring Notice") to the Seller identifying the performance parameters of the Power Station that they wish to monitor (which shall be its



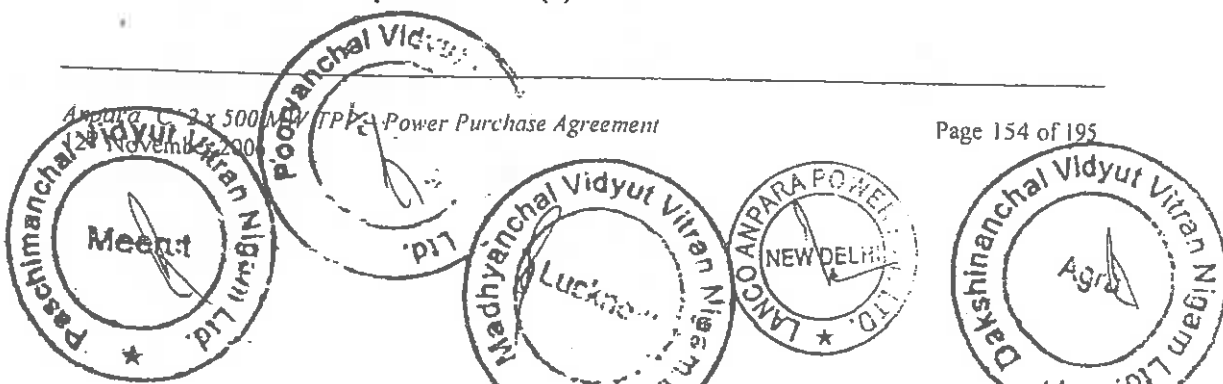


generating capacity, its reactive power capability and its loading or deloading rates) and shall indicate the maximum period over which monitoring will occur (which period shall not exceed ten (10) hours). During a period of monitoring, the Buyers shall jointly instruct the Seller to set the Power Station's governors so as to not be responsive to changes in Grid System frequency.

- 3.4 The Seller shall not be entitled to any additional compensation by reason of the monitoring of the Power Station beyond its right to receive the Tariff.
- 3.5 Further, it is specified that the Grid Code shall override any inconsistent provisions of this Paragraph 3.

4. Available Capacity

- 4.1 The Power Station's available capacity in each Settlement Period (its "Available Capacity") shall be equal to its Declared Capacity (as is grossed up for Normative Auxiliary Consumption Rate) in that Settlement Period, less any Capacity Reduction attributable to a Capacity Failure affecting the Unit or (if the Power Station has been commissioned), the Power Station in that Settlement Period. The Available Capacity of the Power Station may be less than zero.
- 4.2 If the Declared Capacity of the Power Station changes during the course of a Settlement Period, the Power Station's Declared Capacity throughout that Settlement Period shall be equal to the lowest Declared Capacity in effect at any time during that Settlement Period.
- 4.3 The Capacity Reduction attributable to Capacity Failures shall be calculated for each Settlement Period in which they occur in accordance with the following provisions of this Paragraph 4.3
- 4.3.1 Capacity Reductions for Declared Capacity Failures
- The Capacity Reduction (expressed in MW) attributable to a Declared Capacity Failure shall be two (2) times the difference between the level of generation achieved by the Power Station in response to a Dispatch Instruction and the Dispatched level or, if higher, the Power Station's Declared Capacity at that time, for a period of one (1) day.
- 4.3.3 Capacity Reductions for Undeclared Capacity Failures
- The Capacity Reduction (expressed in MW) attributable to an Undeclared Capacity Failure shall be four (4) times the difference between the level of generation achieved by the Power Station in response to a Dispatch Instruction and the Dispatched level or, if higher, the Power Station's Declared Capacity at that time, for a period of one (1) week.





4.3.4 Capacity Reductions for Undeclared Reactive Power Failures

The Capacity Reduction attributable to an Undeclared Reactive Power Failure shall one (1) time the number of MW equal to the number of MVar by which the Power Station's reactive power capability at the time of the Undeclared Reactive Power Failure fell short of the Dispatched level or, if higher, the level that would have been achieved had the plant been capable of operating at a level consistent with its Declared Leading Power Factor or, as the case may be, its Declared Lagging Power Factor.

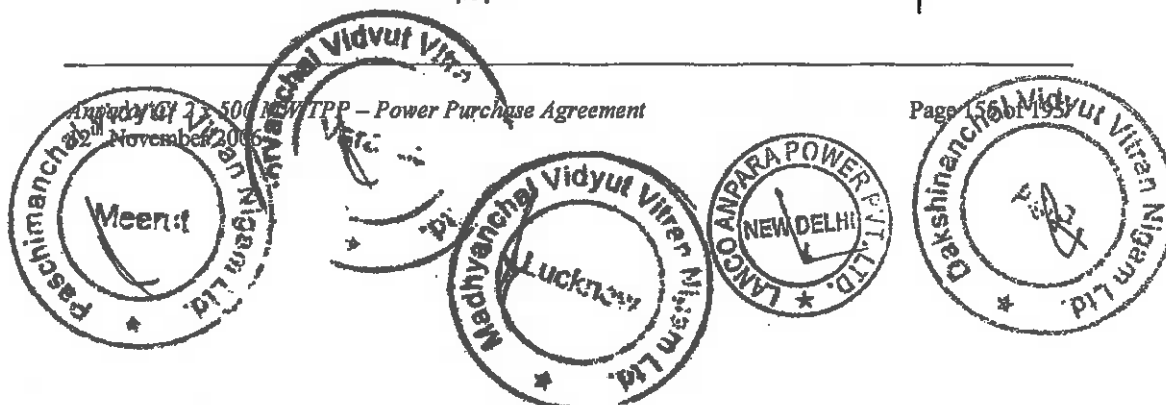
- 4.3.5 In respect of the Capacity Reductions discussed in Article 4.3.1, 4.3.3 and 4.3.4, if the Availability Based Tariff Regime or any other regime is applied in UP by UPERC, any penal charges payable to the Buyers as a consequence of the said Capacity Reductions, shall be determined through the provisions of such regime.
- 4.4 Nothing in this paragraph shall restrict the Buyers' right to require the Seller to take the Power Station or any Unit out of service in accordance with Article 7.6.3 to remedy any impairment in its Contracted Operating Characteristics.
- 4.5 The provisions of this Part 4 of Schedule 6 are intended to constitute the Buyers' sole remedy in the event of a Capacity Failure except one caused by the Seller's wilful misconduct. If any Capacity Failure is caused by the Seller's wilful misconduct, the Buyers may elect to recover from the Seller as an indemnity all direct costs, arising from that Capacity Failure.
- 4.6 The Available Capacity of the Power Station during any Settlement Periods in which the performance of the Power Station have been adversely affected by any Indian Political Events or Buyer Event of Default and which fall during the period for which the Seller has claimed relief under Article 13 shall be determined in accordance with that Article.

5. Intentionally Omitted

6. Availability Factors

"Availability", means, in relation to a period expressed in days, the means of the average of the daily average of all Available Capacities for each Settlement Period for all the days during that period considered, expressed as a percentage of the Contracted Capacity minus Auxiliary Consumption of 7.5% in MW, and shall be computed in accordance with the following formula:

$$\text{Availability} = 10000 \times \sum_{i=1}^N DC_i / \{ N \times IC \times (100 - AUX_n) \} \%$$





where:

- (1) "IC" = Contracted Capacity in MW;
- (2) "DC_i" = average Declared Capacity for the ith day of the period in MW;
- (3) "N" = Number of days during the period; and
- (4) "AUX_n" = Auxiliary Consumption of 7.5%.

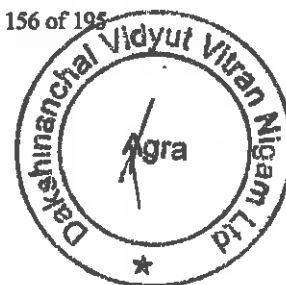
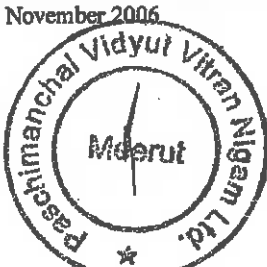
7. Notices shall be as per Grid Code

8. **Ensuring Endurance Compliance**

Within sixty (60) days of the date of this Agreement, the Buyers shall jointly categorise and intimate to the Seller, each Settlement Period in a day as Peak Settlement Period or Normal Settlement Period or Off-Peak Settlement Period, provided that the Peak Settlement Periods in any day shall not exceed twenty four (24), Normal Settlement Periods in any day shall not exceed forty (40) and the Off-Peak Settlement Periods in any day shall not be less than thirty two (32). Provided further that with an advance notice of not less than two (2) years, the Buyers shall have the right to jointly change the categorisation of a Settlement Period, but without in anyway changing the maximum number of Peak Settlement Period or Normal Settlement Period or Off-Peak Settlement Period allowed in a day. At the end of each Contract Year, the Availability in each of the above three Settlement Periods shall be calculated separately and the following penalties ("Minimum Endurance Limit Penalty") applied if the Availability in such category of Settlement Period is less than the following limits ("Minimum Endurance Limit"). Such penalty shall be applied only on the shortfall in the Minimum Endurance Limit and shall be paid by the Seller to the Buyers (in proportion to their respective Contracted Capacities) within sixty (60) days of the end of the Contract Year..

Settlement Period	Minimum Endurance Limit	Minimum Endurance Limit Penalty
Peak Settlement Period	87%	Rs. 0.125/kwh
Normal Settlement Period	85%	Rs. 0.10/ kwh
Off-Peak Settlement Period	83%	Rs. 0.075/ kwh

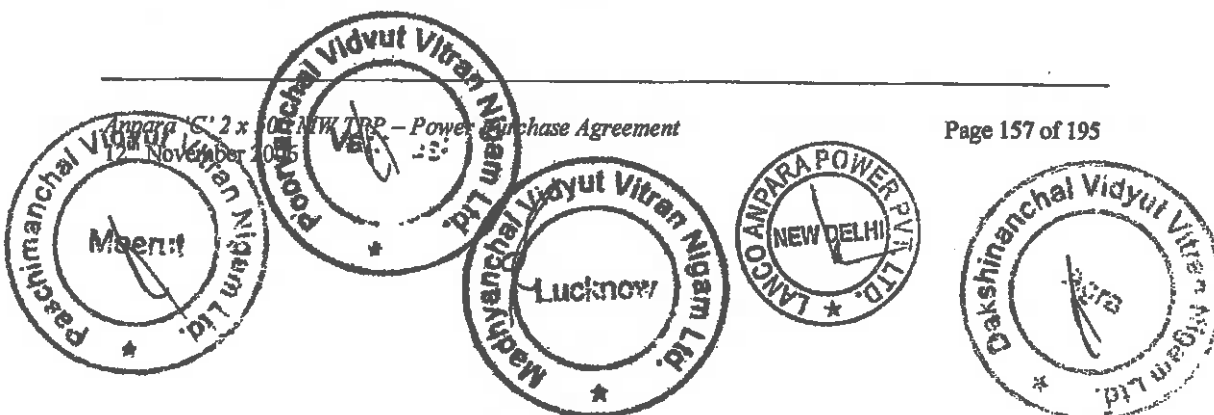
Provided further, the above Minimum Endurance Limit Penalty shall not apply in case the Availability is below 80%





SCHEDULE 7
DISPATCH PROCEDURES

1. Dispatch Procedures (including the form of Dispatch instructions, communication with the Seller, action required from Seller, implementation of instructions by the Seller or any other item relating to Dispatch) shall be as per Grid Code
2. **Intentionally Omitted**
3. **Dispatch Schedule**
 - 3.1 Intentionally Omitted.
 - 3.2 The Seller acknowledges and accepts that for the Dispatch of the Power Station, the following factors will be given due weightage:
 - (a) constraints on the Grid System from time to time, as determined by the Buyers;
 - (b) the availability and any declared constraints on the performance of generating plant connected to the Grid System;
 - (c) the need to provide various categories of reserve, as determined by the Buyers;
 - (d) the reliability of available generating plant, as assessed by the Buyers.
 - (e) the requirements, as determined by the Buyers, for voltage control and MVar reserves;
 - (f) the availability of electricity from interconnected systems;
 - (g) the requirements, as determined by the Buyers, for maintaining Grid System frequency.
 - (h) so that generating plant with the lowest variable costs, as determined by the Buyers will as far as possible, be scheduled first; and
 - (i) generating plant will be scheduled sufficient to match at all times (to the extent possible) the forecast demand on the Grid System together with such margin of reserve as the Buyers considers to be appropriate.





SCHEDULE 8 **THE TARIFF**

1. THE MONTHLY TARIFF PAYMENT

1.1 General

1.1.1 Buyers shall pay the Monthly Tariff Payment for the period from the date on which Electrical Output is first accepted by Buyers into the Grid System pursuant to Article 6.2.2 until this Agreement expires or is terminated. The individual liability of the Buyers and their Monthly Tariff Invoices shall be determined/calculated as per the provisions of Paragraph 7 of this Schedule.

1.1.2 The Monthly Tariff Payment shall consist of the following elements:

- (i) the Fixed Charge; plus
- (ii) the Variable Charge; plus
- (iii) the Incentive Charge for Availability, Incentive Charge for PLF and Incentive Charge on early Commissioning; minus
- (iv) the Monthly Availability Adjustment, minus
- (v) the amounts, if any, due to the Buyers as per the provisions of Article 4.4.2 and Article 4.9, and plus/minus
- (vi) any other amounts that may be due under this Agreement.

except that the Monthly Tariff Payment for a Unit which is yet to be Commissioned shall consist only of the Variable Fuel Charge in those months in which Electrical Output (such Electrical Output, "Infirm Power") is accepted by the Buyers from a such Unit. Provided further that the Monthly Tariff Payment for the first month at the beginning of every Contract Year after Commissioning of the first Unit shall also include the Incentive Charge, if any, which may be payable for the immediately preceding Contract Year. Provided further that prior to the Commissioning of the Power Station, all calculations for Monthly Tariff under this Schedule 8 shall be undertaken separately for each Unit.

1.1.3 Monthly Tariff Payments are payable in Rupees.



1.1.4 Monthly Tariff Payments shall be calculated for periods of a full calendar month, except:

(i) if Electrical Output is first accepted by Buyers into the Grid System after the fifteenth day of a calendar month, the first month for which a Monthly Tariff Payment shall be calculated shall end on the last day of the next calendar month;

(ii) if one or more Tariff Changes referred to in Paragraph 1.1.5 occur during the course of a month, the Monthly Tariff Payment for that month shall be calculated separately for (a) the period from the beginning of the month until the day before the First Tariff Change occurred, (b) each period (if any) from the date a Tariff Change occurred until the day before the next Tariff Change in that month occurred and (c) the period from the date on which the last Tariff Change in that month occurred until the end of the month (as though each such period were a separate month) and the Monthly Tariff Payment for the month shall be the sum of those separate calculations; and

(iii) if the term of this Agreement expires or is terminated other than on the last day of a month, the last Monthly Tariff Payment shall be calculated for the period from the first day of that month until the day on which this Agreement expires or is terminated.

1.1.5 A Tariff Change means

(i) any change in the first Unit or Power Station's Contracted Capacity;

(ii) the occurrence of a Unit's Commissioned Date; or

(iii) any other event or circumstance which is relevant to the calculation of the Monthly Tariff Payments.

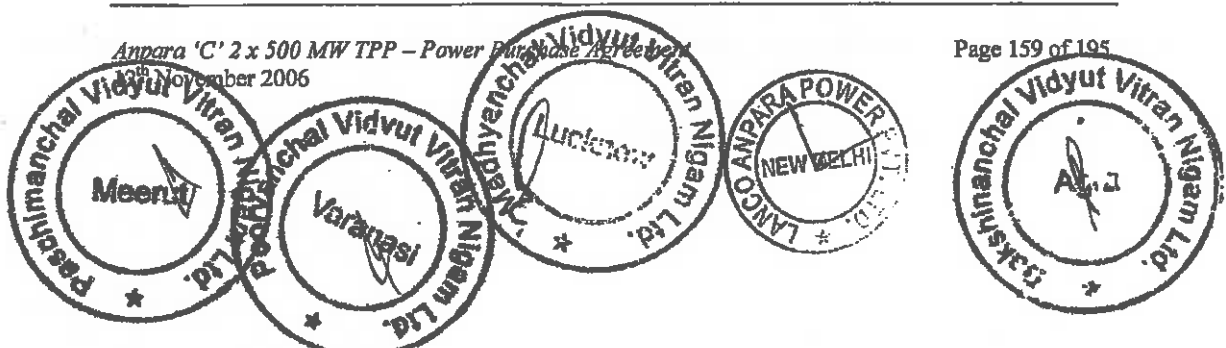
1.2 The Fixed Charge

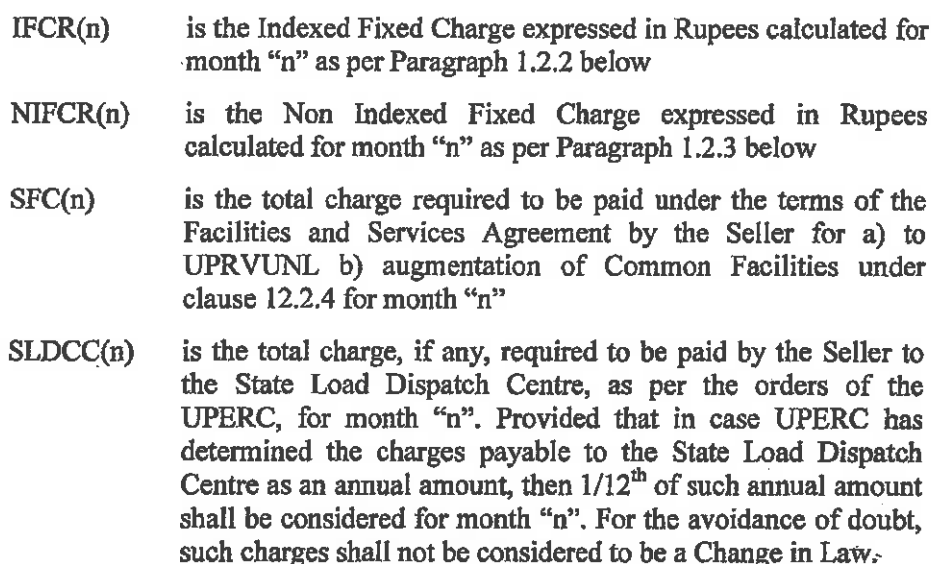
1.2.1 The Fixed Charge in any month "n" which begins on or after the Commissioning shall be calculated as follows. Provided that no Fixed Charge shall be payable for the Availability of any Unit which has not been Commissioned:

$$FC(n) = IFCR(n) + NIFCR(n) + SFC(n) + SLDCC(n)$$

Where,

FC(n) is the Fixed Charge component of the Tariff expressed in Rupees payable for the Commissioned Units for month "n"




$$IFCR(n) = \left\{ \frac{[IWPI(n) \times IFCR(n_0) \times 0.60] + [ICPI(n) \times IFCR(n_0) \times 0.40]}{IWPI(0) + ICPI(0)} \right\} \times N \times H \times CC \times 1000 \times 80\% \times (1 - AC)$$

IFCR(n)	is defined in Paragraph 1.2.1 above
IWPI(n)	is the Indian Wholesale Price Index on the last day of month “n” (expressed as a number)
IWPI(o)	is the Indian Wholesale Price Index on the date of Commissioning of the first Unit (expressed as a number)
ICPI(n)	is the Indian Consumer Price Index on the last day of month “n” (expressed as a number)
ICPI(o)	is the Indian Consumer Price Index on the date of Commissioning of the first Unit (expressed as a number)
IFCR(no)	is the Base Indexed Fixed Charge of the Contract Year (in case of first Contract Year the 1-4 month period or 5-12 month, as applicable) in which month “n” occurs, expressed in Rupees/kWh, as provided in Annexure 1 to this Schedule 8.
N	is the number of Settlement Periods in Month “n” (expressed as a number)
H	is the number of hours in each Settlement Period, which shall be 0.25 (expressed in hours)



CC is the simple average of the Contracted Capacity in each Settlement Period in Month "n" (expressed in MW)

AC Normative Auxiliary Consumption Rate

1.2.3 Non Indexed Fixed Charge

$$\text{NIFCR}(n) = \text{NIFCR}(no) \times N \times H \times CC \times 1000 \times 80\% \times (1 - AC)$$

Where,

NIFCR (n) is defined in Paragraph 1.2.1 above

NIFCR (no) is the Base Non Indexed Fixed Charge of the Contract Year (in case of first Contract Year the 1-4 month period or 5-12 month, as applicable) in which month "n" occurs, expressed in Rupees/kWh, as provided in Annexure 1 to this Schedule 8

N is the number of Settlement Periods in Month "n" (expressed as a number)

H is the number of hours in each Settlement Period, which shall be 0.25 (expressed in hours)

CC is the simple average of the Contracted Capacity in each Settlement Period in Month "n" (expressed in MW)

AC Normative Auxiliary Consumption Rate

1.2.4 (Omitted)

1.3 The Variable Charge for month "n" shall mean the Variable Fuel Charge calculated for month "n" as per Paragraph 1.3.2.

1.3.1 Omitted

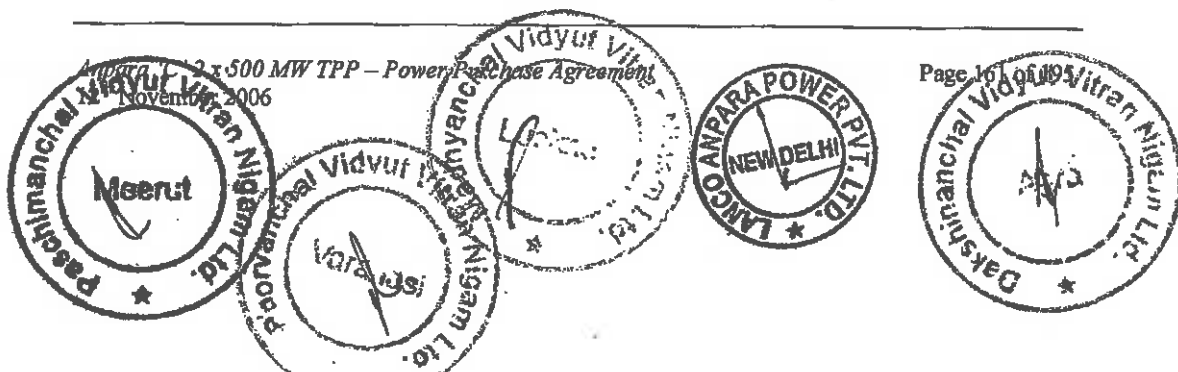
1.3.2 The Variable Fuel Charge for month "n" shall be calculated as follows:

$$\text{VFC}_n = \frac{\sum_n \left[\text{NOHR}_n \times \text{SG}_n \times \text{F}^{\text{COAL}}_n \right]}{\text{PCV}_n}$$

where,

\sum_n is the sum of the relevant values for Electrical Output during month "n"

VFC_n is the Variable Fuel Charge for month "n" (expressed in Rupees)





$NQHR_n$ is the Net Quoted Heat Rate for the Contract Year in which month "n" occurs (expressed in kCal per kwh)

SG_n is the Scheduled Generation in in month "n" (expressed in kWh)

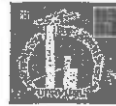
F^{COAL}_n is the weighted average actual cost to the Seller of purchasing, transporting and unloading the coal most recently supplied to the Project before the beginning of month "n" (expressed in Rupees per kilogram) provided that any such cost which exceeds the levels permitted by the Fuel Supply Agreement and the Fuel Policy shall be disregarded. Provided further that the cost incurred by the Seller for the transportation, loading and unloading of coal through the use of his own (whether contracted or purchased) wagons and (whether on contract or permanent) personnel or through the use of the existing merry go round system located at Anpara, shall not be considered as a part of the cost of coal. Provided further that the transit and handling losses shall be considered at a fixed 0.3% of the coal dispatched by the Fuel Supplier for estimating the cost of coal.

PCV_n is the weighted average gross calorific value of the coal most recently delivered to the Project before the beginning of month "n" expressed in kcal/kg and shall be calculated as per the provisions of Schedule 15.

No additional compensation shall be provided to the Seller on account of cost of secondary fuel or on account of changes in loading conditions.

1.3.3 For the period of operation before the Commissioning of the Power Station, for calculating the Variable Fuel Charge for the Electrical Output, the Net Quoted Heat Rate shall be equal to the value of such item indicated for month 0 to 4 for Contract Year 1.

1.3.4 Beginning with the Commissioning of the first Unit, every six (6) months after that and on the date on which this Agreement expires or is terminated, the Seller shall provide Buyers with a written statement of (i) the quantities of coal held in stock at the Power Station as at the date of the report and the actual delivered cost of that fuel (determined using the last-in, first out method) and (ii) beginning with the second report, the quantities of coal actually



consumed in the operation of the Power Station since the previous report and the actual delivered cost of that fuel (determined consistently with the method used in Paragraph 1.3.2)..

- 1.3.5 The Seller shall provide the Buyers with written evidence, including invoices, to support the figures provided to Buyers in the statements provided in accordance with Paragraph 1.3.4. If the Seller fails to provide any such statement or any supporting evidence reasonably required by Buyers, Buyers may, at the Seller's expense, take any reasonable action to determine whether and, if so, what amount are owed to it under Paragraph 1.3.4.

1.3.6 *Intentionally Omitted*

- 1.3.7 In Paragraphs 1.2.1. to 1.3.2 above, the values of IFCR(no), NIFCR(no) and NQHR_n, respectively, for the Contract Year in which such month "n" falls shall be as indicated in Annexure 1 to this Schedule 8

Provided that in case the first Unit is Commissioned before its Required Commercial Operations Date, the values of Base Indexed Fixed Charge, Base Non Indexed Fixed Charge and Net Quoted Heat Rate, provided for months 0 to 4 above shall also be applied to calculate payments due to such first Unit for the period of its operation after Commissioning and prior to its Required Commissioning Date. Similarly, if the Power Station is Commissioned before its Required Commissioning Date, the values of Base Indexed Fixed Charge, Base Non Indexed Fixed Charge and Net Quoted Heat Rate provided for months 5 to 12 above shall also be applied to calculate payments due to the Power Station for the period after Commissioning and before its Required Commissioning Date.

- 1.3.8 Unscheduled Interchange (UI) Charges shall be applicable for Seller and Buyers as per the applicable Availability Based Regulations and the Grid Code. The Unscheduled Interchange Charges shall be calculated by SLDC and shall be communicated to the Buyers, Seller and other related entities.

1.4 *[Omitted]*

- 1.4.1 The Incentive Charge for Availability shall be calculated at the end of each Contract Year on the following basis and shall be applicable only for the period after the Commissioning of the Power Station:

$$IC_{ya} = (AV - 80.00) \times N \times H \times CC \times I \times 10 \times (1-AC)$$

where,

IC_{ya} is the Incentive Charge on Availability in Contract Year "y" (expressed in Rupees)



- N is the number of Settlement Periods in Contract Year "y" (expressed as a number)
- H is the number of hours in each Settlement Period which shall be 0.25 (expressed in hours)
- CC is the simple average of the Contracted Capacity in each Settlement Period in Contract Year "y" (expressed in MW)
- AV is the lower of
- a) 92.00; and
 - b) simple average of the Availability Factors of the Power Station, expressed as a number of percentage points upto two decimal places, in each Settlement Period in Contract Year "y" or 80.00, whichever is higher.
- I is the applicable incentive rate (expressed in Rs./kWhr) which shall be the lower of a) Rs.0.25/kWhr and b) 40% of NIFCR(no), if the AV is more than 80.00.
- NIFCR (no) is the Base Non Indexed Fixed Charge of the Contract Year in which month "n" occurs, expressed in Rupees/kWh, as provided in Annexure 1 to this Schedule 8.
- AC Normative Auxiliary Consumption Rate

1.4.2 The Incentive Charge for PLF shall be calculated at the end of each Contract Year on the following basis and shall be applicable only for the period after the Commissioning of the Power Station:

$$IC_{yp} = (PLF - 92.00) \times N \times H \times CC \times I \times 10 \times (1-AC)$$

where,

- IC_{yp} is the Incentive Charge on PLF in Contract Year "y" (expressed in Rupees)
- N is the number of Settlement Periods in Contract Year "y" (expressed as a number)
- H is the number of hours in each Settlement Period which shall be 0.25 (expressed in hours)



CC	is the simple average of the Contracted Capacity in each Settlement Period in Contract Year "y" (expressed in MW)
PLF	is the simple average of the PLF of the Power Station, expressed as a number of percentage points upto two decimal places, in each Settlement Period in Contract Year "y" or 92.00, whichever is higher.
I	is the applicable incentive rate as may be specified by the UPERC if the PLF is more than 92.00.
AC	Normative Auxiliary Consumption Rate

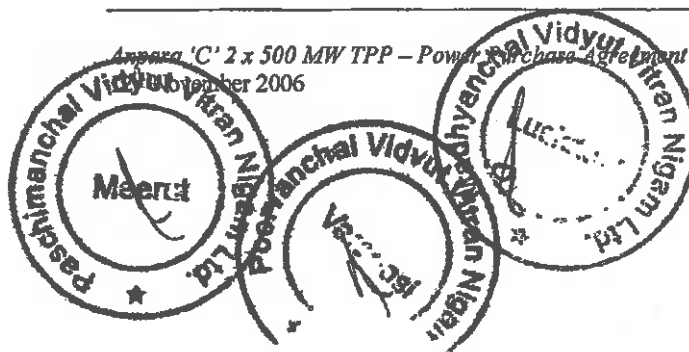
1.4.3 Provided that if the Incentive Charge is negative, it shall be considered to be zero for the purposes of Tariff. Provided further that in the Contract Year in which the Power Station is Commissioned, the Incentive Charge shall be calculated only for the period starting from the Commissioning of the Power Station to the end of such Contract Year.

1.4.4 The Incentive Charge for early Commissioning shall be paid only if and for the period the Commercial Operation Date of the Unit or the Power Station, as the case may be, is prior to its Required Commercial Operation Date. The Incentive Charge for early Commissioning for month "n" shall be calculated as follows:

$$IC_{yc} = \sum_n EOn \times I$$

where,

IC_{yc}	is the Incentive Charge on early Commissioning in Contract Year "y" (expressed in Rupees)
\sum_n	is the sum of the relevant values for Electrical Output during month "n"
EOn	is the Dispatched Electrical Output metered in month "n" (expressed in kWhr)
I	is the applicable incentive rate of Rs. 0.05/kWhr





1.5 The Monthly Availability Adjustments

1.5.1 The Monthly Availability Adjustment in month "n" shall be calculated as follows:

$$MA_n = \left[\frac{\sum_n FC_n (NA_r - AV_n)}{NA_r} \right] - \sum_n MA_{n-1}$$

Where,

MA_n is the Monthly Availability Adjustment in month "n" (expressed in Rupees)

\sum_n is the sum of the relevant values (taking account of whether such values are positive or negative) for each relevant month in Contract Year_n (being the Contract Year in which month "n" falls)

FC_n is the Fixed Charge in each elapsed month in Contract Year_n (including the month for which the Monthly Availability Adjustment is being calculated)

NA_r is 80 %

AV_n is the Availability Factor of the Commissioned Unit (or the Power Station, if the Power Station has been Commissioned), expressed as a percentage, calculated over all elapsed months in Contract Year_n (including the month for which the Monthly Availability Adjustment is being calculated) or 80%, whichever is lower

MA_{n-1} is the Monthly Availability Adjustment in each elapsed month in Contract Year_n prior to the month for which the Monthly Availability Adjustment is being calculated

1.5.2 If the Monthly Availability Adjustment for month "n" is a positive number it shall be shown in the Monthly Tariff Invoice as a reduction in the amount payable by any of the Buyers to the Seller; if a negative number, it shall be shown as an additional amount payable by Buyers to the Seller.

1.5.3 Notwithstanding the above provisions of Paragraph 1.5.1 and 1.5.2 above, in the event the Availability is below 80% calculated over all elapsed months in Contract Year_n (including the month for which the Monthly Availability Adjustment is being calculated) , then the Seller shall be required to pay to the Buyers an amount equal to 20% of the Fixed Charge for month "n", calculated as per the provisions of



Paragraphs 1.2.1 of this Schedule, as multiplied by the shortfall in Availability below 80%, as additional penalty.

2 (Omitted)

3 Omitted

4 **Annual Adjustment**

Within one month of the ending of each Contract Year, the Buyers and Seller shall undertake a reconciliation exercise to determine if all the provisions of this Schedule 8 have been fully and correctly applied and payments made or received by the Buyers, as applicable, based on such annual adjustments.

5 **Indicative Tariff**

As an aid to estimating the future tariff, Annexure II to this Schedule contains a calculation of the Tariff for the term of this Agreement based on the assumptions set out in that Annexure, which shall not be different from the assumptions used for the evaluation of bids in the RFP, unless mutually agreed by the parties.

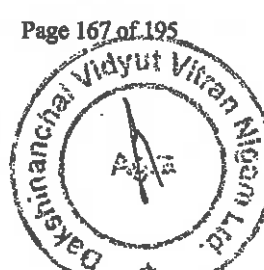
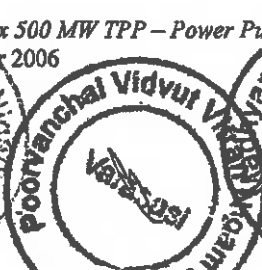
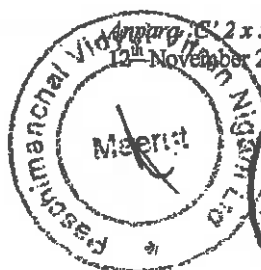
6 **Conflicts Between Indicative Tariff and Schedule 8**

It is expressly understood that the indicative tariff presented in Annexure is just for illustration purposes and in the event of any conflict between the terms of this Schedule 8 and the calculations contained in Annexure II, the provisions of this Schedule 8 shall prevail.

7 **Individual Liability of the Buyers**

It is expressly understood that the total Tariff calculated as per the above provisions of Schedule 8 shall be divided amongst the four Buyers in the following ratio's:

Particulars	Ratio
Fixed Charge	Available Capacity allocated to each Buyer
Variable Fuel Charge	Scheduled Generation of each Buyer
Incentive Charge for Availability	Available Capacity allocated to each Buyer
Monthly Availability Adjustment	Available Capacity allocated to each Buyer
Amounts, if any, due to the Buyers as per the provisions of Article 4.4.2 and Article 4.9	As per provisions specified in Article 4.4.2 and Article 4.9 respectively



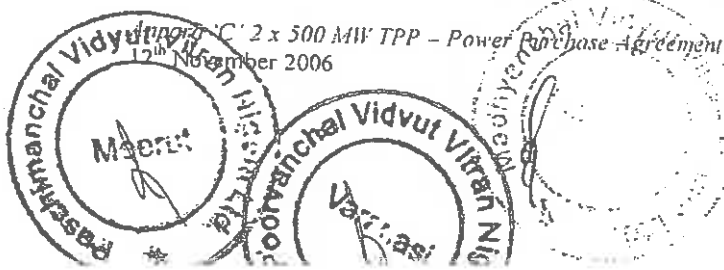


Provided that the Annual Adjustment provided in Paragraph 4 shall be allocated keeping in view the above principles. For the avoidance of doubt, if the Tariff component, which is being subjected to Annual Adjustment, is to be divided amongst the Buyers in the ratio of their allocated Available Capacity, then such Annual Adjustment shall also be divided amongst the Buyers in the ratio of their allocated Available Capacity.

Provided further that in case there is any dispute between the Buyers on the division (but the Buyers are otherwise agreeable on the total Tariff) of the Tariff components to each Buyer, then the Buyers shall pay, to the Seller within the Due Date of the Monthly Invoice, the disputed component of the Tariff, in proportion to their Available Capacity and shall then refer this dispute to the Dispute resolution mechanism provided in this Agreement.

8. Compensation for Start / Stop of Units on account of Buyers requirements during two shift operation only

- 8.1 The Power Station shall be designed to operate in two shift mode of operation for the term of the PPA. Buyer shall have the right to demand for operation of the Unit or Power Station in single or double shift operation for specified duration on any calendar day as per Buyer requirements, and that if ;
- 8.2 Any such instruction requires Seller to shut down any Unit, then for every start up subsequent to any such shutdowns , the Buyer shall compensate to the Seller an amount as may be mutually decided or, if there is no such agreement, as determined by the UPERC / per start up / per unit on the basis of actual fuel oil consumption during such start up.



ORIGINAL

Annex-1

LANCO KONDAPALLI POWER PRIVATE LIMITED

Regd. Office : "LANCO House", 141, Avenue # 8, Banjara Hills, Hyderabad - 500 034, A.P. INDIA
 Tel # +91-40-2354 0697, 2354 0703, Fax # +91-40-2354 0698, email : lkpl@lancogroup.com



LKPL: UPRVUNL: 1892: 06

June 5, 2006

FINANCIAL BID FORM

The Chief General Manager,
 Project Planning, Monitoring and Management Unit
 Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited
 7th Floor, Shakti Bhawan Extension
 14, Ashok Marg
 Lucknow - 226001
 Uttar Pradesh, INDIA
 Fax +91-522-2287844
 Phone +91-522-228 7870
 Email cetde@sancharnet.in

opened in my presence
6/6/06
opened by me
6/6/06
opened in my presence
6/6/06
(LAW)

Dear Sir,

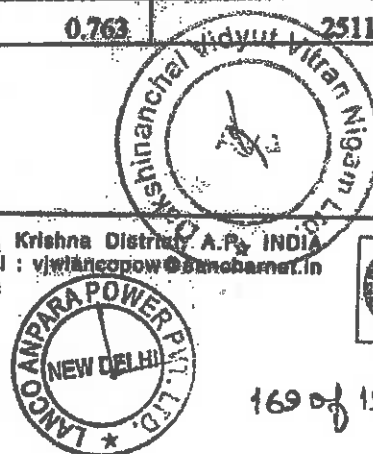
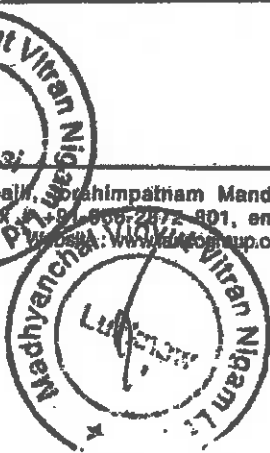
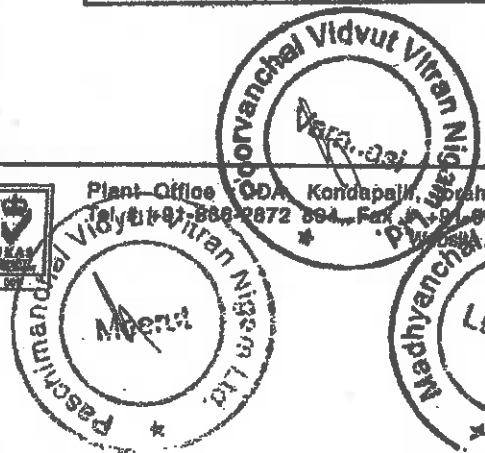
Sub: Financial Bid Form for 2 x 500 MW Anpara "C" Thermal Power Station

We hereby provide below our tariff components for this Financial Bid Form:

Contract Year	BIFCR (Rs./kWh)	ENBIFCR (Rs./kWh)	NQHR (Kcal/kWh)
1 - Month 1 to Month 4	0.010	1.090	2511
1 - Month 5 to Month 12	0.010	1.090	2511
2	0.010	1.090	2511
3	0.010	1.090	2511
4	0.010	0.910	2511
5	0.010	0.910	2511
6	0.010	0.900	2511
7	0.010	0.900	2511
8	0.010	0.900	2511
9	0.010	0.763	2511
10	0.010	0.763	2511
11	0.010	0.763	2511
12	0.010	0.763	2511

2/6/06
(ESSAT POWER LTD.)

Plant Office : ODA, Kondapalli, Washimpetham Mandal, Krishna District, A.P., INDIA
 Tel # +91-886-2872 884, Fax # +91-886-2872 881, email : vj@lancopow@sancharnet.in
 Website : www.lancopow.com



13	0.010	0.763	2511
14	0.010	0.763	2511
15	0.010	0.763	2511
16	0.010	0.763	2511
17	0.010	0.763	2511
18	0.010	0.763	2511
19	0.010	0.763	2511
20	0.010	0.763	2511
21	0.010	0.763	2511
22	0.010	0.763	2511
23	0.010	0.763	2511
24	0.010	0.763	2511
25	0.010	0.763	2511

Important Notes:

1. For Contract Year 1, the Bidder shall be required to separately provide the break up of the Tariff components for months 1 to 4 and months 5 to 12 i.e., for two different time blocks.
2. BIFCR shall mean Base Indexed Fixed Charge, BNIFCR means Base Non Indexed Fixed Charge, NQHR means Net Quoted Heat Rate.
3. BIFCR and BNIFCR have to be provided in Rupees/kWh and upto three decimal places.
4. NQHR shall mean Net Quoted Heat Rate, NQHR shall have to be provided in Kcal/kWh and upto nil decimal place.

For Lance Kondapalli Power Private Limited

P. Panduranga Rao
P. Panduranga Rao
Director & CEO

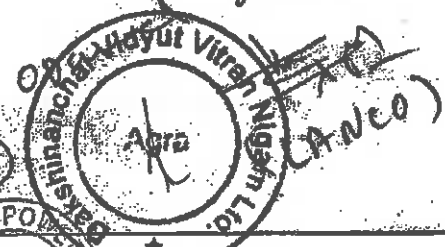
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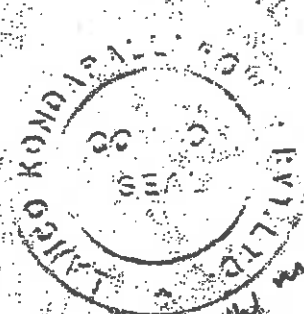
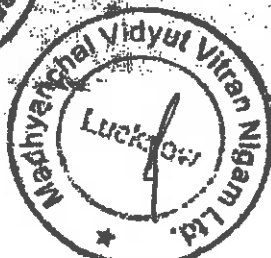
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170 of 195



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ANNEXURE II PROJECTED TARIFF CALCULATIONS

ASSUMPTIONS (AS MENTIONED IN RFP)	
Indian WPI and CPI on Required COD of first Unit	100
Indian WPI annual escalation rate	4%
Indian CPI annual escalation rate	6%
Coal Price as on Financial Bid Deadline (Rs./MT)	1045
Gross Calorific Value of Coal (Kcal/kg)	3885
Coal Price Escalation (% p.a.)	4%
Assumed Annual PLF (%)	80%
Normative Availability (%)	80%
Assumed Auxiliary Power Consumption	7.50%
Number of months between Financial Bid Deadline and start of Contract Year 1	54.5
Number of months between Financial Bid Deadline and Expiry Date	350.5
Discount Rate for Levelised Tariff	7.12%
Assumed Contracted Capacity 1-4 months (MW)	500
Assumed Contracted Capacity (MW) (5th month onwards)	1000

EVALUATED TARIFF (RS. CRORES)

Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Units Generated (MU/yr)	1168	4672	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008	7008
Auxiliary (MU/yr)	88	350	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526	526
Units Delivered (MU/yr)	1080	4322	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482	6482
Projected Indian WPI Index (midpoint of the period)	101	103	106	110	115	119	124	129	134	140	145	151	157	163	170	177	184	191	199	207	215	223	232	242	251
Projected Indian CPI Index (midpoint of the period)	101	104	109	116	123	130	138	146	155	164	174	184	195	207	220	233	247	262	277	294	312	330	350	371	393
Projected Coal Price at the midpoint of the period (Rs./MT)	1257	1282	1324	1377	1432	1490	1549	1611	1676	1743	1813	1885	1960	2039	2120	2205	2293	2385	2481	2580	2683	2790	2902	3018	3139
Evaluated Tariff (Rs. Crores)	1	4	7	7	8	8	8	8	9	9	10	10	11	11	12	12	13	14	14	15	16	16	17	18	19
BRFCR (Rs. Crores)	118	471	707	707	590	590	583	583	583	495	495	495	495	495	495	495	495	495	495	495	495	495	495	495	495
BNFCR (Rs. Crores)	88	358	555	577	600	624	649	675	702	730	759	790	821	854	888	924	961	999	1039	1081	1124	1169	1216	1264	1315
Variable Fuel Charge (Rs. Crores)	287	834	1268	1291	1398	1422	1541	1567	1676	1743	1813	1885	1960	2039	2120	2205	2293	2385	2481	2580	2683	2790	2902	3018	3139
Total Tariff (Rs. Crores)																									

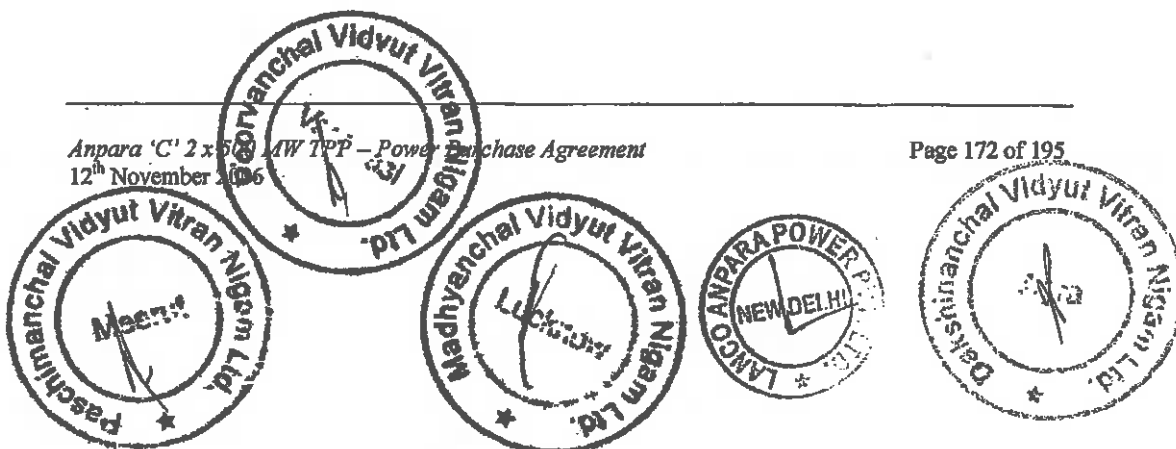


SCHEDULE 9
FORM OF CAPITAL STRUCTURE SCHEDULE

[To be inserted by the Parties at the time of Financial Close]

Anpara 'C' 2 x 660 MW TPP – Power Purchase Agreement
12th November 2006

Page 172 of 195





SCHEDULE 10
VALUATION AND TRANSFER OF
ASSETS ON TERMINATION

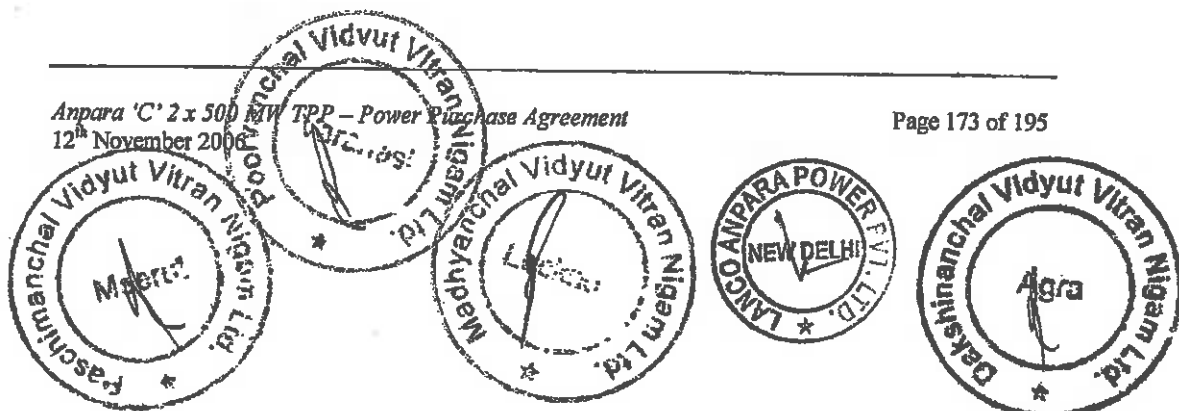
1. Option to purchase and survival

1.1. In the event that:

- 1.1.1 the Seller serves a Termination Notice to the Buyers due to a Buyer Event of Default pursuant to Article 15.4.6, the Buyers shall, at the Seller's option exercised within one hundred and twenty (120) days of such Termination Notice, purchase the Power Station at a Buy out Price determined in accordance with this Schedule 10.
- 1.1.2 the Buyers serve a Termination Notice to the Seller due to a Seller Event of Default pursuant to Article 15.3.4, the Seller shall, at the Buyer's option exercised within one hundred and twenty (120) days of such Termination Notice, sell the Power Station at a Buy out Price determined in accordance with this Schedule 10;
- 1.1.3 the Seller has served a notice pursuant to Article 13.6 to sell the Power Station to the Buyers, the Seller shall sell the Power Station to the Buyers at a Buy out Price determined in accordance with this Schedule 10;
- 1.1.4 the Buyers have served a notice pursuant to Article 13.6 to purchase the Power Station from the Seller, the Seller shall sell the Power Station to the Buyers at a Buy out Price determined in accordance with this Schedule 10; and
- 1.2 If a Party wishes to exercise an option expressed to be in favour of it pursuant to Paragraph 1.1, it shall do so by serving a notice (a "Buy out Notice") to the other Party in accordance with this Schedule 10.
- 1.3 Any notice served by the Seller to the Buyer pursuant to this Schedule 10 shall be served on the GOUP at the same time.
- 1.4 The provisions of this Schedule 10 shall survive termination of this Agreement for a period of two (2) years following such termination.

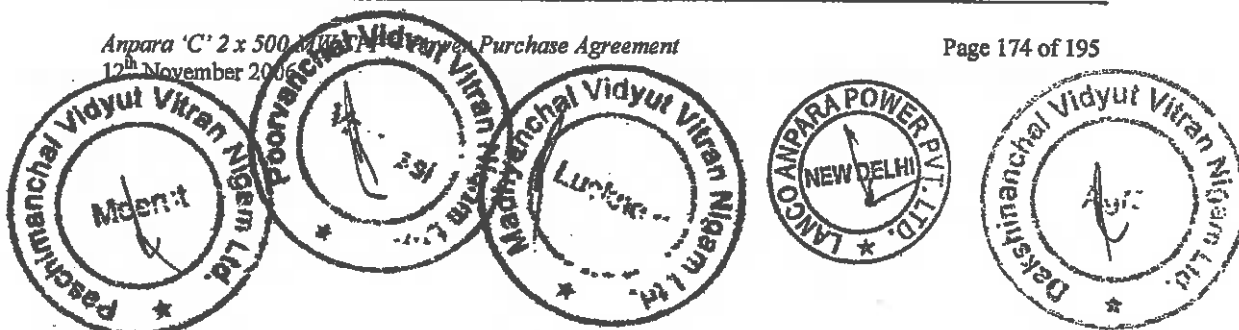
2. Scope of the Sale

- 2.1 The Buyers shall purchase all the assets of the Seller required to operate the Power Station including land, buildings, plant and equipment, coal and oil stockpiles, spare parts, records, drawings and all other consumables.





- 2.2 The Buyers shall not purchase any cash in hand and or in bank accounts, trade and book debts nor receivables accruing to the Seller prior to the Transfer Date unless due consideration for these can be mutually agreed between the Parties.
- 2.3 All other assets existing at the Transfer Date that are not included in Paragraphs 2.1 and 2.2 above shall be for the benefit of the Seller, including the proceeds of any insurance or warranty claims duly made prior to the Transfer Date.
- 2.4 The Seller shall be responsible for all liabilities and obligations of the Seller that have accrued prior to the Transfer Date including any claim for damages made against the Seller.
- 2.5 [Omitted]
- 2.6 No debt, claim for damages or other liability (whether actual or contingent) relating to the Power Station before the date of the Buy out Notice will be assumed by the Buyers unless it chooses to and can reach agreement regarding such liability with the Seller and, if necessary, the Lenders or other creditors (where such agreement is necessary in order to give legal effect to the assumption thereof by the Buyers) (subject to Paragraph 2.7 below). Due allowance shall be made in computing the Buy out Price to take account of any such liabilities assumed by the Buyers.
- 2.7 The Seller shall, if so required by the Buyers, use reasonable efforts to procure the novation (or failing that, the assignment of the underlying rights held by the Seller) to the Buyers of any relevant agreement, including without limitation, fuel contract, operation and / or maintenance contract and the Construction Contract relating to the Power Station on such terms as the Buyers may reasonably require.
- 2.8 Notwithstanding anything to the contrary contained in this Agreement, with the consent of the Lenders, the Buyers may, instead of paying the Total Debt Amount component of the Buy out Price, choose instead to repay such Total Debt Amount on such terms and conditions that the Lender may prescribe in such regard.
3. **Procedure for Determination of the Buy out Price, Buyer Operation and Transfer**
- 3.1 Following an issue of a Buy out Notice, within ten (10) days the Seller shall nominate five independent firms of Indian chartered accountants having branches in India and abroad. The Buyers shall have the right to choose one out of the five nominated firms to carry out a determination of the Buy out Price (the "Valuation") within ten (10) days of the receipt of the aforementioned list from the Seller. The firm of chartered accountants





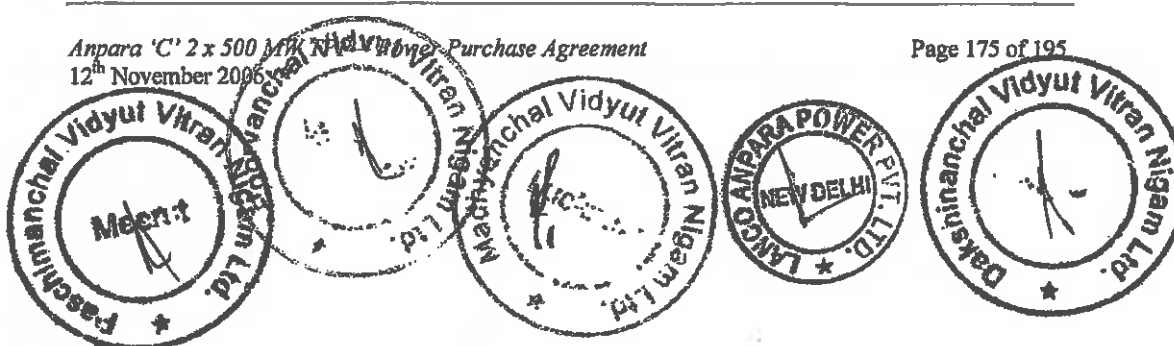
appointed pursuant to this Paragraph 3.1 (the "Appraiser") will begin work within ten (10) days of the issue of the Buy out Notice and shall be provided by the Parties with all such data and information it requires to carry out the valuation.

- 3.2 The Appraiser shall prepare the Valuation in accordance with the methodology described in Paragraphs 4 and 5 of this Schedule 10. Throughout the process, the Appraiser shall consult with the Parties, update them of progress and analyse any commentary they may have on the Valuation. The Appraiser shall complete the Valuation within forty-five (45) days of the issue of the Buy out Notice and deliver a copy to the Parties.
- 3.3 Following completion of the Valuation and payment of the Buy out Price, the Buyers shall be entitled to enter the Site and operate and maintain the Power Station and the Seller shall:
- (a) ensure that all its employee's, agents, contractors and subcontractors, the Seller Contractors and the Operator and their respective employees, agents, representatives and contractors have left the Site; and
 - (b) provide the Buyers with any licence required to give effect to the foregoing.
- 3.5 The Transfer Date shall occur within fifteen (15) days after receipt of the Valuation by the Parties at a time and place that is mutually agreeable to the Parties. The Buyers shall pay the Buy out Price to the Seller in immediately available funds, and simultaneously therewith, the Seller shall transfer and assign to the Buyers all of its right, title and interest in the Power Station except to the extent excluded pursuant to Paragraph 2 of this Schedule 10. All payments shall be made in Rupees.
- 3.6 Following Completion, the Buyers and the Seller may each submit a statement (a "Post Closing Adjustment") to the other Party in line with normal industry practice for asset acquisitions to reflect differences between the assumptions used in the Valuation and the actual asset position on the Transfer Date, for example, a difference in inventory levels. Any Dispute over the Post Closing Adjustment shall be referred to the Appraiser, who shall stand deemed an Expert within the meaning of Article 18.4 of this Agreement for such purposes.

4. Calculation for the Components of the Buy out Price

4.1 The Buy out Price shall be determined in accordance with Paragraph 5 and as follows:

4.1.1 The Buy out Price will be stated in the Valuation in Rupees.





- 4.1.2 The Valuation will be conducted on the presumption that this Agreement would have continued in full force and effect until the Expiry Date, and will be conducted on the further presumption (which the Appraiser can depart from for good reason, such reason not to be the existence of a Direct Indian Political Event or an Buyer Event of Default) that all Project Documents would have continued in full force and effect until their natural expiry. It will be assumed that for the purposes of the Valuation that the Buyers would have met its future payment obligations under this Agreement and the effect of any Direct Indian Political Events that led directly to the issue of the Buy out Notice should be disregarded.
- 4.1.3 Any reduction to the value in the assets of the Power Station due to Direct Indian Political Events shall not be to the account of the Seller and shall not reduce the Buy out Price from that which would have pertained if such Direct Indian Political Events had not occurred.
- 4.2 The discounted cash flow valuation ("DCFV") shall be an estimate of the net present value of the expected cash flows accruing to the Seller (after all debt service and all other Power Station costs and expenses) as a result of operating the Power Station over the remainder of the term of this Agreement (as if it were not terminated until the Expiry Date plus the residual value of the Power Station as set forth below). The DCFV will apply to any Unit that has been Commissioned and shall be carried out in line with normal industry practice, following the guidelines set out below:
- 4.2.1 Annual cash flow ("ACF") projections in Rupees shall be prepared on an after tax basis according to the following formula:

$$\text{Rev} - \text{Opex} - \text{Capex} - \text{Debt} - \text{Taxes} - \text{dNWI}$$

where:

"Rev" means all operating revenues determined under this Agreement for the Units that have been Commissioned, and any payments for ancillary services;

"Opex" means cash expenses of the Power Station including all interest and fees on borrowings, except that any cash expenses required as a result of Direct Indian Political Events shall not be included in Opex;

"Capex" means any capital expenditure not already included in Opex, including the estimated cost of repairing any defect or physical loss or damage to the Power Station, except that any capital expenditure required as a result of Direct Indian Political Events shall not be included in Capex;

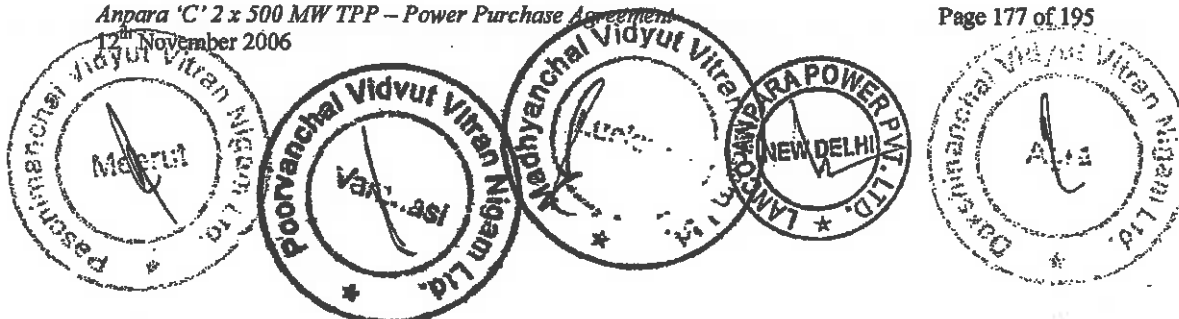
"Debt" means the average of all principal repayments pursuant to the Capital Structure Schedule and any reduction or increase in any working capital loans, increases in such being treated as a negative number;

"Taxes" means corporate income taxes;



"dNWI" means any increase or decrease in net working investment required each Year. Reductions in net working investment shall be treated as negative. The net working investment shall be the sum of inventories and trade receivables minus payables.

- 4.2.2 ACFs should be considered to occur on average at the middle of each year.
- 4.2.3 Inflation rate movements should be applied to the components of the forecast where deemed appropriate by the Appraiser. The forecast of Indian inflation used in the computation of the Buy out Price shall not be less than three (3) percent nor greater than eight (8) percent per annum.
- 4.2.4 The Appraiser will have sole regard to the future operation of the Power Station, considering all factors that are likely to affect it, including but not limited to the following:
- (a) Availability and Plant Load Factors for the calculation of tariff should be based on historical performance unless there is a reason to believe that this is not a reliable indicator of future performance;
 - (b) Plant heat rates should also reflect historical performance but should also take into account future heat rate degradation of the Power Station; and
 - (c) Operating and maintenance costs should be based on Prudent Utility Practice and should reflect historical performance levels as well as any factors, which in the judgement of the Appraiser are likely to affect future cost levels.
- 4.2.5 A terminal value cash flow shall be included at the end of the final year of the projection period. Such cash flow shall equal the Terminal Value as defined below.
- 4.2.6 The discount rate will be a nominal discount rate (that is, including inflation) and will be determined by the Appraiser based on the cost of equity of electrical generating companies that are publicly quoted in India but adjusted to take into account the location and size of the Power Station, the fact that it may be a private company without a diversified portfolio of assets, the length of operation history, the predictability of the cash flows and their limited growth potential and any other factors that the Appraiser judges to be appropriate. The discount rate shall be determined to be in a range of eleven (11) percent to fifteen (15) percent in real terms, plus the forecast of inflation made pursuant to Paragraph 4.2.3.
- 4.2.7 The DCFV should be based on the value of the assets as of the Transfer Date. However, the DCFV should also include a component to cover any reduction in profits that the Seller has suffered as a result of the Seller receiving reduced revenues between the date of any Termination Notice and the Transfer Date. Such component shall be calculated at the sole discretion of the Appraiser.





4.3 The construction period valuation ("CPV") shall apply to any Unit that has not been Commissioned and shall be stated in Rupees. Where no Units have been Commissioned, the CPV shall equal the sum of all equity subscriptions paid into the Seller up until the Transfer Date plus an allowed return ("Uplift") on any such equity and, when one or more Units have been Commissioned, shall be calculated on the basis of that proportion of the total equity subscriptions that the number of Units that have not yet been Commissioned bears to the total number of Units to be installed at the Power Station (in each case "Uplift") at a compound annual rate of Uplift over such period as shown in Paragraph 6 of this Schedule 10. The Appraiser shall make any adjustments that in his sole discretion he feels are necessary to account for any loss or gain in the value of the underlying assets. Such adjustments should reflect:

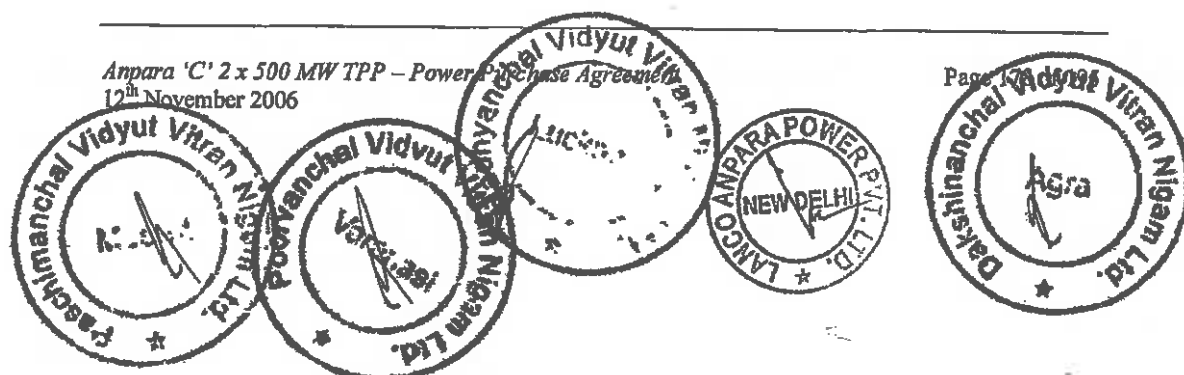
- (a) the extent to which the progress of construction of any Unit would lead to damages being payable to the Buyers for delay;
- (b) the extent to which the amounts actually incurred by the Seller differ from the budgeted amounts at the start of construction;
- (c) the extent to which the estimated final specification, operation costs and performance characteristics of the Power Station differ from those anticipated at the start of construction;
- (d) the amounts included in the equity subscriptions that have been spent on any Unit in question; and
- (e) such other matters as the Appraiser may determine:

Provided that, the Seller should not suffer a reduction in the Buy out Price for losses which have occurred due to Direct Indian Political Events or for which compensation would have been available through damages in the Project Documents or through any Insurance had the termination not halted construction. To the extent that the Seller receives any compensation through damages under the Project Documents or through any Insurance, the amount of compensation shall reduce the Buy out Price commensurately.

4.4 The terminal value ("TV") shall be equal to:

$$TV = CC^P_R \times [0.10 + 0.005(AV_1 - NA_r)]$$

Provided that the term "0.10" shall get replaced by the term "0.05" after the 25 years





Where:

"CC"_R" means the Capital Cost as at the date of the Valuation expressed in Rupees;

"AV_x" means the average Availability Factor (expressed at a number of percentage points) of the Power Station over the three year period ending on the date of the valuation;

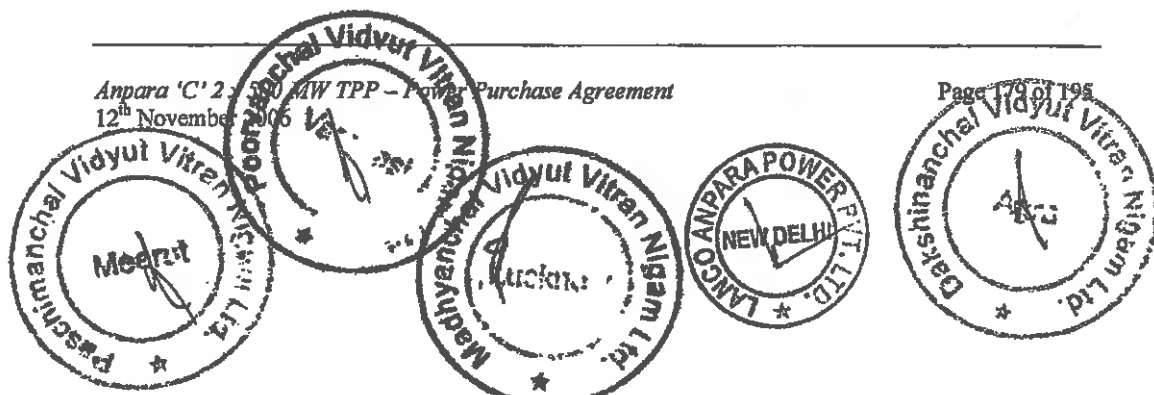
"NA" is ninety (90) percent.

5. The Buy out Price.

The Buy out Price shall equal the sum of the following elements, adjusted if appropriate under the other provisions of this Schedule 10:

- (a) A times the DCFV;
- (b) B times the CPV;
- (c) C times the TV;
- (d) D times the Total Debt Amount;
- (e) E times the Transfer Taxes; and
- (f) F times the Transfer Cost

where A, B, C, D, E and F are determined depending on the reason for termination (as described in Paragraph 1) as shown in the following table. (The notes to the table should be taken into account when calculating the relevant variable).

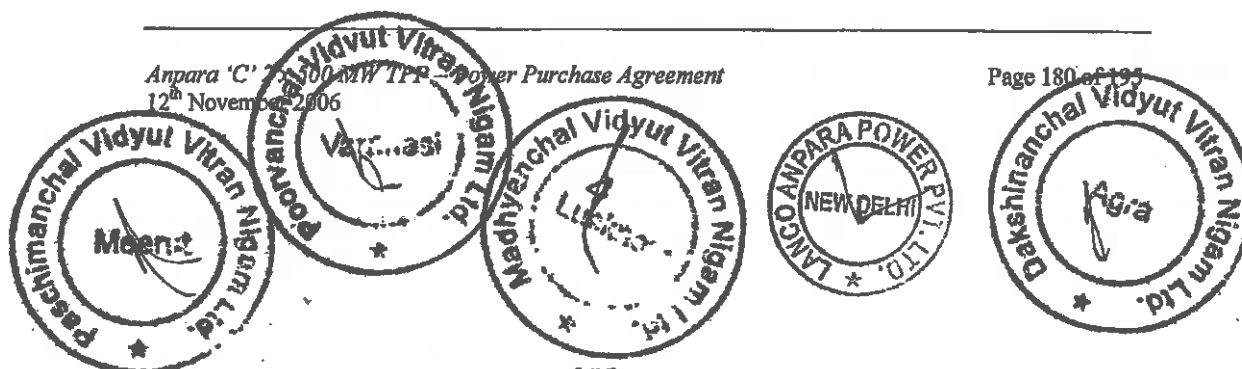




Option	I. Shift	S. DCFV See	CPV	TV	D. Total Debt Amount	E. Transfer Taxes	F. Transfer Costs
Company sale option following a Buyer Event of Default	14%	100%	100%	0%	100%	100%	100%
Buyer purchase option following Seller Event of Default	0%	0%	See Note 1	0%	90%	See Note 2	0%
Seller sale option or Buyer purchase option following Indirect Indian Political Event	7%	50%	100%	0%	100%	100%	100%
Seller sale option or Buyer purchase option following Direct Indian Political Event	14%	100%	100%	0%	100%	100%	100%

Notes:

1. If the CPV is positive after all adjustments by the Appraiser, then B = 0%. If the CPV is negative, then B = 100%;
2. In the event termination is a result of a Seller Event of Default, the Buyers shall pay all Transfer Taxes in excess of 5.5% of the Buy-out Price.
3. The DCFV amount calculated as per the provisions of Paragraph 4.2 shall not exceed the limit ("DCFV Limit Percentage") of the equity amount invested into the Commissioned Units as mentioned in the Capital Structure Schedule, The DCFV Limit Percentage shall be the following for each of the Contract Years.

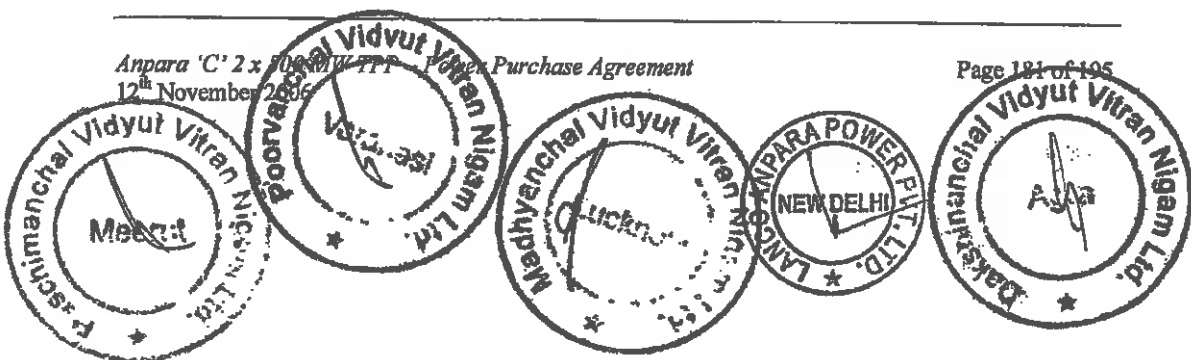




DCPV Limit Percentage	
137%	1
137%	2
137%	3
136%	4
135%	5
134%	6
132%	7
131%	8
129%	9
127%	10
125%	11
123%	12
120%	13
117%	14
113%	15
109%	16
104%	17
99%	18
93%	19
86%	20
78%	21
69%	22
58%	23
46%	24
33%	25

Anpara 'C' 2 x 500 MW TPP Power Purchase Agreement
12th November 2006

Page 181 of 105

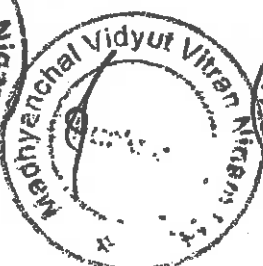
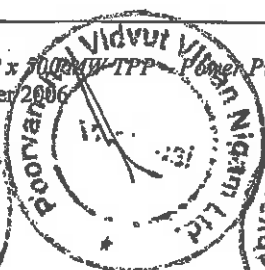
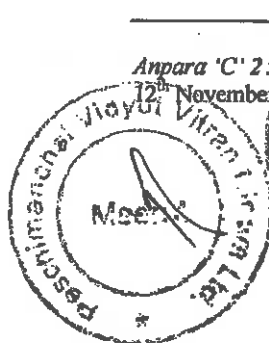




5. Individual liability of the Buyers for the Buy Out Price

5.1 The Buy Out price to be paid by the Buyers collectively under the provisions of this Agreement generally and this Schedule 10 specifically shall be paid by each Buyer in the ratio of the Available Capacities allocated to the Buyers as on the date of the termination.

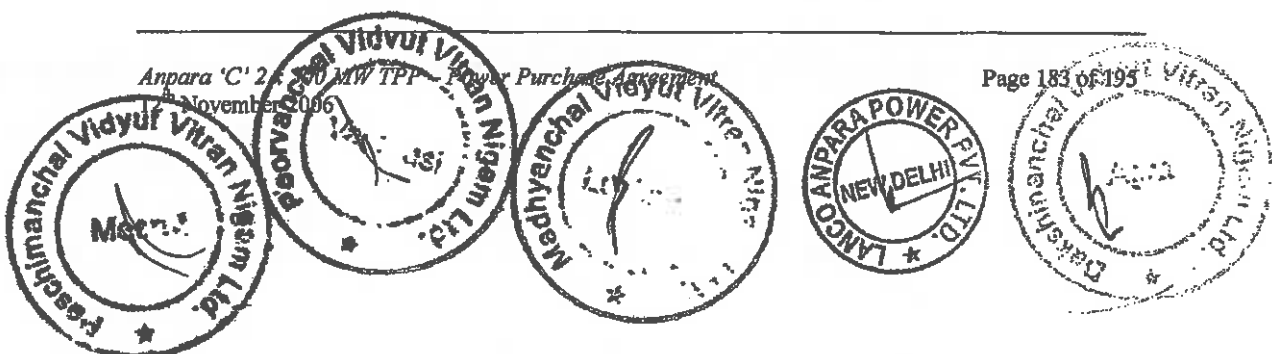
5.2 However, in the event that the Buy Out has been triggered by events of default attributable to one Buyer, after payment of the Buy Out price by all Buyers as required pursuant to 5.1 above, the defaulting Buyer shall be further liable to pay the non defaulting Buyer or Buyers fifteen (15) percent of the total amounts paid by the said Non Defaulting Buyer or Buyers as his or their portion of the Buy Out price. Furthermore, after payment of the Buy Out price by all Buyers as required pursuant to 5.1 above, the Non Defaulting Buyer shall at all times have the right to operate the project himself or through an operator of his choice. Provided further, after such payment of the Buy Out price by the Buyers, the Power Station shall be owned by the Buyers in the ratio of their then existing Available Capacity.





SCHEDULE 11
INSURANCE

[to be completed prior to Financial Close]





SCHEDULE 12
NOTIFICATIONS

Buyer One

Managing Director
Pashchimanchal Vidyut Vitran Nigam Limited
Hydel Inspection House, Hydel Colony, Victoria Park, Meerut - 250001

Fax: 0121-2666062
Phone: 0121-2665734

Buyer Two

Managing Director
Purvanchal Vidyut Vitran Nigam Limited
Vidyut Nagar, Bhikharipur, P.O DLW, Varanasi - 221010

Fax: 0542-2319152
Phone: 0542-2318437

Buyer Three

Managing Director
Madhyanchal Vidyut Vitran Nigam Limited
4A, Gokhale Marg, Lucknow - 226001

Fax: 0522-2208769
Phone: 0522-2208737

Buyer Four

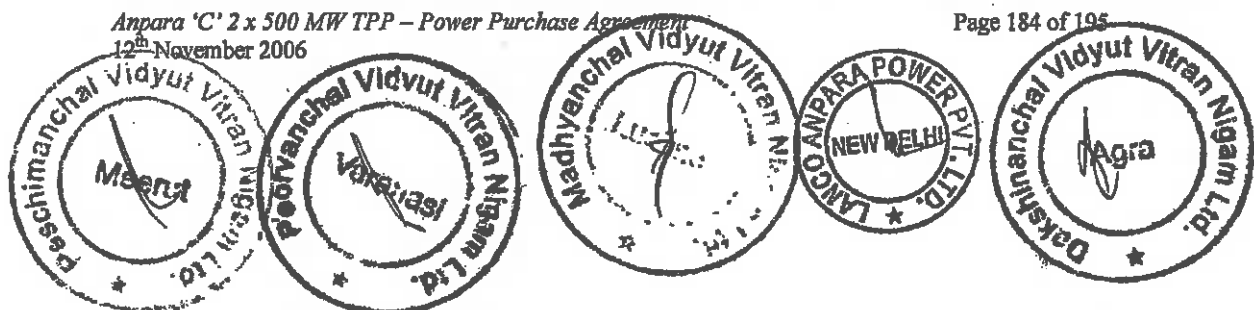
Managing Director
Dakshinanchal Vidyut Vitran Nigam Limited
Urja Bhawan, Agra Mathura By Pass Road, Agra - 282007

Fax: 0562-2605465
Phone: 0562-2605699

The Seller

Director & CEO
Lanco Anpara Power Private Ltd
Upper Ground Floor, Antriksh Bhawan
22, K.G. Marg, New Delhi - 110 001

Fax: 011 - 23311993
Phone : 011 - 23311991, 23311992





SCHEDULE 13
REPRESENTATION AND WARRANTIES

1. Representations and Warranties by the Buyers

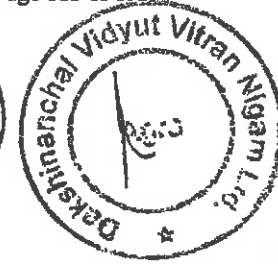
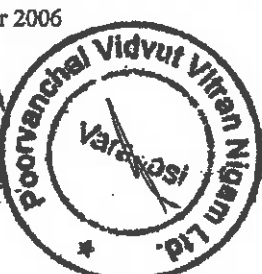
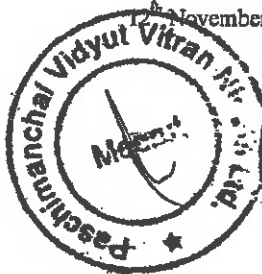
Each Buyers hereby represents and warrants to and agrees with the Seller as follows and acknowledges and confirms that the Seller is relying on such representations and warranties in connection with the transactions described in this Agreement:

- (i) The said Buyer has all requisite power authorising and has been duly authorised to execute and consummate this Agreement;
- (ii) This Agreement is enforceable against the said Buyer in accordance with its terms;
- (iii) The consummation of the transactions contemplated by this Agreement on the part of the said Buyer will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the said Buyer is a party or to which said Buyer is bound, which violation, default or power has not been waived;
- (iv) The said Buyer is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against the said Buyer;
- (v) There are no actions, suits, claims, proceedings or investigations pending or, to the best of the said Buyer's knowledge, threatened in writing against the said Buyer at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgements, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to execute the Project or to comply with its obligations under this Agreement.

- 1.1 Event of Default:** In the event that any representations and warranties offered by a Buyer in the Paragraph above are not true or are incorrect, the occurrence of such event would amount to a Buyer Event of Default under Article 15.2 of this Agreement and the Seller shall have the right to terminate this Agreement in accordance with Article 15 of this Agreement.

2. Representation and Warranties of the Seller

The Seller hereby represents and warrants to and agrees with the Buyers as follows and acknowledges and confirms that the Buyers are relying on such

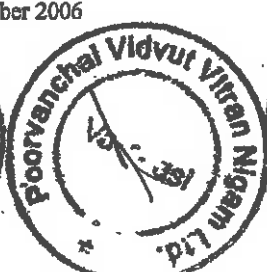
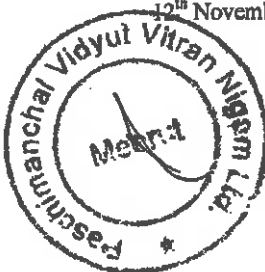




representations and warranties in connection with the transactions described in this Agreement:

- (i) It has all requisite power authorising and has been duly authorised to execute and consummate this Agreement;
- (ii) This Agreement is enforceable against it in accordance with its terms;
- (iii) The consummation of the transactions contemplated by this Agreement on the part of the Seller will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the Seller is a party or to which the Seller is bound which violation, default or power has not been waived;
- (iv) The Seller is not insolvent and no insolvency proceedings have been instituted, not threatened or pending by or against the Seller;
- (v) There are no actions, suits, claims, proceedings or investigations pending or, to the best of Seller's knowledge, threatened in writing against the Seller at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgements, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to execute the Project or to comply with its obligations under this Agreement;
- (vi) Initial Equity Investors have complied with the requirements of the RFP

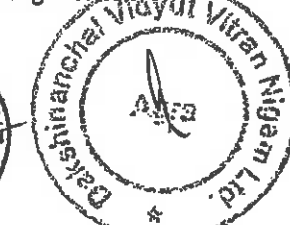
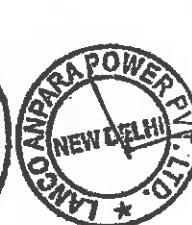
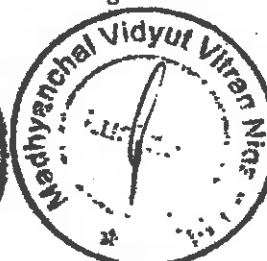
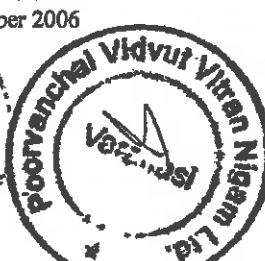
2.1 Event of Default: In the event that any representations and warranties offered by the Seller in the Paragraph above are not true or are incorrect, the occurrence of such event would amount to a Seller Event of Default under Article 15.1 of this Agreement and all Buyers shall have the right to terminate this Agreement in accordance with Article 15 of this Agreement.





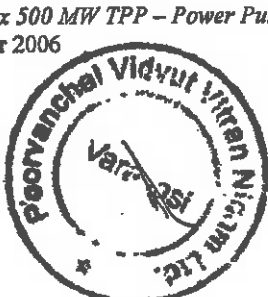
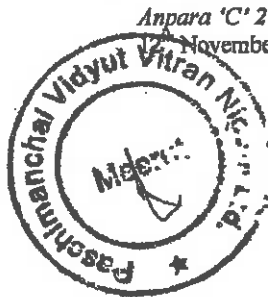
SCHEDULE 14
INFORMATION TO BE PROVIDED BY SELLER TO BUYERS

- 1.1 The following documentation and information shall be submitted by the Seller to the Buyers within sixty (60) days of Financial Close, in addition to the requirements of Article 5.7 and 5.8. The Buyers reserve the right to reasonably request from Seller such additional information, drawings, documents, etc. as may be reasonably required for proper understanding and definition of the design and engineering of the Project.
- 1.2 The Seller shall provide to each Buyer four (4) copies of all drawings and documentation to be submitted by it together, in the case of a final submittal of any document, with a well-organized electronic file. The Seller shall also provide to each Buyer two (2) copies of all documentation (with electronic copy in the case of a final submittal) relating to, or containing information with respect to, connection points or other interfaces between the Project and any of the Existing Shared Facilities.
- 1.3 The Seller shall provide to each Buyer the information mentioned in Paragraph 1.4 to 1.9 below:
- 1.4 Description of main features of the proposed Power Station such as:
- a) General description and main features of the Power Station and use of the Plot including lay-down areas;
 - b) Detailed time schedule;
 - c) Operational philosophy of Power Units (start-up, shutdown of individual units);
 - d) Maintenance philosophy
- 1.5 Description of major equipment and systems including their auxiliaries:
- a) Main mechanical equipment and systems including y steam generators, steam turbine generator plant, etc.
 - b) Electrical equipment and systems, such as: Generators, Generator Transformers, generator protection, electrical power system philosophy, main electrical equipment including , etc.
 - c) 765 KV HV grid station (protection, metering and control interface);
 - d) Instrumentation and control systems philosophy; and
 - e) Emission control measures
- 1.6 Project drawings and diagrams, such as:



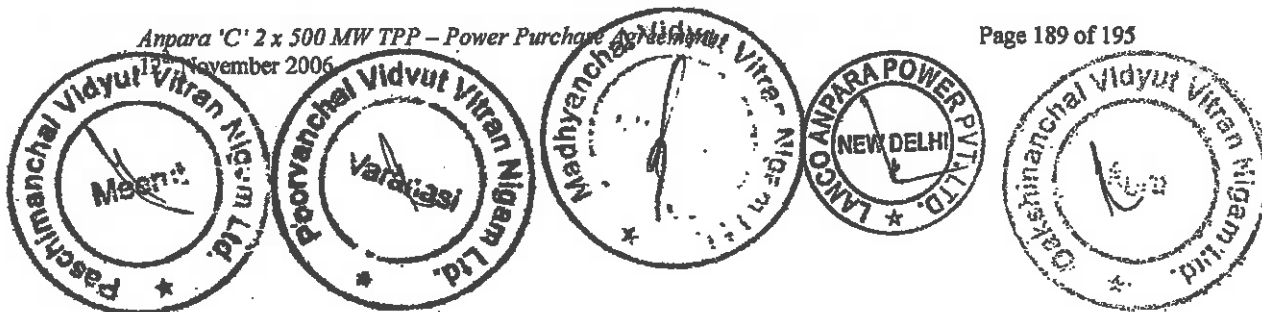


- a) Single line diagrams for Power Station main electrical systems and Power Station electrical auxiliary systems;
 - b) Protection diagrams;
 - c) Heat balance diagrams for the Power Station for various operating points
 - d) Start-up and loading diagrams (from cold, warm, hot condition) of Units and total Power Station;
 - e) Generator performance chart;
 - f) Construction Contractor guaranteed air pollution emission rates and type of emission control and monitoring measures; and
 - g) Ambient noise levels.
- 1.7 The description and specifications of the electrical protective devices to be incorporated in the Power Station in order to protect the Power Station, the 750kV/400KV/132KV grid station and the Grid System.
- 1.8 The following documents shall be submitted by the Project Company to each of the Buyers by the dates set forth below or, if not specified, as and when required:
- a) Monthly progress reports - by no later than five (5) Days after the last day of each month commencing on the Notice to Proceed to the Construction Contractor ("NTP"). The table of contents of the monthly progress reports shall be agreed with the Buyers.
 - b) Arrangement and layout drawings of any offsite facilities within four (4) months after NTP.
 - c) General arrangement and layout drawings.
 - d) Underground piping, ducts and cable arrangement drawings (mechanical, electrical and civil).
 - e) Description of Seller's metering system for the Power Station and shared facilities within two (2) months after NTP.
 - f) Overall time schedule relating to the Power Station showing information on the scheduled:
 - i. design and engineering work
 - ii. order dates and time of delivery of major Power Station equipment and systems;
 - iii. site surveys;
 - iv. site preparation;



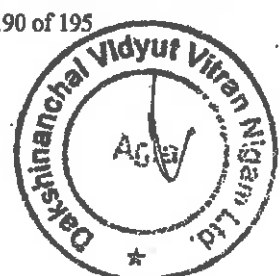
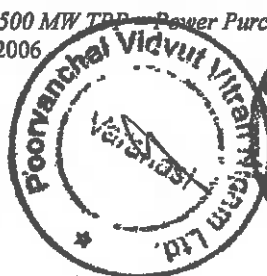
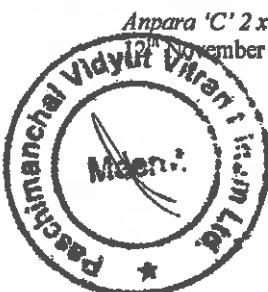


- v. factory tests for major Power Station equipment;
 - vi. civil/structural works;
 - vii. erection and installation;
 - viii. commissioning;
 - ix. site tests.
- g) Performance Test procedure as specified in this Agreement.
- h) Project documents (data sheets, specifications, P&I diagrams, drawings) for major systems and components.
- i) Detailed single line diagrams.
- j) System studies executed by Seller to demonstrate that the entire Power Station will perform according to the specified requirements of the project agreements
- k) Load flow calculations for full determination of the voltage profile of the adjacent grid area, reactive power and transformer control requirements as well as the determination of equipment ratings in the event of outages and faults.
- i. Static and transient short circuit calculations considering symmetrical and asymmetrical faults, for the determination of equipment ratings, earthing requirements, fault voltages and currents as well as equivalent connection point impedance.
 - ii. Earthing system calculation
 - iii. Protection relay setting study.
 - iv. Transient simulations in order to:
 - v. Determine the critical fault clearing times under various loading and operating conditions;
 - vi. Verify the Power Station performance requirements with respect to active power control as well as voltage control under the most relevant contingencies;
 - vii. Verify that expected values of primary response behaviour of the power plant are in compliance with the requirements of the grid code;
 - viii. Determine the impact of turbine control as well as excitation control on system damping;
 - ix. Any transient stability calculation data shall be presented in IEEE format.





- l) Any revision of the Project implementation schedule - by no later than seven (7) Days after such revisions.
 - m) Copies of reports of all management or other meetings held between the Buyers, Seller and/or Construction Contractor(s).
 - n) Commissioning program with all required Tests procedures as specified in this Agreement.
- 1.9 The Seller is required to manage the operation and maintenance of the Power Station with the help of computerised information, diagnostic systems, and maintenance and stores inventory systems. Information shall be provided to the Buyers as to how the organisation and management of the operation and maintenance are supported by:
- a) computerised maintenance tools for protective, preventive and corrective maintenance and maintenance tracking; and
 - b) registration and control of technical process parameters, analysis of the operation conditions and their evaluation.
- 2.0 In addition to the documents submitted by the Buyers to the Seller as mentioned above following documentation (including electronic files) has to be retained by the Seller:
- a) Operation and maintenance manuals;
 - b) Copies of all test results for tests performed according to the Construction Contract(s), to the extent as normally retained in accordance with Prudent Utility Practice;
 - c) As-built drawings for the Power Station, including the civil and architectural works; and
 - d) All further technical documentation as may be normally retained on site in accordance with Prudent Utility Practice.
- 2.1 The Seller has to provide information on the worst fuel parameters and maximum design water temperature considered in his design.





SCHEDULE 15
CALCULATION OF WEIGHTED AVERAGE GCV

1. This Schedule sets out the procedure for calculating the weighted average GCV of coal for the purposes of formulating Monthly Tariff Invoices.

1.1 General

It is hereby agreed that the sampling and measurement procedures set out below are in accordance with relevant Indian standards current as at the date hereof. It is agreed that the Seller and the Buyer may after execution of Fuel Supply Agreement and prior to Financial Close and thereafter every year, review and amend the specific mechanisms set out in this Schedule for sampling, measurement and reporting of GCV (i) in order to reflect any changes to relevant Indian standards occurring after the date hereof and/or (ii) may be consistent with Prudent Utility Practices.

1.2 Sampling and Testing

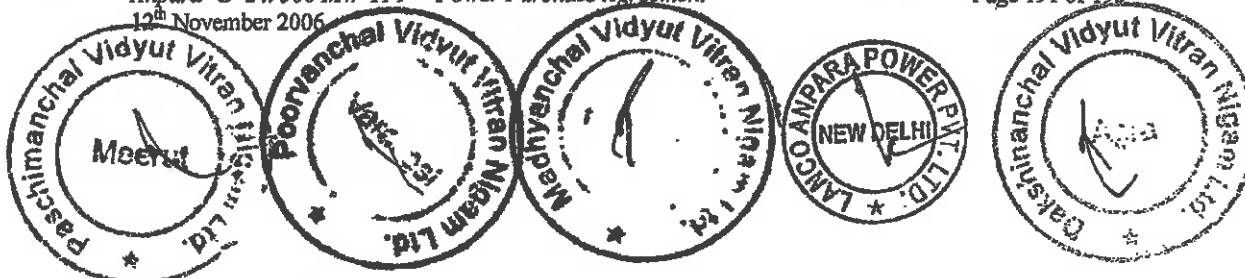
The Buyer shall have the right during normal business hours and subject to reasonable notice to witness the sampling and testing procedures outlined below. Samples will be collected so that they are available for all the Buyers and the Seller, as well as archived. Coal samples for the purpose of determining GCV will be collected immediately prior to the mill bunkers of each Unit as per IS:436 (Part I)- Latest Edition. The Buyer shall also have the right to witness the sampling and testing of coal at the loading point of the fuel supplier. The Buyer will have the right to conduct its own independent testing of samples. The Seller shall have the right during normal business hours and subject to reasonable notice to witness the Buyer's testing procedure. In the event of any dispute between the Seller and the Buyer as to the results of testing then such disputes shall be settled by using the results of the testing by an independent laboratory of the archived sample.

Notwithstanding the above provisions of this Paragraph 1.3, the Buyer would not have a role in checking the moisture content of coal through the tests being conducted by the Seller. The moisture content of coal shall be ascertained by the Seller and authenticated by the Fuel Supplier and such information shall be provided by the Seller to the Buyers. However, the Buyers shall have the right to conduct independent testing of coal and the Seller shall cooperate and shall procure that the Fuel Supplier also cooperates with the Buyers in conducting such independent tests.

2.1 Calculation of the Weighted Average GCV of coal

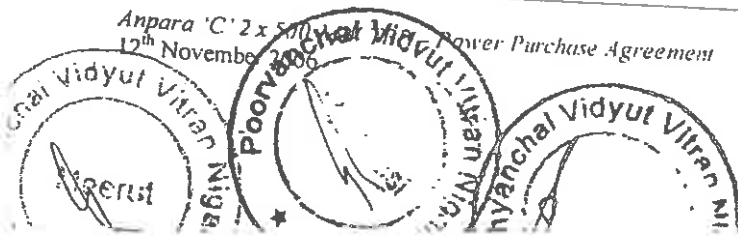
The weighted average GCV of coal consumed by the Company will be expressed in kcal/Kg using the sampling and GCV measurement procedures set out below.

(i) Sampling Procedure





Coal will be sampled and prepared for testing using a procedure in conformance with Indian Standard IS:436 (Part I)-latest edition "Methods for Sampling of Coal and Coke - Part I Sampling of Coal". For the purposes of defining a sample, one "Lot" shall be equivalent to 15000 metric tonnes (approximately equivalent to one day's operation at full load).





(ii) GCV Measurement Procedure

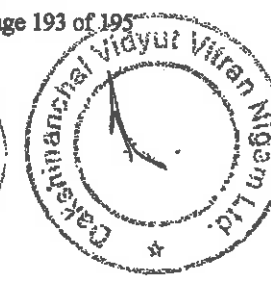
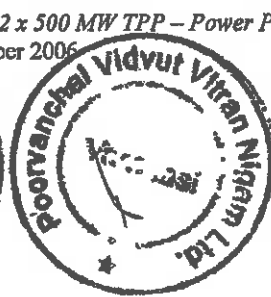
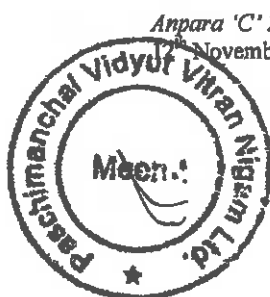
For the purpose of calculating the weighted average of the GCV ("As Received") of the coal delivered to the mill bunkers of the Power Station during any particular Month, the measurement will be based on the arithmetic average of the GCV of each Lot sampled by the Seller during the period beginning on (and including) the last day of the immediately previous Month or, in the case of the first ever measurement of GCV, the first day of such Month, and ending on (and excluding) the last day of such Month.

The GCV of coal shall be calculated considering the moisture content of an air-dried sample of coal collected at the mill bunkers duly corrected to the total moisture content in the coal as loaded local to the mine. For the purposes of computing the variable fuel charge, gcv of each sample (as per para 2.2 of this schedule) shall be determined as follows:

$$\text{GCV As Received} = \text{GCV Air Dried} \times \frac{(100 - TM)}{(100 - M)}$$

Where:

- GCV as Received** is the calculated value used for calculating weighted average value (as per Para 2.2 of this Schedule) for the purposes of computing Variable Fuel Charge;
- GCV Air Dried** is value measured inline with IS:1350 (Part II) (latest edition) "Determination of Calorific Value" using samples taken immediately prior to the mill bunkers in line with Indian Standard IS-436 (Part I, Section 2) – latest edition, "Methods for Sampling of Coal and Coke – Part I sampling of Coal";
- M** is the moisture content of the air dried sample measured in line with IS: 1350 (Part I) latest edition) "Proximate Analysis", the sample being taken immediately prior to the mill bunkers in line with Indian Standard IS: 436 (Part I, Section - 2) – latest edition, "Methods for Sampling of Coal and Coke – Part I, Sampling of coal"; and
- TM** is the weighted average of the total moisture for the relevant month as measured at the loading point of the coal measured in line with IS: 1350 (Part I) (latest edition) "Proximate Analysis" using samples taken





immediately prior to the loading point local to the mine in line with Indian Standard IS: 436 (Part I) – latest edition “Methods for Sampling of Coal and Coke – Part I Sampling of Coal”.

A copy of the calculated weighted average GCV for any Month, certified by an officer of the Seller will be supplied to the Buyer with the Monthly Tariff Invoice for such Month, together with any relevant sampling records and laboratory GCV measurement certificates. The values for GCV air dried and M the moisture content of the air dried sample will be measured using portions of the same sample.

Periodically the laboratory GCV measurements shall be calibrated in line with the Indian Standard IS: 1350.

2.2 Calculation of Weighted Average Gross Calorific Value (GCV) (“As Received”)

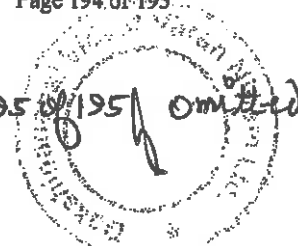
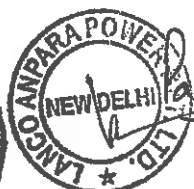
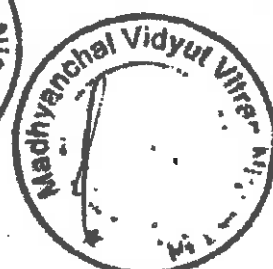
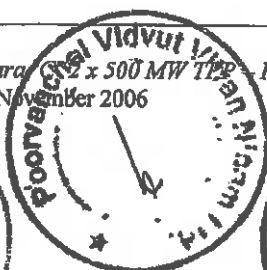
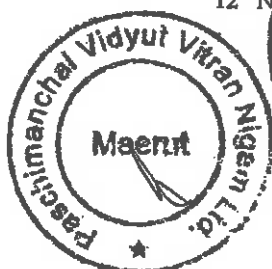
Weighted Gross Calorific Value (GCV) in kcal/kg	Number of samples taken at different points	Formula
T1	S1	$\Sigma GCV/S1 = GCV1$
T2	S2	$\Sigma GCV/S2 = GCV2$
T3	S3	$\Sigma GCV/S3 = GCV3$
Tn	Sn	$\Sigma GCV/Sn = GCVn$

Weighted average GCV (“As Received”) for one Month will be calculated by the Seller using the following formula.

$$\Sigma \left[\{T1/\Sigma 1-n T \times GCV1\} + \{T2/\Sigma 1-n T \times GCV2\} + \{T3/\Sigma 1-n T \times GCV3\} + \{Tn/\Sigma 1-n T \times GCVn\} \right]$$

Where $\Sigma 1-n T$ = the total number of tonnes in a Month.

denotes that the number of samples shall be as per IS:436.



Supplementary Power Purchase Agreement

Lanco Anpara 'C' and UP

1100 MW

Dated 31st December 2009

Dated 31st December 2009

SUPPLEMENTARY POWER PURCHASE AGREEMENT

between

Paschimanchal Vidyut Vitran Nigam Ltd.

("Buyer One")

and

Poorvanchal Vidyut Vitran Nigam Ltd.

("Buyer Two")

and

Madhyanchal Vidyut Vitran Nigam Ltd.

("Buyer Three")

and

Dakshinanchal Vidyut Vitran Nigam Ltd.

("Buyer Four")

and

Lanco Anpara Power Private Limited

("Seller")

2X600 MW ANPARA "C" THERMAL POWER PROJECT

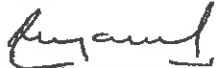


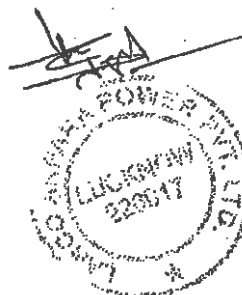
उत्तर प्रदेश UTTAR PRADESH

L 512385

This **SUPPLEMENTARY POWER PURCHASE AGREEMENT** ("Supplementary PPA") is made on this **31st** day of December, 2009 at Lucknow, by and between:

1. **Paschimanchal Vidyut Vitran Nigam Limited**, a company incorporated and existing under the Companies Act, 1956, with its registered office at Hydel Inspection House, Hydel Colony, Victoria Park, Meerut – 250001 (hereinafter referred to as "**Buyer One**" which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **FIRST PART**; and
2. **Poorvanchal Vidyut Vitran Nigam Limited**, a company incorporated and existing under the Companies Act, 1956, with its registered office at Vidyut Nagar, Bhikharipur, P.O. DLW, Varanasi – 221010 (hereinafter referred to as "**Buyer Two**" which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **SECOND PART**; and
3. **Madhyanchal Vidyut Vitran Nigam Limited**, a company incorporated and existing under the Companies Act, 1956, with its registered office at 4A, Gokhale


Director (F)
U.P.P.C.L. Lucknow





उत्तर प्रदेश UTTAR PRADESH


L 512398

Marg, Lucknow – 226001 (hereinafter referred to as “Buyer Three” which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **THIRD PART**; and

Dakshinanchal Vidyut Vitran Nigam Limited, a company incorporated and existing under the Companies Act, 1956, with its registered office at Urja Bhawan, Agra Mathura By Pass Road, Agra-282007 (hereinafter referred to as “Buyer Four” which expression shall unless repugnant to or inconsistent with the context, mean and include successors and permitted assigns) of the **FOURTH PART**; and

Lanco Anpara Power Private Limited, a company incorporated by the Initial Equity Investors and existing under the Companies Act, 1956, with its registered office at 411/9, Riverside Apartments, New Hyderabad, Lucknow – 226 007, Uttar Pradesh (hereinafter referred to as “Seller” which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) of the **FIFTH PART**;

(Each of the parties of the **FIRST, SECOND, THIRD AND FOURTH PART** above are collectively referred to as the “Buyers” or individually as a “Buyer” and each of the parties of the **FIRST, SECOND, THIRD, FOURTH AND**

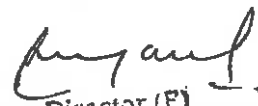

Director (F)
U.P.P.C.L. Lucknow

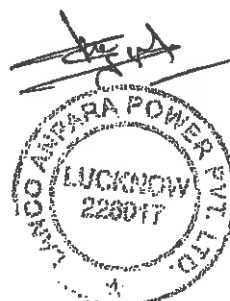


FIFTH PART are individually referred to as a "Party" and collectively to as the "Parties").

WHEREAS:

- A. The Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited ("UPRVUNL"), on behalf of Uttar Pradesh Power Corporation Limited ("UPPCL") and distribution companies owned by the UPPCL, including the Buyers invited private sector participation to build, own, operate and maintain the 2 x 500 MW Anpara 'C' Thermal Power Project as a dispatchable power plant through an international competitive bidding process;
- B. The Initial Equity Investors, having been selected pursuant to the aforementioned competitive bidding process have constituted the Seller, who proposed to build, own, operate and maintain a 2 x 500 MW Thermal Power Project at Village Anpara, District Sonbhadra, State of Uttar Pradesh, India ("Anpara C") for the purpose of selling all Available Capacity and dispatched Electrical Output to the Buyers on the terms and conditions contained in the Power Purchase Agreement dated November 12, 2006 ("PPA"), the RFQ and the RFP;
- C. Subsequent to execution of the PPA, the Government of Uttar Pradesh vide G.O.No. 356 dated August 20, 2007 ("GoUP Order") has permitted the Seller to enhance the capacity of Anpara 'C' power plant to 2x600 MW in place of 2x500 MW with the conditions that (a) the Seller shall be responsible to obtain all statutory clearances for revised capacity; (b) the Seller shall obtain approval of the UPERC with regards to the technical and financial changes arising due to enhancement of capacity; (c) the project commissioning dates shall not be extended further; (d) the project shall be implemented as per existing water allotment approval; and (e) no additional forest land shall be required;
- D. All the terms and conditions specified in the GoUP Order have been satisfied and complied by the Seller.
- E. UPERC vide Order dated October 20, 2008 (copy enclosed as Annexure 1 to this Supplementary PPA) has approved the technical and financial changes arising due to enhancement of the installed capacity from 2 x 500 MW to 2 x 600 MW ("UPERC Order").
- F. As per the Energy Policy 2009 of Government of Uttar Pradesh, consequent to optimisation of capacity of existing plant or plant under commissioning, 50% of


Director (F)
U.P.P.C.L. Lucknow

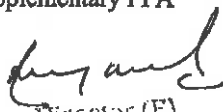


the additional power available from the enhanced capacity will be supplied to the State nominated agency and the balance 50% will be allowed for third party sale.

- G. In furtherance of the above, the Seller has agreed to sell and the Buyers have agreed to purchase additional 100 MW capacity from the enhanced installed capacity of the power plant in accordance with the terms and conditions of the PPA, as amended by this Supplementary PPA.

NOW THEREFORE, in consideration of the mutual covenants, the Parties hereto, intending to be legally bound by this Supplementary PPA, agree as follows:

1. The capacity of the Power Station may now be read as 2x600 MW in place of 2x500 MW wherever applicable;
2. The words "500 MW" and "1000 MW" used in the definition of Installed Capacity in Article 1.1 of the PPA is here by substituted as "600 MW" and "1200 MW" respectively;
3. The definition of Contracted Capacity in Article 1.1 of the PPA is here by substituted as "*Contracted Capacity means 11/12 (eleven divided by twelve) times the Installed Capacity*";
4. Due to difference between Contracted Capacity and Installed Capacity, the term "*Contracted Capacity*" wherever used in the definition of Declared Capacity in Article 1.1 and also wherever used in Article 4.7.1, Article 4.7.2, Article 6.3.1 (ii), Article 6.3.4, Article 6.3.5, Article 15.1 (g), Paragraph 2.1 (e) of Schedule 5, Paragraph 2.2 (d) of Schedule 5 and Paragraph 6 of Schedule 6 of the PPA is here by substituted as "*Installed Capacity*";
5. The words "*all of*", "*all*" and "*such*" used in Article 4.3.1, Article 4.3.2 and Article 4.3.3 respectively of the PPA, is here by substituted as "*11/12 (eleven divided by twelve) times*";
6. The following new Article 4.3.4 be and is hereby added in Article 4.3 of the PPA
"*4.3.4 The Seller shall be entitled to sell the Scheduled Generation and Electrical Output attributable to 1/12 (one divided by twelve) times the Available Capacity to third party(s)*";
7. The word "*Article 4.9*" used in Article 4.4.1 of the PPA, is here by substituted as "*Article 4.3.4 and Article 4.9*";

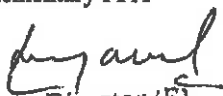

Director (F)
U.P.P.C. Lucknow



8. The word "Article 8.4" used in Article 8.2.2 of the PPA, is here by substituted as "Article 8.2.1";
9. The word "the Buyers" used in Article 11.8.2 of the PPA, is here by substituted as "all the buyers including the third party buyer proportionately";
10. In Article 18.6.1 (e) of the PPA, "Upper Ground Floor, Antriksh Bhawan, 22, K.G. Marg, New Delhi - 110001" is here by substituted as "Plot No. 397, Phase-III, Udyog Vihar, Gurgaon-122016, Haryana";
11. In Paragraph 1.2.1 of Schedule 8 of the PPA, the words "the total charge" used in the description of SFC(n) is hereby substituted as "11/12 (eleven divided by twelve) times the total charge"
12. In Paragraph 1.3.2 of Schedule 8 of the PPA, the words "Scheduled Generation" used in the description of SG_n is hereby substituted as "Scheduled Generation attributable to the Buyers"
13. In Paragraph 1.4.4 of Schedule 8 of the PPA, the words "the Dispatched Electrical Output" used in the description of EO_n is hereby substituted as "11/12 (eleven divided by twelve) times the Dispatched Electrical Output"
14. The word "Available Capacities" used in Paragraph 5.1 of Schedule 10 of the PPA, is here by substituted as "Contracted Capacity";
15. In accordance with the UPERC Order, "Schedule 3" of the PPA duly filled up for 2x600 MW capacity is enclosed as Annexure 2;
16. All Default Security Agreements and all Default Contingency Agreements will be modified for the revised Contracted Capacity within thirty days;
17. The Direct Agreement will be executed for the revised Contracted Capacity;
18. The Facilities and Services Agreement will be modified by concerned parties as per UPERC Order, in order to extend the facilities under the Facilities and Services Agreement for the 2x600 MW Project within thirty days

This Supplementary PPA shall be read in conjunction with the PPA and shall form an integral part of the same. All the provisions of the PPA, except to the extent modified by this Supplementary PPA, shall continue to remain same.

This Supplementary PPA is subject to the approval of UPERC.


Director (F)
U.P.P.C.L. Lucknow



IN WITNESS WHEREOF, the Parties hereto have executed this Supplementary PPA as of the date first above written.




(K. Raja Gopal)

Director & CEO

Lanco Anpara Power Private Limited

In the presence of:

(1) 
(R. R. Nair)

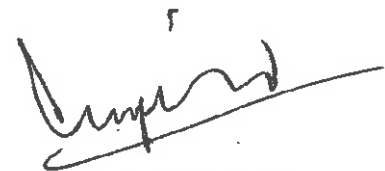
(2) 
(MURTY RAJU N.N.)

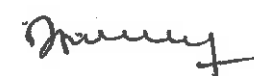


(S. K. Agarwal)

Director (Finance), UP Power Corporation Ltd
on behalf of

Paschimanchal Vidyut Vitran Nigam Limited,
Poorvanchal Vidyut Vitran Nigam Limited,
Madhyanchal Vidyut Vitran Nigam Limited and
Dakshinanchal Vidyut Vitran Nigam Limited

(1) 
(R. K. JOHAR)

(2) 
(S. P. PANDEY)



BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No.564/08

IN THE MATTER OF: Seeking determination of tariff of 200 MW enhanced capacity of Anpara C TPS and direction for M/s Lanco Anpara Power Private Ltd. to seek approval of technical and financial changes.

AND

IN THE MATTER OF:

U.P. Power Corporation Ltd.
Shakti Bhawan,
14 Ashok Marg, Lucknow.

.....Petitioner

The following were present:

1. Sri. K. Raja Gopal, Director & CEO for Lanco Anpara Power Private Ltd.
2. Sri. R.R. Nair, Executive Director, Lanco Anpara Power Private Ltd.
3. Sri. Sanjay Sen, Advocate for Lanco Anpara Power Private Ltd.
4. Sri. Mansoor Ali Shoket, Advocate for Reliance Power Ltd.
5. Sri. N.Bala Subramaniam, Senior Vice President, Reliance Power Ltd.
6. Sri. S.N. Dube, CE, PPA, U.P. Power Corporation Ltd.
7. Sri. S.P Pandey, EE, PPA, U.P. Power Corporation Ltd.
8. Sri. Sumit Notani, for Reliance Power Limited
9. Sri. Asit Srivastava, Advocate for Sri Arvind Kumar Singh
10. Sri. Amarjit S. Rakhra, Advocate & Counsel for UPPCL

ORDER

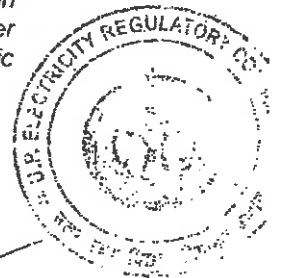
• (Date of hearing 22.9.08)

1. U.P. Power Corporation Ltd. (UPPCL) has filed the above mentioned petition in pursuance of Order dt.13.8.08 passed in Pet.no.538/08 in the matter of 'Sri. Arvind Kumar Singh Vs. Department of Energy, State of UP & 5 Ors'. in which the Commission observed and decided as below:

**.....Further in the present proceedings, all parties including the petitioner has stated that they have no objection for increase in capacity of the project because the same is in public interest. However, the tariff for increased capacity required approval of the Commission. In view of the same and keeping in view of larger public interest, the Commission can only urge UPPCL to take steps for finalization of PPA for the additional power intended to be purchased by their subsidiary distribution companies and file appropriate application for seeking approval of the same.....Once UPPCL files a draft PPA for determination of tariff for additional capacity to be purchased by their subsidiary distribution companies, the Commission will initiate proceeding in terms as provided under UPERC(Conduct of Business) Regulations and shall hold appropriate public*

Director (FF)
U.P.P.C.L. Lucknow

Page 7 of 7



hearing..... The Commission shall exercise its regulatory jurisdiction to ensure appropriate tariff for the additional capacity in accordance with the regulatory principles and precedents as enumerated in the Act and applicable regulations".

2. It is stated in the Petition that the Government of UP in its Order dt.24.7.07 had allowed (+) 20% variation on unit size of future as well as existing thermal power projects and in reference to the said decision of the Government, M/s Lanco Anpara Power Private Ltd.(LAPPL) sought the consent to increase the project capacity by 20% from 1000 MW to 1200 MW in its letter dt.11.8.07. In view of the shortage of power in the State, the Energy Task Force decided on 12.8.07 that permission to enhance capacity of the project be accorded to LAPPL with the condition that all statutory clearances for the revised capacity shall be its responsibility and they will also take approval of UP Electricity Regulatory Commission on financial and technical changes. The completion date of the project shall not be extended and the project shall be implemented with the present allocation of water with no additional requirement of the forest land. Subsequently, GOUP by an Order dt.20.8.07 accorded the consent to install generating units of 2X600 MW instead of 2X500 MW at Anpara C project. It is stated further that the PPA executed for 2x500MW by Paschimanchal Vidyut Vitran Nigam Ltd., Purvanchal Vidyut Vitran Nigam Ltd., Madhyanchal Vidyut Vitran Nigam Ltd. & Dakshinanchal Vidyut Vitran Nigam Ltd. on 31.12.07 has already been approved by the Commission and the same may be approved for purchase of additional 200 MW power from LAPPL. The Petitioner is praying for determination of tariff of such 200 MW with maximum benefit to consumers of the State and direction to M/s Lanco Anpara Power Private Ltd. to seek approval of technical and financial changes.

A Public Notice dt. 4.9.08 was published by the Commission in newspapers as follows:

"In the matter of: Petition No. 564/08 of 2008 filed by UP Power Corporation Ltd. seeking determination of tariff of 200 MW enhanced capacity of Anpara C TPS and direction for M/s Lanco Anpara Power Private Ltd. to seek approval of technical and financial changes.

Whereas a Pet.no.538/08, Sri. Arvind K. Singh Vs. State of UP & 5 Ors, was filed before the Commission for quashing of award of Anpara C to M/s Lanco due to change in capacity of the project from 2X500 MW to 2X600 MW or alternatively direction for reduction in tariff and supply of entire 1200 MW power

Arvind K. Singh
Director (F)
U.P.P.C.L. Lucknow

Arvind K. Singh
page 8 of 36



to the State. The Commission disposed of the said petition vide Order dt. 13.8.08 (available on website www.uperc.org of UPERC) and observed, inter alia, in the said order, ".....Further in the present proceedings, all parties including the petitioner has stated that they have no objection for increase in capacity of the project because the same is in public interest. However, the tariff for increased capacity required approval of the Commission. In view of the same and keeping in view of larger public interest, the Commission can only urge UPPCL to take steps for finalization of PPA for the additional power intended to be purchased by their subsidiary distribution companies and file appropriate application for seeking approval of the same..... Once UPPCL files a draft PPA for determination of tariff for additional capacity to be purchased by their subsidiary distribution companies, the Commission will initiate proceeding in terms as provided under UPERC(Conduct of Business) Regulations and shall hold appropriate public hearing..... The Commission shall exercise its regulatory jurisdiction to ensure appropriate tariff for the additional capacity in accordance with the regulatory principles and precedents as enumerated in the Act and applicable regulations".

And whereas, the UP Power Corporation Ltd. (UPPCL) has stated in the above mentioned petition that the terms and conditions for power purchase agreement signed for 2X500 MW shall also be approved for enhanced capacity of 200 MW and has prayed for determination of tariff of such 200 MW. The Petitioner is also seeking direction for M/s Lanco Anpara Power Private Ltd. (LAPPL) to seek approval of technical and financial changes from the Commission as required under Government Order dt. 20.8.07.

Therefore, the Petitioner, UPPCL, is directed to make available the petition on its website www.uppcl.org and hard copies of the same at its Registered Office at Shakti Bahwan, 14, Ashok Marg, Lucknow for inspection by any person during office hours.

And, LAPPL is also directed to file their response within 10 days directly to the Commission with a copy to UPPCL. The submissions of LAPPL shall also be made available on website UPPCL and hard copies for inspection.


The petition is also available on the website of the Commission.

Notice is hereby given to the stakeholders and interested parties to submit comments/objections/ suggestions to the above petition in writing directly to the Commission at Kisan Mandi Bhawan, 2nd Floor, Gomti Nagar, Lucknow, with an advance copy to the petitioner, personally or by post so as to reach before the hearing in the matter by the Commission. The comments/objections/ suggestions can also be brought before the Commission at the time of hearing.

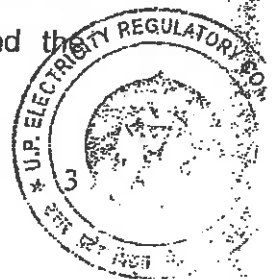
The hearing in the matter shall be held on 22nd Sept. 08 at 15:00 hrs. in the office of the Commission.

LAPPL, Reliance Power Ltd.(RPL), Sri. Asit Srivastava, Advocate on behalf of Sri. Arvind Kumar Singh and Vidyut Karamchari Sanyukt Sanghrash Samiti, Uttar Pradesh (Sanghrash Samiti) have made written submissions:

- (i) LAPPL in its affidavit dt. 12.9.08 has stated that all statutory clearances for 2X600 MW have been obtained and there is no requirement of additional forest land and water on account of increase in capacity of the project. It is also stated that the project is progressing as per schedule and the


Director (F)
U.P.P.C.L. Lucknow

Page 9 of 30



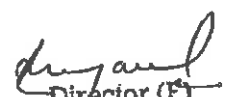
completion date of the project shall remain the same. Present power evacuation system and MGR system are stated to be sufficient for 2X600 MW capacity of the project.

As regard to approval of technical changes due to change in capacity, LAPPL seeking-

- (a) modification of Schedule-3 of PPA due to change in capacity of BTG, auxiliaries and balance of the plant equipments, and
- (b) incorporation of corresponding changes in the 'Facility & Services Agreement' dt. 22.11.07.

In respect to financial changes, LAPPL states that due to increase in capacity, the capital cost of the project has increased proportionately. Based on International Competitive Bidding, Lanco Infratech Ltd. had quoted lowest, Rs.3228 Cr. for EPC contract of 2X600 MW project, and Agreement executed on 15.11.07. The cost of 2X500 MW and 2X600 MW projects have been stated as Rs. 3429 Cr. and Rs. 4115 Cr. respectively with per MW cost remaining the same at Rs.3.429 Cr. LAPPL is praying for approval of technical and financial changes, the draft PPA and determination of tariff for the additional capacity.

- (ii) RPL in its affidavit dt.19.9.08 has traced the history of the original proceedings held for 2X500 MW Anpara C project and it is re-agitating on those issues which were raised by it in the proceedings of the Pet. no.538/08, in the matter of 'Sri. Arvind Kumar Singh Vs. Department of Energy, State of UP & 5 Ors', disposed of by Order dt.13.8.08 as such, these averments are not being repeated. RPL is praying for the rejection of the petition and invitation of fresh tenders for 1200 MW.
- (iii) Sri. Asit Srivastava has filed a written submission dt.22.9.08 on behalf of Sri. Arvind Kr. Singh not supported with an affidavit. Sri. Srivastava has also made the averments similar to that made in the Pet. no.538/08 by the Petitioner Sri. Arvind Kumar Singh in the matter of 'Sri. Arvind Kumar Singh Vs. Department of Energy, State of UP & 5 Ors'.


Director (F)
U.P.P.C.L. Lucknow

Page 10 of 36



It is stated in the written submission that Lanco has been playing fraud and/or has not been clean in dealing with various power projects where it has been found guilty of illegal activities/misrepresentations and/or has reneged from its commitments and in support cited the following relying on a report published by 'Infraline Energy' on 20.9.08:

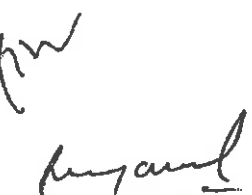
- "(a) After securing Sasan Ultra Mega Project, the letter of interest issued to Lanco was cancelled on fraud and misrepresentation given by Lanco in its qualification bid.
- (b) After being awarded the contract for sale of power by Haryana Government, Lanco has withdrawn from the commitment to supply power.
- (c) Lanco has withdrawn from the commitment to supply power after being awarded the contract. A letter dated 2/8/08 to MP TRADECO confirms the same.
- (d) Lanco is repeating Anpara in Nagarjuna Power Project in Mangalore, where it had delayed the project due to its intent to change the project capacity. The consumers in Punjab and Karnataka set to loose greatly."



Sri. Srivastava is seeking to, in Para 10 of its submission, quashing of award, direction to invite bid for revised capacity, debarring Lanco from participating in future biddings and direction to Lanco to transfer land, shared facilities and other resources including clearances and approvals etc. to the selected developer of the revised bidding. He further states that in case the Commission proceeds to deal with the application of UPPCL, the fixed component of the tariff of additional 200 MW power should be termed as zero in view of economies of scale available to 2X600 MW project.

(iv) Sanghrash Samiti sought adjournment of hearing.

3. The deliberations made in the hearing are as below:

Being public hearing, adjournment as sought by Sanghrash Samiti was not agreed to


Director (F)
U.P.P.C.L. Lucknow



Page 11 of 3



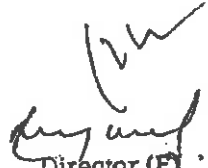
(a) Sri. Amarjit S. Rakhra, Advocate & Counsel for UPPCL submitted on behalf of the Petitioner that in the matter of 'Sri. Arvind Kumar Singh Vs. Department of Energy, State of UP & 5 Ors', the Commission had passed an Order dt.13.8.08 urging UPPCL to file a Power Purchase Agreement (PPA) for determination of tariff for the additional capacity and in compliance of the said order, the Petitioner had filed the petition praying for determination of tariff of such 200 MW with maximum benefit to consumers of the State and direction to M/s Lanco Anpara Power Private Ltd. to seek approval of technical and financial changes.

(b) Sri. Mansoor Ali Shoket, Advocate for Reliance Power Ltd. reiterated the averment made in the written submission and opposed the petition stating that the petition had been filed for the approval of PPA, tariff and other changes presupposing the approval to the enhanced capacity.

The Commission reminded Sri. Shoket of the submissions made by Sri. Amit Kapur, Advocate on behalf of RPL, in the hearing of Pet.no.538/08 on 28.7.08, that the enhancement of the capacity was not opposed in view of the acute shortage of power in the State and even the Petitioner of Pet.no.538/08 himself was also not opposed to enhancement in capacity despite of several concerns and reservations expressed therein. Prior to the proceeding held in the said petition, the Hon'ble High Court had already taken cognizance of the fact that the Government of UP had allowed enhancement of capacity requiring LAPPL to approach the Commission for approval of technical and financial changes. As such the present proceeding was limited to the examination of technical and financial aspects including the tariff which could be fixed for the enhanced capacity of 200 MW, therefore arguments should be limited to the said issues.

Sri. Shoket asserted that an Order dt.13.8.08 passed in Pet.no.538/08 had not expressly approved the enhanced capacity.

Sri. Shoket contested that tariff of 200 MW could not be determined by the Commission because tariff could either be for 2X500 MW project or


Director (F)
U.P.P.C.L. Lucknow


Page 12


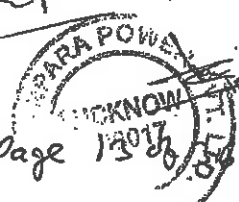


2X600 MW project and particularly in absence of PPA signed between the UPPCL and LAPPL for purchase of such additional capacity. He prayed for downward revision of the tariff in light of submissions made in Para 4 of written submission in case Commission decided to proceed with determination of tariff of such capacity. Sri. Amarjit S. Rakhra, Advocate & Counsel for UPPCL argued that the Commission could determine such tariff in the beneficial interest of the consumers of the State.

- (c) Sri. K. Raja Gopal, Director & CEO for Lanco Anpara Power Private Ltd. submitted that there was no technical limitation to the enhancement of capacity. Regarding financial changes, Sri. Sanjay Sen, Advocate for Lanco Anpara Power Private Ltd. stated that cost of the project had increased proportionately with increase in capacity as a result of which per MW cost for 2X500 MW and 2X600 MW projects were the same. He informed that a draft PPA had been submitted to UPPCL for its consideration.
- (d) Sri. Asit Srivastava, Advocate for Sri Arvind Kumar Singh reiterated the Para 7 of his written submissions that Lanco had been defaulting from its commitment in projects awarded to it. Sri. Srivastava further stated that his knowledge as mentioned in Para 7 was based on a report available on the website of Infraline Energy. Sri. Mansoor Ali Shoket, Advocate for Reliance Power Ltd. expressed his agreement with Sri. Srivastava stating that letter of award had been withdrawn in Sasan, contract terminated in MP after financial closer and Lanco withdrawn itself from Haryana.

Sri. K. Raja Gopal, Director vehemently denied the averments made by Sri. Srivastava and stated that the report published in the website appears to be deliberately planted by project detractors to tarnish the image of the Company and was baseless. Sri. K. Raja Gopal informed that on publication of the said report, a protest was lodged with Infraline Energy on propriety of the report posted and Infraline Energy had withdrawn the said report with due apology to Lanco. Sri. Raja Gopal submitted the e-mail dt.22.9.08 as proof. Sri. Raja Gopal reiterated the


Director (F)
U.P.P.C.L. Lucknow



LAPPL is committed to complete this project on schedule and informed the Commission that the construction activities are proceeding on schedule.

Sri. Srivastava suggested that the tariff for enhanced capacity should not burden the consumer of the State.

4. RPL and Sri. Asit Srivastava, Advocate for Sri Arvind Kumar Singh are pleading for invitation of fresh bids. The direction to UPPCL to submit PPA for approval and decision of determination of tariff was taken by the Commission in Order dt.13.8.08 as these parties were not opposed to enhancement in capacity.

In the proceedings of Pet.no.538/08, Sri. Gaurav Banerjee, Advocate for the Petitioner and Sri. Amit Kapur, Advocate appearing for Reliance Power Ltd. did not oppose the enhancement of the capacity of the project in view of shortage of power in the State and pleaded for determination of tariff of additional 200 MW that arises on account of change in capacity to 2X600 MW. The pleadings of Sri. Gaurav Banerjee and Sri. Amit Kapur is worth quoting as mentioned in Order dt.13.8.08, as below:

"3. Sri. Gaurav Banerjee Sr. Advocate and Counsel for the Petitioner stated that he is appearing on behalf of the petitioner who is a consumer of electricity in UP and therefore, vitally interested in the present case and submitted that in the original proceedings, the Commission discussed whether the capacity of the plant should be 2X500 MW or be with a variation of plus/minus 20%. The variation was opposed, inter alia, by Respondent no.4, on various grounds and the Commission concluded in Order dt.19.10.05 that the capacity of the project should be 2X500 MW. The Respondent no.4 was subsequently adjudged as successful bidder and the letter of acceptance dated 27.9.06, was issued. After 9 months, based on the Cabinet Decision published in the Hindustan Times, Respondent no.4 made a request to the Government to change the project capacity to 2X600 MW and went ahead to seek clearances of project based on the enhanced capacity permitted by the Government of U.P. A petition for adoption of tariff and enhancement of capacity was filed by UPPCL in which the Commission passed Order dt.14.9.07. That Petition was later withdrawn by UPPCL. In reference to Para 3 of the reply to the Petition filed by UPPCL, Sri. Banerjee submitted that as the Commission had adopted tariff for 2X500 MW Anpara

C project by Order dt.31.12.07 which was then final and binding on the parties and the Commission could not have passed that order had it been apprised by the Respondents of the change in the ground condition of the project and since the Respondents have failed to do so, only third party could inform the Commission of such change what the present Petitioner had done by way of present petition. On the other hand, he stated, the Commission could take cognizance of the matter on its own motion under Rule 26 of the Conduct of Business Regulations notified by the Commission. Referring to the writ petition filed the same Petitioner before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench; Sri. Banerjee submitted that the Hon'ble Court did not allow the petition because the Commission was already seized with the matter. He further submitted that the Petitioner was not opposed to enhancement of the capacity by the Respondent no.4 from 2X500 to 2X600 MW and that the Petitioner was only concerned with the issue of tariff that will be applicable to the people of UP for power generated from the said power plant. The Petitioner stated that he welcomes the increase in capacity so long as it insures the benefit of the people of UP. On the issue of maintainability of the petition, the learned Senior Counsel stated that the petition was maintainable in view of the fact that it raised serious questions of how the capacity of the power plant was changed and that was not informed to the Commission. The Petitioner stated that in fact a fraud was committed by Respondent no.3 who withheld the fact relating to increase in capacity of the power plant from the Commission. He also stated that UPPCL had also withheld this vital information of increase in capacity from the Commission.

Sri. Amit Kapur Advocate appearing for the Respondent no. 5 stated that the permission for enhancement of capacity accorded by the GoUP was conditional one subject to approval of the Commission. Even as per provisions of the competitive bidding guidelines notified by the Central Govt., all deviations or variations were subject to approval of the Commission and the same applied to the present case. Sri. Kapur stated that the enhancement in capacity was not opposed in view of the shortage of power in the State, but the Commission had to accord approval and adjust the tariff. On jurisdiction of the Commission to do so, Sri. Kapur submitted that Commission has function to determine tariff under section-62 read with Section-61 of the Electricity Act, 03 and section 63 creates a special condition where tariff is determined by competitive bidding process and subsequent adoption by the Commission. The provision of

Director (F)
U.P.P.C.L. Lucknow

Page

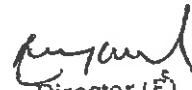


Section- 86(1)(b), he submitted further, read with section 63 empowers the Commission to settle the questions relating to tariff. He defended the submissions of the Petitioner that the petitioner could call for an action under Regulation 26 of the Conduct of Business Regulation because the Petitioner was an affected party in face of the facts that Respondent no.4 was constructing a 1200 MW project at site and had obtained REC loan and MoEF clearances for that capacity. On the question of locus standii of the Petitioner, Sri. Kapur submitted that the Commission was not a court and so that question of locus standii is irrelevant. He stated that the petitioner was an affected party as to higher cost of electricity to be paid by him and that fact could not be ignored as function of the Commission was to establish balance between the interests of various interested or affected parties. He asserted that capacity enhancement and subsequent tariff fixation was a matter of fate accomplished before the Commission and concerns of the State might be seen or must be considered."

Above pleadings were witnessed by Sri. Asit Srivastava, Advocate who was in assistance with Sri. Gaurav Banerjee, the Advocate for Sri. Arvind Kumar Singh, the Petitioner of Pet. No.538/08 and also by Sri. Mansoor Ali Shoket, Advocate being in assistance with Sri.Amit Kapur as such these Advocates can not now plead a case different than pleaded by them earlier with the sole aim of delaying the matter or to start proceeding ab initio which the Commission had concluded by Order dt.13.8.08.

We would like to further add that the larger public interest are served by the Government and in its prudence, the GoUP had allowed the enhancement of capacity in view of huge shortage in supply in the State and there will be substantial delay to bear fruit from the project in case of re-bidding.

The preamble of the Electricity Act,03 states that it is, "An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protective interest of consumers and supply of electricity to all areas rationalization of electricity tariff, and for matters connected therewith or incidental thereto."


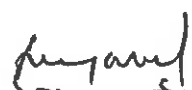

Director (F)
U.P.P.C.L., Lucknow

Page 16

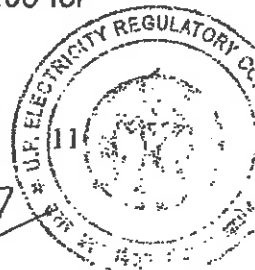
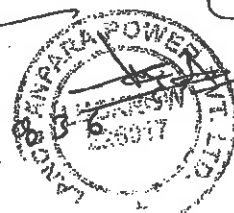


RPL argues that the Order dt.13.8.08 passed in Pet.no.538/08 does not expressly approve change in capacity to 2X600 MW although they did not oppose enhancement in the hearing. It would be wrong to infer or interpret that the Commission had not allowed the capacity enhancement because UPPCL was directed to finalize a PPA for additional power and decided for determination of tariff for additional capacity in accordance with the regulatory principles and precedents as enumerated. We assert again that the change in capacity from 2X500 MW to 2X600 MW including technical as well as financial changes are hereby approved.

- 5 (a) The Commission observed in the hearing that all the parties are looking for determination of tariff from such enhanced capacity with maximum benefit to consumers of the State and desired that all parties must assist the Commission in determination of tariff with relevant data and methodology. However, while determining tariff, the Commission would also like to examine the gap in tariff quoted by LAPPL and Reliance for 2X500 MW Anipara C project.
- (b) The advocates for UPPCL & Sri. Asit Srivastava prayed that the Commission of its own may decide the tariff and they have nothing further to submit. The representatives of RPL and LAPPL desired 7 days time to furnish details to assist the Commission in determination of tariff. UPPCL also desired time to furnish draft PPA for approval of the Commission.
6. The Commission directed parties in interim Order dt.23.9.08 to call certain information as below:
- "11. UPPCL have not submitted power purchase agreement for purchase of additional power of 200 MW as such UPPCL is directed to submit power purchase agreement within 7 days.*
- 12. The parties to the proceedings are also directed to submit, within 7 days, data and proposal as to the basis or manner, the tariff of enhance capacity of 200 MW could be determined by the Commission."*
7. LAPPL has submitted its reply in compliance to above order whereas UPPCL has filed an application seeking extension of time up to 31.10.08 for



Director (F)
U.P.P.C.L. Lucknow

page 17



submitting power purchase agreement. RPL, UPPCL and Sri. Arvind Kumar Singh or his Advocate have not made any submission in compliance to para-12 of Order dt.23.9.08 and the Commission has also not received any request for extension of time on this ground.

8. LAPPL is seeking modification of schedule-3 of PPA signed for 2X500 MW project due to change in capacity to 2X600 MW project and corresponding changes in 'Facility & Services Agreement' dt. 22.11.07.

A 'Schedule-3' in PPA shall be inserted in the PPA to be signed for additional 200 MW and that shall supersede 'Schedule-3' of PPA dt.12.11.06 for all purposes in execution, operation, maintenance and other matters connected therewith and incidental to. The 'Facility & Services Agreement' dt. 22.11.07 shall accordingly be modified by a supplementary agreement.

9. UPPCL is seeking time up to 31.10.08 for submitting PPA for approval. Time is allowed. UPPCL is also directed to ensure compliance of Para 8 above while submitting PPA.

Sanghrash Samiti may take the advantage of opportunity granted by extension of time up to 31.10.08 to submit their views.

10. The issue of determination of tariff shall be taken up after UPPCL submits PPA for approval of the Commission.

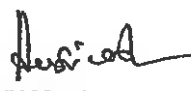

(R.D. Gupta)
Member


(P. N. Pathak)
Member

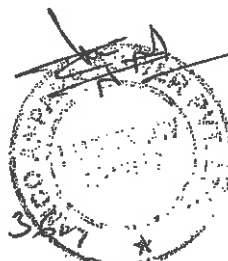

(Vijoy Kumar)
Chairman

Lucknow; Dated: 20th Oct, 2008

TRUE COPY


SECRETARY
U.P. ELECTRICITY REGULATORY COMMISSION
LUCKNOW (U. P.)


Director (F)
U.P.P.C.L. Lucknow



page 18 of 36

SCHEDULE 3**FUNCTIONAL SPECIFICATION****1. Electrical System Limits**

- (a) **Voltage** (i) 765 KV (equipment should be suitable for voltage variations of (+)/(-)5%)
(ii) 400 kV (equipment should be suitable for voltage variations of (+)/(-)5%)
(iii) 132 kV (equipment should be suitable for voltage variations of (+)/(-)10%)
- (b) **Grid Frequency** 50 Hz (equipment should be suitable for frequency variations of (+) 3% and (-) 5%)
- (c) **Power Factor** Power factor operating range at the Interconnection Point is 0.85 (lag) to 0.95 (lead)

2. Unit Characteristics.**(a) Capacity of Generating Equipment**

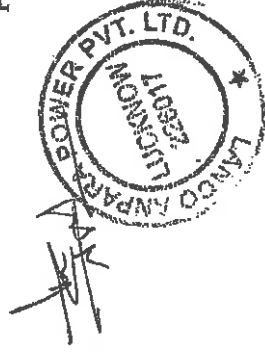
Reactive power capability in accordance with reactive capability curves to be developed during detailed design, which are hereby incorporated by reference into, and made an integral part of, this Schedule 3.

(b) Time period for synchronisation

The time period permitted to the Seller to start up a Unit and synchronise the unit with the Grid System under various starting conditions shall not exceed the following durations.

Anpara 'C' 2x600 MW TPP - Supplementary PPA

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Hot Start	1 hour 30 minutes
Warm Start	4 hours
Cold Start	7 hours.

Wherein the various starting conditions are as defined below;

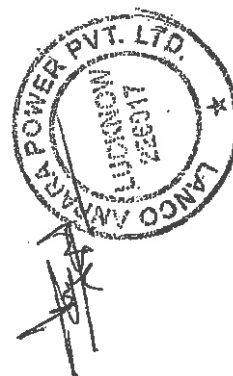
Starting Condition	Time since last opening of unit bracket in hours
Hot Start	<10
Warm Start	>10 and < 50
Cold Start	Above 50

(c) Maximum unit run up rates during starts for each Unit

Load Range	Hot Start	Warm Start	Cold Start
Block to 40% MCR	8 MW/min	n/a	n/a
Block to 100%	n/a	4 MW/min	n/a
Block to 30%	n/a	n/a	1 MW/min
40% to 100%	8 MW/min	n/a	n/a
30% to 100%	n/a	n/a	4 MW/min

Anpara 'C' 2x600 MW TPP - Supplementary PPA

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(d) **Maximum Ramp up and Ramp down Rates for Each Unit.**

Maximum ramp up or ramp down rates for each Unit when operating at working pressure and having been working at continuous load level for a period greater than 3 hours;

Load Range	Loading Rate
20% to 50% MCR	not less than 3%/min
50% to 75% MCR	not less than 5%/min
75% to 100% MCR	not less than 10% MCR/min


However, the Power Station should be capable of accommodating full load rejection in an emergency or on instruction without any problem.

(e) **Dynamic Parameters**

Dynamic parameters are the essential operating characteristics, which define the limits within which a Unit or the Power Station is required to operate during normal operation.

- (i) Minimum load for continuous operation without oil support – 40% MCR
- (ii) Minimum block load on synchronisation – 30 MW
- (iii) Turbine governor overspeed trip – 110% Nominal speed
- (iv) Generator protection settings
 - Minimum frequency 47.5 Hz, 3 second delay

Anpara 'C' 2x600 MW TPP - Supplementary PPA


Director (F)
UPPCL Lucknow



- Maximum frequency 51.5 Hz, 3 second delay
- (v) The Power Station shall be capable of supplying all auxiliary loads (except black start) internally. Hence, in the event of isolation of the Power Station from the system each Unit together or alone will continue to operate with the generator supplying the auxiliaries.

3. Emission Standards and Noise Levels

In accordance with the laws of India and the provisions of Paragraph 4, 5 and 6 of Schedule 5.

4. Conditions applying to tests or Functional Specification

As provided in Schedule 5.

5. Power Plant Parameters

The blanks in this Paragraph 5 (Power Plant Parameters) shall be filled, as per the values guaranteed by the Construction Contractor. Provided that such guaranteed values shall always comply with the requirements mentioned under Paragraphs 1 to 4 above. Provided further that such guaranteed values shall not excuse the Seller from any obligation created under any other part of this Agreement and nor shall it result in any additional payment of Tariff beyond what has been provided under Schedule 8.

1.0	Lay out	
a)	Unit pitching	111.5 M
b)	Level of operating floor	13.7 M
c)	Mill / bunker bay width	15 M

Anpara 'C' 2x600 MW TPP - Supplementary PPA

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- d) Location of mills
- e) Distance from Boiler 1st column to center line of Chimney.
- 2.0 Steam Generator (SG)**
- a) Make/Model
- b) Numbers.
- c) Tower type / double pass
- d) Type of circulation
- e) Main Steam flow (Nominal)
- f) Main Steam flow (BMCR)
- g) Super heater outlet pressure (BMCR)
- h) Super heater outlet temp (BMCR)
- i) Feed water inlet temperature (BMCR)
- j) Steam Generator efficiency based on

HHV of design coal

Anpara 'C' 2x600 MW TPP - Supplementary PPA.

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Front of Boiler

197.12 M

Dongfang Boiler Group Co. Ltd.

02 (Two)

Double pass

Natural Circulation

1894.35 t/hr

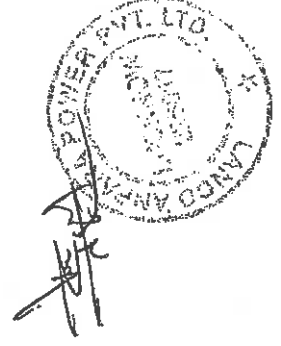
2028 t/hr

17.5 MPa.

540°C

282°C

85.64%



k) Minimum load without oil support

40%

3.0 Mills

a) Numbers per S.G.

08

b) Type

Pressurised Direct Fired Vertical type Spindle Mill

c) Capacity

75 t/hr

d) Number of mills working with design coal, and BMCR.

06

e) Number of mills working with worst coal, and TMCR.

06

f) Number of mills working with worst coal, and BMCR.

07

g) Input coal size

- 20 mm

h) Pulverised coal fineness

70 % above 200 mesh + 1 % above 50 mesh

4.0 Electrostatic precipitators


a) Nos. of streams per SG

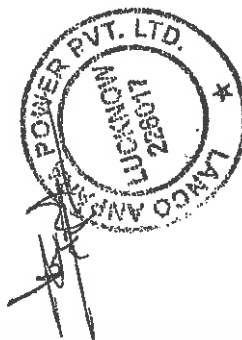
04 (Four)

b) Capacity of each stream (% of BMCR)

25%

Anpara 'C' 2x600 MW TPP - Supplementary PPA


Director (F)
U.P.P.C.L., Lucknow



- c) Number of fields
3 (ESP) + 3 (FF)
- d) Inlet dust burden(mg/Nm³) with
Design coal at TMCR
56.43 g/Nm³
- e) Outlet dust burden (mg/Nm³ with
Design coal, one field out of operation
and at TMCR.
50 mg/Nm³

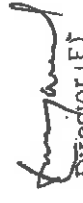
5.0 Chimney

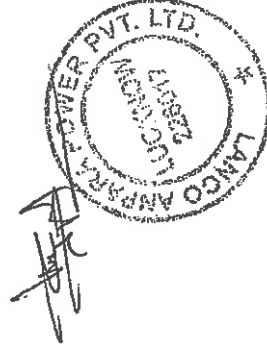
- a) Numbers.
01 (One)
- b) Construction
Double Flue Single Shell
- c) Height
275 M
- d) Flue gas velocity at exit
25 m/sec

6.0. Steam Turbine

- a) Make/Model
DFSTW
- b) Type
N 600 – 16.67 / 537 / 537
- c) Rated speed
3000 rpm
- d) Number of Cylinders
03 (Three)
- e) Number of Stages
HP – 1+8, IP – 5, LP – 2 x 2 x 7

Anpara 'C' 2x600 MW TPP - Supplementary PPA


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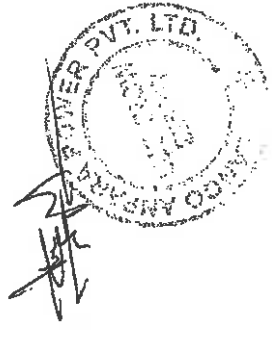


- f) VWO output (MW) at rated steam conditions 630 MW
- 77mm of Hg (abs) back pressure and 3% make up
- g) Maximum continuous rating in MW under rated
Rated steam conditions at 77mm Hg (abs) 600 MW
- Back pressure and 3% make up.
- h) Steam flow at TMCR 1882.4 t/hr
- i) Pressure at TMCR 16.67 Mpa
- j) Temp. at TMCR 537°C
- k) Steam flow at VWO 1988 t/hr
- l) HP/LP bypass capacity 60%

7.0 Condensers

- a) Type Surface condenser
- b) Tube Material TP 304
- c) Temp. rise (CW) 9.88°C
- d) C.W. flow 69120 m3 /hr
- e) Condenser inlet temperature (CW) 32°C
- f) Design back pressure. 0.103 ata
- g) Whether on load cleaning system provided Yes
- h) Type of air evacuation system provided Vacuum pumps

Anpara 'C' 2x600 MW TPP - Supplementary PPA
[Signature]
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8.0 Boiler Feed Pumps / Feed Water Heaters

- a) Number of pumps provided per unit 03 (Three)
- b) Stand by pumps provided per unit 01 (One)
- c) Type of drive 2 Nos. Turbine Driven, 1 No. Motor Driven
- d) Number of LP heaters / HP heaters 4 / 3
- e) Type of Deaerator Steam heating perforated tray type

9.0 Condensate Polishing Plant

- a) Type Mixed Bed System
- b) Capacity 3 X 50% of condensate flow

10.0 Condensate Extraction Pump

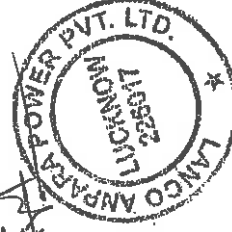
- a) Number of pumps per unit 3 X 50 %
- b) Stand by pumps per unit 01
- c) Type of pumps Vertical Barrel Type Centrifugal pump

11.0 Generator

- a) Nos. 02 (Two)
- b) Make / Model DFEM / QFSN - 600 - 2 - 22F

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c)	Active Power	705.882 MVA
d)	Rate / p.f.	0.85
e)	Rated voltage	22 kV
f)	Rated frequency	50 Hz
g)	Cooling	H ₂ O – H ₂ – H ₂
h)	Insulation class	F
i)	Type of excitation	Static Thyristor Excitation

12.0 Control & Instrumentation

a)	Proposed Suppliers	Invensys / Emerson / Siemens
b)	DCS based, integrating the entire plant	Yes
c)	Trade name of supplier's DCS	Invensys IA System, / Emerson Ovation / Siemens-SPPAT1000
d)	Redundancy in <ul style="list-style-type: none"> • I / O level protection • Controllers • Communication (Local bus, Main system bus / data highway, MMI level) 	<p>Triple redundant sensors for boiler and turbine</p> <p>Yes</p> <p>Yes</p>
e)	Hardwired back-up panel with PB / switches / Recorders etc for emergency shut-down of the plant	yes / no
f)	System Parametric capabilities <ul style="list-style-type: none"> • cycle time / controller reaction time for control system 	20 ms

Anpara 'C' 2x600 MW TPP - Supplementary PPA

Page 28 of 36

[Signature]
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- Display response time for MMI
- CRT update time
- Processor spare duty cycle
- System bus spare duty cycle

< 2 sec
< 2 sec
20%
20%

13.0 CW System

a) Type Closed Loop System

b) Make up water quality (filtered / clarified / softened) Clarified Water

14.0 Make-up water system

a) No of Pumps 03 x 50 %

b) Capacity of pumps 2400 m³/hr

c) Number of stand by pumps 01 common stand by

d) Storage capacity of reservoir (No. of days & m3) Not Applicable

15.0 Cooling Tower

a) Type Induced draught

b) Nos. 04 (2 for each Unit)

c) Flow 37350 m³/hr per tower

d) Range 9.93°C

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- e) Approach
 f) Design wet bulb temperature.
 g) Type of fill
 h) Evaporation Loss
 i) Cycle of Concentration
 j) Blow down
- 16.0 CW Pump**
- a) No of pumps per unit
 b) No. of stand by pumps per unit.
 c) Type of pump
- 17.0 Auxiliary Cooling Water System**
- a) Type of heat exchanger
 b) Flow (primary / secondary)
 c) Type of water in primary side
 d) Type of water in secondary side
 e) Make-up water quantity
 f) Number of pumps per unit (ACW /ECW)

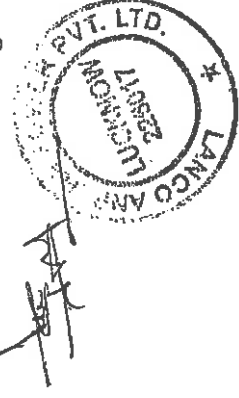
4 °C
 28°C
 Splash type
 1396 m3 / hr
 05 (Five)
 349 m3 / hr

02 x 50 %
 01 Common standby for both units
 Vertical wet pit type

Plate Heat Exchanger
 2500/3000 m3 / hr
 DM Water
 Clarified water
 Covered in CW make up pumps
 01/01

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[Signature]
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g) Number of stand by pumps per unit (ACW/ECW) 01/01 Common Stand by for both Units

2 Clarifuculators , capacity 2250 m³/hr each

03 (Two working + One standby) ~ capacity / train.75 m³/hr

Not Applicable

18.0 Water Treatment Plant

- a) Pre-treatment Plant (clarification / softening) Nos. & capacity
- b) D.M. Plant – No. of trains
- c) RO/Desalination Plant
 - Type
 - Water flow at inlet
 - Water flow at outlet

19.0 Coal Handling Plant

- a) No. of streams
 - b) Conveying capacity (each)
 - c) Stacker reclaimers (Nos. & cap)
 - d) Type of stacker reclaimers
 - e) Number of days storage provided
- 02 (One working + One stand by)
- 1600 T/hr
- 01 x 1600 T/hr
- Travelling, boom reversible stack-cum-bucket wheel
- 15 days

20.0 Ash Handling Plant

- a) Type of system offered.

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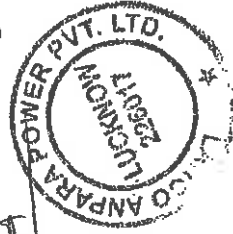


i) Bottom ash handling system	Intermittent wet ash system
ii) Fly ash extraction	Vacuum conveying system
iii) Fly ash transportation.	Pneumatic pressure conveying system
b) Number of ash silos provided	2
c) Capacity of ash silos	1000 T each
d) Whether 100% fly ash extraction Provided.	Yes
e) Whether 100% ash disposal (both bottom ash and fly ash) in slurry form is provided.	Yes
f) Whether ash water recirculation system provided.	Yes
21.0 Fuel Oil System	
a) Distillate oil tanks (Numbers. & capacity.)	HFO 2 x 2000 KL LDO 2 x 150 KL
b) Unloading pumps	
• Number of pumps working	1
• Number of standby pumps	1
c) Transfer pumps	
• Number of pumps working	2
• Number of standby pumps	1

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Director (F)
U.P.P.C. Lucknow

Page 32 of 36



22.0 Effluent Treatment & Disposal System

a) Type treatment for effluents Clarifier & CMB

b) Whether meeting all the statutory norms Yes

23.0 Compressed Air System

a) Instrument Air Compressors (Numbers) 3

b) Plant Air Compressors (Numbers) 3

c) Type of compressors Multistage rotary screw type

d) Type of air drying plant Heat of compression type

24.0 Fire Fighting System

a) Whether all the systems are designed as Yes

per the regulation of TAC- India and

acceptable to TAC


b) Type of fire detection and protection system provided for control rooms.

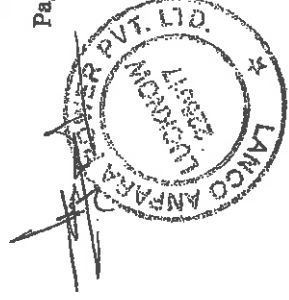
Smoke detectors of both Ionization & Optical types.
Portable Extinguishers for fire protection system.

c) Areas protected under HVW spray system.

All transformers, Turbine & BFP L.O. System,
Boiler burner floor, DG Set Diesel tank, TG Lube
Oil system

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- d) Areas protected under MVW spray system
- e) Type of detection system provided for
- Coal Handling Plant
 - Transformers
 - Turbine & BFP lube oil tanks
 - Fuel oil tanks / pump houses
 - Cable galleries
 - Control / control equipment rooms
- f) Type fire extinguishing system provided
- Cable Spreader /Cable Vault/ Cable Galleries FO tanks, FOPH, Coal Conveyor Galleries, Conveyor Tunnels, Transfer Towers, Crusher House
- Infra-red + LHSC + MCP
- Quartzoid bulb detectors
- Quartzoid bulb detectors
- Rate of rise type heat detector + MCP
- Smoke detectors of both Ionization & Optical types & LHSC
- Smoke detectors of both Ionization & Optical types& LHSC + Fire alarm
- Portable Extinguishers for control room / control equipment room

25.0 Turbine hall crane

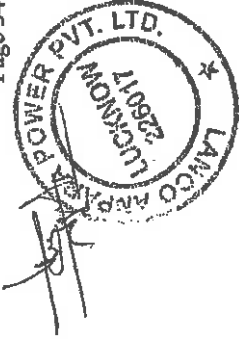
- Number of cranes.
 - Capacity (main/aux. Hoist)
 - Whether tandem operation for Generator Stator removal is provided.
- 02 (Two)
- 105 / 25 T
- No

- 26.0 Transformers (Nos., rating, voltage ratio)**
- Generator Transformers
- Nos. Phase Rating Voltage Ratio
- 07 (6 + 1), 1Φ 240MVA, 22kV / (765 / √3) kV

Anpara 'C' 2x600 MW TPP - Supplementary PPA

Page 34 of 36

[Signature]
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b)	Station Transformers	02 (Two), 3Φ,	80 / 40 / 40MVA,	400 / 11.5 / 11.5kV
c)	Unit Transformers	04 (Four), 3Φ,	25 / 31.5 MVA,	22 / 11.5 kV
d)	L.T. Transformers			
	Dry Type			
	18 Nos.			
	[06 (Six), 3Φ,	2.5 MVA,	11/0.433	
	08 (Eight), 3Φ,	2.0 MVA,	11/0.433	
	04 (four), 3Φ,	1.6 MVA,	11/0.433]	
	40 Nos.			
	[04 (Four) 3Φ,	2.0 MVA,	11/0.433	
	16 (Sixteen), 3Φ,	1.6 MVA,	11/0.433	
	16 (Sixteen), 3Φ,	1.0 MVA,	11/0.433	
	02 (Two), 3Φ,	0.630 MVA,	11/0.433	
	02 (Two), 3Φ,	1.0 MVA,	3.3/0.433]	
e)	Inter Connecting Transformers	06 (Six), 1Φ,	333.33 MVA,	(765/√3) / (400/√3)kV

27.0 EHV Switchyard

A) 765 KV switch yard

- Type & Scheme
- Step-up voltage

Outdoor, 1½ Breaker Scheme

22 / 765 kV

Anpara 'C' 2x600 MW TPP - Supplementary PPA

Page 35 of 36

[Signature]
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c) No. of bays (with break-up)

09 (Nine)
[02 (Two) Nos. GT Bay
02 (Two) Nos. 765kV Inter Connecting Transfer Bay
01 (One) No. 765kV Line Bay with line reactor
03 (Three) Nos. Tie Bay
01 (One) No. Bay Reactor Bay]

B) 400 KV switch yard

a) Type & Scheme

Outdoor, DMT

b) Step-up voltage

400

c) No. of bays (with break-up)

08 (Eight)

[02 (Two) Nos. for interconnection with 400kV
Anpara 'B' Switchyard Bay

02 (Two) Nos. of Station Transformer Bay

02 (Two) Nos. 765/400kV ICT Bay

01 (One) No. Bus Transfer Bay

01 (One) No. Bus Coupler Bay]

d) Max. fault level

40 kA (for 1 sec)

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Page 36 of 36

