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STANDARDIZED ENERGY PURCHASE AGREEMENT

8th DRAFT - 28 November 2006

[NAME OF PURCHASER]

– AND –

[NAME OF SELLER]

ENERGY PURCHASE AGREEMENT

RELATING TO

A WIND POWERED [_____] MW (GROSS) POWER GENERATION COMPLEX

AT

[IDENTIFY LOCATION], PROVINCE OF _____, PAKISTAN

MADE AT [_____] ,

ISLAMIC REPUBLIC OF PAKISTAN

ON __ _____, 200_

COUNSEL FOR PURCHASER

COUNSEL FOR SELLER

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THIS ENERGY PURCHASE AGREEMENT (this “**Agreement**”) is made as of the ____ day of _____ 200_ by and between:

- (1) **[NAME OF PURCHASER]** (the “**Purchaser**”), a [public] limited company incorporated under the laws of Pakistan, with its principal office at [_____] , [_____] , Pakistan; and
- (2) **[NAME OF COMPANY]**, (the “**Seller**”), a [private/public] limited company incorporated under the laws of Pakistan, with its principal office at [_____] , Pakistan.

(The Purchaser and the Seller are hereinafter referred to individually as a “Party” and collectively as the “Parties”.)

RECITALS

- A. **WHEREAS**, the Seller has proposed to the Purchaser that the Seller will design, engineer, construct, insure, Commission (as hereinafter defined), operate and maintain an approximately [] MW (gross) wind powered electric generation facility (the “Complex” (as hereinafter defined)) to be located at the Site (as hereinafter defined) at _____ Province of [Sind], Pakistan and with a Contract Capacity (as hereinafter defined) of [____] MW (gross) on build, own and operate basis.
- B. **WHEREAS**, the Government of Pakistan (“GOP”, as hereinafter defined), through the Alternative Energy Development Board, on [____ 200_] issued to the Seller a Letter of Support (as hereinafter defined) for the design, engineering, construction, insuring, commissioning, operation and maintenance of the Complex (the “Project”, as hereinafter defined);
- C. **WHEREAS**, the Seller wishes to sell and the Purchaser wishes to purchase all of the Net Delivered Energy (as hereinafter defined) on and pursuant to the terms and conditions contained herein;
- D. **WHEREAS**, on the date hereof, the Seller is entering into an Implementation Agreement with the GOP; and
- E. **WHEREAS**, the Seller has been issued a Generation Licence (as hereinafter defined) by the National Electric Power Regulatory Authority (“NEPRA”, as hereinafter defined).

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

ARTICLE I DEFINITIONS; RULES OF INTERPRETATION

Section 1.1 Definitions

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

"Abandonment" – The voluntary cessation of operation of the Complex, and the withdrawal of all, or substantially all, personnel by Seller from the Site for reasons other than (i) a breach or default by the Purchaser under this Agreement or (ii) a breach or default by the GOP under the Implementation Agreement or (iii) a Force Majeure Event.

"Acceptance Tests" - The minimum tests performed by the EPC Contractor under the EPC Contract and counter-certified by the Engineer to establish availability of the Complex for operation synchronous with the Grid System and compliance of the Complex with the minimum technical and functional requirements and standards in accordance with Article [VIII](#) and Schedule [5](#).

"AEDB Recommended Benchmark Energy Table" - The Benchmark Energy Table proposed by the Seller and recommended by AEDB for acceptance by NEPRA in terms provided in Section 2.10(b) or Section 2.10(d).

"AEDB Review Period" - The period of thirty (30) Days within which AEDB shall review the Seller Proposed Revised Benchmark Energy Table and propose modifications thereto, if any, as provided in Section [2.10 \(b\)](#).

"Affiliates" – Any Person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with another Person.

"Agent" – The meaning ascribed thereto in Section [16.5\(a\)](#).

"Agreement" – This Energy Purchase Agreement, together with all Schedules, dated as of the date first written above between the Purchaser and the Seller, as may be amended by the Parties from time to time.

"Agreement Year" – Each period of twelve (12) consecutive Months commencing on the Commercial Operations Date and on each anniversary thereof and ending at the end of the Day immediately prior to each immediately following anniversary of the Commercial Operations Date.

"Alternative Energy Development Board" or "AEDB" - A statutory corporation established under the Alternative Energy Development Board [Ordinance, 2006] with its principal office located at Islamabad.

"Anemometry System" - The system described in Schedule [2](#) comprising anemometers [main anemometer, control anemometer], wind vanes, ancillary equipment and data acquisition and processing software to be procured and installed [operated and maintained] by the Seller at the Complex for measuring, processing, communicating and archiving wind speed data in

accordance with the requirements stated in Section [7.8](#) and Schedule [5](#).

"Availability Date" - The Day following the Day the Certificate of Availability is issued by the Engineer under Section [8.3\(a\)](#), provided, that in no event shall the Availability Date occur earlier than ninety (90) Days prior to the Required Commercial Operations Date without the prior written approval of the Purchaser, which approval may be given or withheld in the sole discretion of the Purchaser.

"Back-Up Metering System" – All meters and metering devices (including any remote terminal units and an electronic data recording system) installed by the Seller and thereafter owned and maintained by the Seller as back-up to the Metering System.

"Benchmark Energy Table" - The table (consisting of two parts) set out in Annex 2 to Schedule 1 that states the values for the Complex Power Curve Energy, the Monthly Benchmark Wind Speed and the Monthly Benchmark Energy for the Complex.

"Bonus Energy"- For any Month, the quantity of Monthly Energy that exceeds the Monthly Benchmark Energy for that Month. .

"Bonus Energy Payment" - The consideration payable by the Purchaser to the Seller for Bonus Energy for a given Month, determined in accordance with Section 9.1(a)(ii).

"Business Day" – Any Day that banks in [Lahore], Pakistan are legally permitted to be open for business.

"Carbon Credits": The amount of carbon dioxide (CO₂) and other greenhouse gases not produced as a result of generation of energy by the Complex, and other environmental air quality credits and related emissions reduction credits or benefits (economic or otherwise) related to the generation of energy by the Complex, which are available or can be obtained by the [Seller/Purchaser] after the Availability Date.

"Carrying Costs" – The interest (or mark-up) payable in or converted into Rupees accruing on the then-outstanding principal amount of the debt related to the Complex or, if the construction of the Complex is financed as a general obligation of the Seller, an amount equal to the then-paid amount under the EPC Contract multiplied by an annual rate of interest of [LIBOR (Foreign Currency denominated debt) or KIBOR (Rupee denominated debt)], as applicable, plus three percent (3.0%), prorated Daily; provided, that no interest charges (or mark-up) or other debt related costs or payments shall be included in Carrying Costs if and to the extent they are recoverable under the Tariff.

"Certificate of Availability" – The certificate to be issued by the Engineer to the Seller and the Purchaser under Section [8.3\(a\)](#) stating, in relation to the Complex, that the Complex (i) has passed the necessary Acceptance Tests and that the Complex is ready for and capable of synchronization with the Grid System, (ii) is, in the professional opinion of the Engineer, available for generation and delivery of Net Delivered Energy, and (iii) that the Complex is in a condition that it will successfully complete the Commissioning Tests.

"Change in Law" –

- (a) The adoption, promulgation, repeal, modification or reinterpretation after the date of this Agreement by any Public Sector Entity of any Law of Pakistan (including a final, binding and non-appealable decision of any Public Sector Entity); or
- (b) the imposition by a Relevant Authority of any material term or condition in connection with the issuance, renewal, extension, replacement or modification of any Consent after the date of this Agreement; or
- (c) the imposition by a Relevant Authority of any additional Consent,
that in the case of each of clause (a), (b), or (c) above establishes either a material increase in cost or decrease in revenue as a consequence of any requirement for the design, construction, operation or maintenance of the Complex that is materially more restrictive than the most restrictive requirements (i) in effect as of the date of this Agreement, (ii) specified in any applications, or other documents filed in connection with such applications, for any Consent filed by the Seller on or before the Commercial Operations Date, and (iii) agreed to by the Seller in any agreement in the Project Agreements.

“Change in Tax” – The adoption, enactment, promulgation, coming into effect, repeal, amendment, reinterpretation, change in application, change in interpretation or modification by any Public Sector Entity after the date hereof of any law of Pakistan relating to any Tax or Taxes.

“Change in Tax Assessment” – The meaning ascribed thereto in Section [14.3\(b\)](#).

“Change in Tax Notice” – The meaning ascribed thereto in Section [14.3\(a\)](#).

“CLFME” – The meaning ascribed thereto in Section [15.1\(b\)](#).

“Commercial Operations Date” – The Day immediately following the date on which the Complex is Commissioned; provided, that in no event shall the Commercial Operations Date occur earlier than ninety (90) Days prior to the Required Commercial Operations Date without the prior written approval of the Purchaser, which approval may be given or withheld in the sole discretion of the Purchaser.

“Commissioned” – The successful completion of Commissioning of the Complex for operation synchronous with the Grid System in accordance with [Article VIII](#) and [Schedule 7](#) and the certification of such successful completion of Commissioning to the Purchaser and the Seller by the Engineer.

“Commissioning” – The undertaking of the Commissioning Tests on the Complex.

“Commissioning Tests” – The tests to be carried out pursuant to Section [8.3\(b\)](#) and [Schedule 7](#).

“Complex” – The electric power generation facility comprising of WTGs located on the Site and the Seller Interconnection Facilities (but excluding the Purchaser Interconnection Facilities) having a nominal rated capacity (aggregated for all WTGs) of approximately [____] MW (gross) to be designed, engineered, constructed, Commissioned, owned, operated and maintained by the Seller during the Term, whether completed or at any stage in its construction, including without limitation or regard to level of development, engineering and design documents, all energy producing equipment and its auxiliary equipment, data communication and recording equipment and systems, the Anemometry System, the [Complex Monitoring System/SCADA System], the

Meteorological Towers, the Weather Station, all spare parts stored at the Site, all Seller Interconnection Facilities and all other equipment or facilities necessary for delivery of electricity to the Purchaser at the Interconnection Point, which Complex is described in Schedule 2.

["Complex Monitoring System / SCADA System"]- The system comprising of computer hardware, software and communication system to create, record, process, gather, report, communicate and archive the [wind and] operating data measured and recorded by the Turbine Controller for each WTG in the Complex, with real-time and on-line access to the Purchaser, and which shall be installed and operated by the Seller in accordance with the minimum technical and functional specifications (including agreed parameters for the data) prescribed in Schedules 2 and 5.

"Complex Power Curve Energy" - The quantity of Net Delivered Energy the Complex is capable of generation and delivery at the Interconnection Point corresponding to each node (graded to one-tenth of a meter per second) on the spectrum of wind speed ranging from the cut-in speed to the cut-out speed of the WTGs comprised in the Complex, as stated in Part I of the Benchmark Energy Table.

"Complex Yield Surplus" - The surplus, if any, of the actual yield of the Complex in a Month over the Complex Power Curve Energy for a given value of wind speed as stated in the Benchmark Energy Table, determined in the manner provided in Section 9.1(b).

"Consents" – The Seller Consents and the Purchaser Consents.

"Construction Report" – The reports to be submitted by the Seller pursuant to Section 4.2(a), which shall address the matters identified in, and shall be substantially in the form set out in Schedule 4.

"Construction Start Date" – The date on which the Seller authorises the EPC Contractor to commence the EPC Works in accordance with the EPC Contract and incurs or has incurred an unconditional obligation to pay not less than seven percent (7%) of the EPC Cost to the EPC Contractor under the EPC Contract.

"Contract Capacity" – The aggregate of the nameplate rated capacities of the WTGs at the Site in MW which the Seller commits to install and operate at the Site under this Agreement pursuant to Section 2.9(a), as such amount of generation capacity may be revised pursuant to Section 2.9(b).

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

"Control Centre" – The National Power Control Centre located in Islamabad, or such other control centre designated by the Purchaser from time to time (but not more than one at any time) from which the System Operator shall Dispatch the Complex.

"Cure Period" – The meaning ascribed thereto in Section 16.3(b).

"Day" – A period of twenty four (24) hours, commencing at 12:00 midnight of each day, and "Daily" shall be construed accordingly.

"Delayed Payment Rate" – [KIBOR/LIBOR] plus four and one-half percent (4.5%) per annum, compounded semi-annually, calculated for the actual number of Days for which the relevant amount remains unpaid on the basis of a three hundred and sixty-five (365) Day year.

“Despatch” – The exercise by the System Operator of its right to increase, decrease or cease the generation of electricity by the Complex by issuing Despatch Instructions in accordance with this Agreement, and “Despatched” shall be construed accordingly.

“Despatch Instruction” – The meaning ascribed thereto in Section 5.4(a). A Despatch Instruction includes successive or revised Despatch Instructions and Despatch Instructions revised on the basis of information provided by the Seller.

“Dispute” – Any dispute or disagreement or difference arising under, out of, in connection with or relating to this Agreement, including any dispute or difference concerning the existence, legality, validity or enforceability of this Agreement or any provision hereof, or the obligations or performance of a Party under any provision hereof.

“Dollar” or “\$” – The lawful currency of the United States of America.

“Due and Payable Date” – The meaning in Section 9.5(a).

“Effective Date” – The meaning ascribed thereto in Section 2.1(c).

“Emergency” – An event or circumstance affecting the Grid System which (i) is described as an emergency event in the Grid Code, or (ii) materially and adversely affects (as determined solely by the Grid System Operator) the ability of the Grid System Operator to maintain safe, adequate and continuous electrical service to its customers, having regard to the then-current standard of electrical service provided to its customers, or (iii) presents a physical threat to persons or property or the security, integrity or reliability of the Grid System, or (iv) which the Grid System Operator reasonably expects to have the effects specified in clause (ii) or clause (iii).

“Energy Payment” – Refers to, as applicable, the Regular Energy Payment, Bonus Energy Payment and the Shortfall Energy Payment.

“Energy Price” – The price of Net Delivered Energy and Non-Project Missed Volume, expressed in Rs. per kWh, being the Reference Tariff specified in Schedule 1 as adjusted from time to time in accordance with the provisions thereof.

“Engineer” – The firm of engineering consultants to be appointed and hired by the Seller with the approval of the Purchaser in accordance with Section 2.6 for the purpose of observing the construction of the Complex, the Acceptance Tests and the Commissioning Tests and certifying to the Purchaser and the Seller the results of the Acceptance Tests and the Commissioning Tests and the other matters specified in this Agreement.

“Environmental Standards” – Collectively, the environmental guidelines and occupational health and safety standards established by the Pakistan Environmental Protection Agency and the relevant Provincial Environmental Protection Agency.

“EPC” – Engineering, procurement and construction.

“EPC Contract” – The agreement entered or to be entered into between the Seller and the EPC Contractor for, *inter alia*, the design, engineering, procurement, construction, completion, testing and Commissioning of the Complex, as such agreement may be amended by the parties thereto from time to time.

“EPC Contractor” – The Contractor or Contractors and any successor or successors thereto hired and appointed by the Seller, and not objected to by the AEDB pursuant to Section 6.2 of the Implementation Agreement.

“EPC Cost” – The total cost which the Seller will incur under the EPC Contract in carrying out and completing the EPC Works and the Seller Interconnection Works in accordance with this Agreement.

“EPC Works” – The design, engineering, procurement, construction, installation and completion of the Complex, and the Commissioning of the Complex.

“Escalable Component” – The Reference Escalable Component described in Schedule 1 as adjusted from time to time during the Term in accordance with Schedule 1.

“Evaluation Period” - The meaning ascribed thereto in Section [16.5\(b\)](#).

“Expert” – The meaning ascribed thereto in Section [18.2\(a\)](#).

“Extended Period” – The meaning ascribed thereto in Section [15.9\(c\)](#).

“Federal Entity” – The meaning ascribed thereto in the Implementation Agreement.

“Financial Closing” – (a) The execution and delivery of the Financing Documents that (together with equity commitments) evidence sufficient financing for the construction, testing, completion, and Commissioning of the Complex (following the resolution of any objections raised by AEDB to a term sheet or debt repayment schedule in accordance with the Implementation Agreement that sets out a principal repayment schedule and the other principal terms of the transaction between the Seller and the Lenders) and evidence of commitments for such equity as is required by the Seller to satisfy the requirements of the Lenders and the Letter of Support and the satisfaction of all conditions precedent for the initial availability of funds under the Financing Documents and (b) the delivery of the Seller Letter of Credit in accordance with the terms of this Agreement.

“Financing Documents” – The meaning ascribed thereto in the Implementation Agreement.

“Force Majeure Event” – The meaning ascribed thereto in Section [15.1](#).

“Generation Licence” – The licence No. _____, dated __ _____ 200_ issued by NEPRA permitting the generation and supply of electricity by the Seller from the Complex as contemplated by this Agreement.

“GOP” – The Islamic Republic of Pakistan.

“Grid Code” – The grid code prepared by the Grid System Operator and approved by NEPRA, as revised from time to time by the Grid System Operator with any necessary approval by NEPRA.

“Grid Code Release Report” - The meaning ascribed thereto in Section [2.5\(b\)](#).

“Grid System” – The transmission system and facilities owned or operated by the Grid System Operator pursuant to its licence granted by NEPRA.

“Grid System Frequency” – The frequency of the Grid System measured in hertz.

“Grid System Operator” - The National Transmission and Despatch Company, acting in its capacity as the owner and operator of the Grid System in accordance with (a) the provisions of the Grid Code, and/or (b) such exemptions in relation to the Grid Code as may be granted by NEPRA to the Seller on the basis of the Grid Code Release Report.

“Guarantee” – The guarantee by the GOP of the payment obligations of the Purchaser under this Agreement.

“Implementation Agreement” – The Implementation Agreement, dated as of __ ____ 200__, by and between the GOP and the Seller entered into in relation to the Project, as may be amended by the parties thereto from time to time.

“Initial Cure Period” – The meaning ascribed thereto in Section [16.5\(a\)](#).

“Interconnection Point” – The physical point or points where the Complex and the Grid System are to be connected as specified in Schedule [3](#) at which point the Purchaser shall receive the Net Delivered Energy. [Include only if the Seller will provide the financing for and/or construct the Purchaser Interconnection Facilities: “Interconnection Facilities [Financing and] Supplemental Tariff Agreement” – The agreement to be entered into between the Seller and the Purchaser for [the financing][and construction] of the Purchaser Interconnection Facilities and the payment to the Seller of a Supplemental Tariff to reimburse the Seller therefor, as such agreement may be amended by the parties thereto from time to time.]

“Interconnection Works Schedule” – The schedule for carrying out the Seller Interconnection Works and the Purchaser Interconnection Works as described in Schedule [3](#) and as may be adjusted in accordance with Article [VI](#).

“Investor” – The meaning ascribed thereto in the Implementation Agreement.

“Invoice Dispute Notice” – The meaning ascribed thereto in Section [9.6\(a\)](#).

“KIBOR” – The average “ask side” Karachi Inter-Bank Offer Rate for Rupee deposits for a period equal to three (3) months which appears on the appropriate page of the Reuters service at or about 11:30 a.m. in Karachi on the last available Business Day, or in the event that the Reuter’s service, or any successor thereto, no longer provides such information, such other service as agreed to by the Parties that provides the average “ask side” Karachi Inter-Bank Offer Rate for Rupee deposits in the Karachi inter-bank market.

“Lapse of Consent” – Any Consent (a) ceasing to remain in full force and effect and not being renewed or replaced within the time period prescribed by the applicable Laws of Pakistan or (b) (other than a Specified Consent) not being issued upon application having been properly and timely made and diligently pursued or (c) being made subject, upon renewal or otherwise, to any terms or conditions that materially and adversely affect a Party’s ability to perform its obligations under any document included within the Project Agreements, in each of the above instances despite such Party’s compliance with the applicable procedural and substantive requirements as applied in a “non-discriminatory” (as explained in Section [12.4](#) of the Implementation Agreement) manner.

“Laws of Pakistan” – The federal, provincial and local laws of Pakistan, and all orders, rules, regulations, executive orders, statutory regulatory orders, decrees, judicial decisions, notifications, or other similar directives issued by any Public Sector Entity pursuant thereto, including the Environmental Standards, as any of them may be amended from time to time.

“Lenders” – The meaning ascribed thereto in the Implementation Agreement.

“Lenders Cure Period” – The meaning ascribed thereto in Section [16.5\(b\)](#).

“Letter of Support” – The Letter of Support issued by AEDB to the Seller on __ ____ 200__, as such letter may have been amended or clarified prior to the date hereof by AEDB.

“LIBOR” – The British Bankers Association Interest Settlement Rate for Dollar deposits for a

period equal to three (3) months which appears on the appropriate page of the Reuters service at or about 11:00 a.m. in London on the last available London Banking Day, or in the event that the Reuter's service, or any successor thereto, no longer provides such information, such other service as agreed to by the Parties that provides the British Bankers Association Interest Settlement Rate for Dollar deposits in the London inter-bank market.

“Lien” – Any mortgage, pledge, lien, security interest, conditional and installment sale agreement, encumbrance, claim or charge of any kind.

“London Banking Day” – Any Day other than a Saturday or a Sunday or any other day on which banks are closed in London, England.

“Loss” – Any loss, damage, liability, payment and obligation (excluding any indirect or consequential loss, damage, liability, payment or obligation), and all expenses (including, without limitation, reasonable legal fees).

“Maintenance Outage” – An interruption or reduction of the generation capability of the Complex scheduled by the Seller in consultation with the Purchaser in accordance with Section 5.6 for the purpose of performing work on specific components, which, considering the Technical Limits and Prudent Utility Practices, should not, in the reasonable opinion of the Seller, be postponed until the next Scheduled Outage.

“Major Equipment Failure” – The failure of any major piece of equipment, systems or facilities forming part of the Complex that materially interrupts or materially and adversely affects the continued operation of the Complex.

“Major Maintenance Expenses” – The meaning ascribed thereto in Section 9.8(c).

“Metering System” – All meters and metering devices (including any remote terminal units and an electronic data recording and telemetry system) to be procured by the Purchaser, and thereafter installed and tested by the Seller and transferred to the Purchaser, and thereafter owned and maintained by the Purchaser and used to measure the Net Delivered Energy from the Complex.

“Meteorological Towers” - The towers procured, installed and maintained by the Seller at the Site for, inter alia, mounting of the Anemometry System, [Weather Station] and other meteorological devices and instruments as provided in Section 7.9.

“Minimum Indemnification Amount” – The amount, equal to the Rupee equivalent of one hundred thousand Dollars (\$100,000), that a Party's claims for indemnification pursuant to Article XI must exceed in the aggregate before that Party will be entitled to indemnification.

“Month” – A calendar month according to the Gregorian calendar beginning at 12:00 midnight on the last Day of the preceding month and ending at 12:00 midnight on the last Day of that month.

“Monthly Actual Wind Speed” - The mean speed of the wind at the Site over a given Month (expressed in meters per second), calculated as the mean of the actual wind speed measurements recorded in that Month by the Anemometry System at contiguous one (1) minute intervals.

“Monthly Benchmark Energy” - The Complex Power Curve Energy corresponding to the Monthly Benchmark Wind Speed, as provided in Part II of the Benchmark Energy Table.

“Monthly Benchmark Wind Speed” - For any Month, the speed of wind designated in Part II of

the Benchmark Energy Table as the mean speed for that Month (determined on the basis of data for three (3) years gathered by the Pakistan Meteorological Department).

“Monthly Energy” – For any Month, the sum of Net Delivered Energy and the Non Project Missed Volume.

"Monthly Energy Payment" - The meaning ascribed thereto in Section [9.1\(a\)](#).

“NEPRA” – The National Electric Power Regulatory Authority established under the Regulation of Generation, Transmission and Distribution of Electric Power Act (XL of 1997), and any successor or substitute regulatory agency with authority and jurisdiction over the electricity sector in Pakistan.

"NEPRA Review Period" - The meaning given in Section 2.10(e).

“Net Delivered Energy” – The net electric energy expressed in kWh that is generated by the Complex and delivered at the Interconnection Point, as measured by the Metering System or the Back-Up Metering System, as the case may be.

“Non-Escalable Component” –The Reference Non-Escalable Component described in Schedule 1 as adjusted from time to time during the Term in accordance with Schedule 1.

“Notice of Intent to Terminate” – A notice delivered by the Seller or the Purchaser, as the case may be, of its intent to terminate this Agreement pursuant to Section [16.3](#) due to a default of the other Party.

"Non-Project Event" - Each of the following events or circumstances:

- (i) constraints on the Grid System,
- (ii) variations in Grid System Frequency outside the Technical Limits,
- (iii) Grid System voltage outside the Technical Limits,
- (iv) an Emergency, or
- (v) a Despatch Instruction,

in each case (i) being the proximate and direct cause of cessation or reduction of the generation of the Complex, and (ii) not caused by the operating conditions at the Complex or a fault or failure of any equipment or safety device comprised in the Complex.

"Non-Project Missed Volume" or "NPMV" - The volume of Net Delivered Energy not delivered by the Complex measured in hourly intervals due solely to a Non-Project Event, provided, that the Seller has notified the Purchaser of the availability of the Complex to deliver Net Delivered Energy and such availability is not contradicted by data collected through the Anemometry System or the [Complex Monitoring System/SCADA System], provided, further that, (i) the Seller shall be required to maintain operating logs / other records [through Complex Monitoring System/SCADA System] at [ten (10) minute] intervals of Non-Project Events preventing the Complex from generation and delivery of Net Delivered Energy for each relevant hour and, (ii) the generation and delivery of the Net Delivered Energy shall be resumed forthwith upon cessation of the relevant Non-Project Event (except where prevented by another Non-Project Event);

“O&M Agreement” – The agreement to be entered into between the Seller and the O&M Contractor for the operation and maintenance of the Complex, as may be amended from time to time.

“O&M Contractor” – Any operation and maintenance Contractor(s), and any successor(s) thereto, appointed by the Seller and not objected to by AEDB pursuant to Section 6.2(c) of the Implementation Agreement.

“Operating Committee” – The committee established by the Parties pursuant to Section 2.4 for the purposes described in Section 2.5 and Section 5.10.

“Operating Procedures” – The procedures for the operational interfaces between the Complex and the Grid System to be agreed or finalised in accordance with Section 2.5.

“Ordinary Share Capital” – The meaning ascribed thereto in the Implementation Agreement.

“Pakistan Political Event” – The meaning ascribed thereto in Section 15.1(a).

“Party” – Each of the Purchaser and the Seller, and the “Parties” means both of them.

“Pass-Through Items” – Certain costs or charges identified as Pass-Through Items in Schedule 1.

“Performance Guarantee” – The performance guarantee furnished by the Seller to AEDB under the terms of the Letter of Support.

“Person” – Any person, firm, company, corporation, society, government, state or agency of a state (including any Public Sector Entity), or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.

“Purchaser” – [Name of Purchaser], a [public] limited company established under the laws of Pakistan, with its principal office at _____, _____, Pakistan, and its successors and permitted assigns.

“Purchaser Consents” – All approvals, consents, authorisations, notifications, concessions, acknowledgements, licences, permits, decisions or similar items which is or are issued by a Relevant Authority and which the Purchaser or any of its contractors is required to obtain from any Relevant Authority and thereafter to maintain to fulfill its obligations under this Agreement.

“Purchaser Event of Default” – The meaning ascribed thereto in Section 16.2.

“Purchaser Interconnection Facilities” – The facilities and equipment to be designed, constructed or installed by or on behalf of the Purchaser on the Purchaser’s side of the Interconnection Point that are described in Schedule 3.

“Purchaser Interconnection Works” – Those works and activities described in Schedule 3 to be undertaken by or on behalf of the Purchaser for the design, engineering, construction, installation and commissioning of the Purchaser Interconnection Facilities in accordance with this Agreement.

“PPFME” – The meaning ascribed thereto in Section 15.1(a).

“Prescribed Fee” – With respect to any Consent, the charge or fee, if any, prescribed by the Laws of Pakistan.

“Prescribed Form” – With respect to any Consent, the form, if any, (including all information and details) prescribed by the Laws of Pakistan for the application for, or renewal of, such Consent.

“Project” – Each of the following activities:

- (a) the ownership and possession of the Complex;
- (b) the design, engineering, financing, refinancing (provided that the benefits of such refinancing are shared by the Parties in accordance with the requirements of NEPRA), construction, procurement, permitting, testing and Commissioning of the Complex;
- (c) the procurement, importation, exportation (for repair, maintenance or refurbishing) and contracting for goods, equipment and services for the Complex and the Seller Interconnection Facilities;
- (d) the insuring, operation, maintenance and repair of the Complex, including any Restoration;
- (e) the generation and sale of Net Delivered Energy from the Complex hereunder; and
- (f) recruitment, employment and training of staff for the Complex.

“Project Agreements” – The meaning ascribed thereto in the Implementation Agreement.

“Protected Assets” – The meaning ascribed thereto in Section 18.5(a)(i).

“Prudent Electrical Practices” –The use of equipment, practices or methods, as required to comply with applicable industry codes, standards, and regulations in Pakistan (i) to protect the Grid System, employees, agents, and customers from malfunctions occurring at the Complex, and (ii) to protect the Complex and the Seller’s employees and agents at the Complex from malfunctions occurring on the Grid System. Prudent Electrical Practices are not limited to optimum practices, methods or acts to the exclusion of all others, but rather, where not expressly catered for in the Grid Code, are a spectrum of possible practices, methods and acts which could have been expected to accomplish the desired result at reasonable cost consistent with reliability and safety applicable with reference to wind powered projects (including their safe and reliable integration in weak grid systems).

“Prudent Utility Practices” – Those practices, methods and procedures conforming to safety and legal requirements which are attained by exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced generator of electricity engaged in the same or a similar type of undertaking or activity under the same or similar circumstances and conditions to those pertaining in Pakistan and satisfying the health, safety and environmental standards of reputable international electric generation companies. Prudent Utility Practices are not limited to optimum practices, methods or acts to the exclusion of all others, but rather, where not expressly catered for in the Grid Code, are a spectrum of possible practices, methods and acts which could have been expected to accomplish the desired result at reasonable cost consistent with reliability and safety applicable with reference to wind powered projects (including their safe and reliable integration in weak grid systems).

“Public Sector Entity” – (a) The GOP, the Provincial Government, any subdivision of either, or any local governmental authority with jurisdiction over the Seller, the Project, or any part thereof, or (b) any department, authority, instrumentality, agency, or judicial body of the GOP, the Provincial Government or any such local governmental authority, (c) courts and tribunals in

Pakistan, and (d) any commission or independent regulatory agency or body having jurisdiction over the Seller, the Project or any part thereof.

“Reactive Power” – The wattless component of the product of voltage and current, which the Complex shall provide to or absorb from the Grid System within the Technical Limits and which is measured in Mvar.

"Reference Tariff"- The Energy Price denominated in Pakistan Rupees per kWh and split into Reference Escalable Component and Reference Non-Escalable Component, as defined and incorporated in Schedule 1.

"Reference Tariff Table"- The table at Annex 1 of Schedule 1 setting out the elements of the Reference Tariff.

“Related Dispute” – Any dispute between a Party and its Contractor that is related to any Dispute between the Parties under this Agreement.

“Relevant Authority” – The department, authority, instrumentality, agency or other relevant entity from which a Consent is to be obtained and any authority, body or other Person having jurisdiction under the Laws of Pakistan with respect to the Project, the Purchaser and this Agreement, as the case may be.

"Regular Energy" - For any Month, the quantity of Net Delivered Energy and Non-Project Missed Volume less than or equal to the Monthly Benchmark Energy for that Month.

"Regular Energy Payment" - The consideration payable by the Purchaser to the Seller for Regular Energy, determined in accordance with Section 9.1(a) (i).

“Required Commercial Operations Date” – The date that is [_____] (__) months following the date on which Financial Closing occurs, as such date may be extended pursuant to Section 6.5 or by reason of a Force Majeure Event.

“Reserve Fund” – The meaning ascribed thereto in Section 9.8(a).

“Restoration” – The meaning ascribed thereto in Section 15.6.

“Restoration Period” – The period of restoration established in the Restoration Schedule and as defined in Section 15.6(a).

“Restoration Cost Estimate” – The meaning attributable thereto in Section 15.6(a).

“Restoration Schedule” – The meaning attributable thereto in Section 15.6(a).

“Rupee” or “Rs.” – The lawful currency of Pakistan.

“Sales Tax” – Sales tax levied under the Sales Tax Act 1990, as may be amended or superseded from time to time.

“SCADA System” – A supervisory control and data acquisition system¹.

“Scheduled Commercial Operations Date” – The date reasonably estimated by the Seller as the Commercial Operations Date based on the then-existing construction schedule, as notified to the

¹ Periodic data acquisition system integrity check procedures (calibration and integrity of data system chain - transmission, signal conditioning and data recording) to be determined and settled in Schedule 2, per IEC Standards]

Purchaser, as such date may be modified by the Seller from time to time in the Construction Reports or in other written notices from the Seller to the Purchaser.

“Scheduled Outage” – A planned interruption of the Complex’s generating capability or any material part thereof that has been scheduled by the Seller in consultation with the [Purchaser] [Grid System Operator] in accordance with Section 5.5 for inspection, testing, preventive maintenance, corrective maintenance, repairs, replacement or improvement of the Complex or any material part thereof.

“Seller” – [Name of Seller], a [private/public] limited company incorporated under the laws of Pakistan, with its principal office at _____, Pakistan, and its permitted successors and permitted assigns and any permitted Transferee.

“Seller Consents” – All approvals, consents, authorisations, notifications, concessions, acknowledgements, licences (including the Generation Licence), permits, decisions or similar items which is or are issued by a Relevant Authority and which the Seller or any of its Contractors is required to obtain from any Relevant Authority (other than the Purchaser) and thereafter to maintain to fulfill its obligations under this Agreement, including the Specified Consents; provided, however, that in no event shall the Seller Consents include any concessions or exemptions from the Laws of Pakistan unless they are expressly granted pursuant to the terms of the Implementation Agreement.

“Seller Event of Default” – The meaning ascribed thereto in Section 16.1.

“Seller Interconnection Facilities” – The facilities and equipment to be designed, constructed or installed by or on behalf of the Seller on the Seller’s side of the Interconnection Point that are described in Schedule 3, including any telemetering equipment, transmission lines and associated equipment, transformers and associated equipment, relay and switching equipment, telecommunications devices, telemetering and data interface for the SCADA System, protective devices and safety equipment.

“Seller Interconnection Works” – Those works and activities described in Schedule 3 to be undertaken by or on behalf of the Seller for the design, engineering, construction, installation and commissioning of the Seller Interconnection Facilities in accordance with this Agreement.

“Seller Letter of Credit” – An unconditional, irrevocable, direct-pay, divisible, and transferable on demand standby letter of credit in favour of the Purchaser in the form set out in Schedule 9 and which is issued by a bank or other financial institution which is reasonably acceptable to the Purchaser, and shall provide for draws by the Purchaser in immediately available funds on a Monthly basis upon presentation at a bank in [Lahore], Pakistan, which at the Effective Date shall be delivered by the Seller to the Purchaser in the amount of \$35.00 (thirty five) per kW of the Contract Capacity.

“Seller Proposed Revised Benchmark Energy Table” - The meaning ascribed in Section 2.10(a).

“Shortfall Energy” - The shortfall, if any, of the sum total of Net Delivered Energy and Non-Project Missed Volume in a given Month below the Monthly Benchmark Energy for that Month, where such shortfall is attributable solely to the Monthly Actual Wind Speed being less than the Monthly Benchmark Wind Speed.

“Shortfall Energy Payment” - The payment for Shortfall Energy, determined subject to and in the

manner provided in Section [9.1\(a\)\(iii\)](#).

“Site” – The land, water-ways, roads, wells, rights-of-way, and other interests in land and any rights, permits and licences acquired by the Seller for the purposes of the Complex on, through, above or below the ground at [•] on which all or any part of the Complex is to be built or pursuant to which access thereto is obtained or which is reasonably necessary or appropriate for the operation and maintenance of the Complex.

“Site Sub-lease” - The sub-lease dated as of [•] 200_, entered into between AEDB as the sub-lessor and the Seller as the sub-lessee for sub-lease of the Site, as may be amended by the parties thereto from time to time.

“Specified Consents” – The Consents identified in Schedule 1 of the Implementation Agreement.

“Succession Notice” – The meaning ascribed thereto in Section [19.9\(c\)](#).

“Supplemental Tariff” – Additional compensation payable by the Purchaser to the Seller as provided in Section [9.2](#) and Schedule [1](#).

“System Operator” – The operational unit within the National Transmission and Despatch Company entrusted with the responsibility for Despatch of the electric generation facilities delivering electric energy into the Grid System, and its successors and assigns.

“Tariff” – The meaning ascribed thereto in Schedule 1 of this Agreement.

“Tax” or “Taxes” – Any tax, charge, cess, impost, tariff, duty, basis for assessing taxes (including the rates of or periods for depreciation of assets for tax assessment purposes), fiscal concession or allowance imposed by or payable to a Public Sector Entity, including any value added tax, Sales Tax, water or environmental or energy tax, import or customs duty, withholding tax, excise tax, tax on foreign currency or foreign exchange transactions or property tax. The term “Tax” shall not include any fee or charge payable to a Public Sector Entity as consideration for goods or services provided by such Public Sector Entity in relation to a commercial or service activity carried out by such Public Sector Entity.

“Tax Costs” – An amount equal to the amount of any new or additional Tax or an increase in an existing Tax payable by the Seller in relation to the Project as a result of a Change in Tax.

“Tax Savings” – An amount equal to the amount of any decrease or reduction in or elimination of a Tax payable by the Seller in relation to the Project as a result of a Change in Tax.

“Technical Limits” – The limits and constraints in Schedule [5](#) relating to the operation, maintenance and Despatch of the Complex.

“Technical Specifications” - The technical specifications for the construction, operation and maintenance of the Complex as set forth in Schedule [2](#).

“Term” – The meaning ascribed thereto in Section [2.2](#).

“Termination Date” – The meaning ascribed thereto in Section [16.4\(a\)](#).

“Termination Notice” – The meaning ascribed thereto in Section [16.4\(a\)](#).

“Transfer of the Complex” – The meaning ascribed thereto in Section [19.9\(e\)](#).

“Transferee” - The meaning ascribed thereto in Section [19.9\(e\)](#)

“Turbine Controller” - The computer equipment that monitors the turbine [and the generator] and controls its operation.

“UNCITRAL Rules” – The meaning ascribed thereto in Section [18.3\(b\)](#).

“Weather Station” – The equipment specified in Schedule [2](#) purchased, installed, owned and maintained by the Seller on the Site for the purpose of measuring the ambient site conditions, which equipment shall be subject to inspection by the Purchaser and testing at the request of the Purchaser upon reasonable advance notice.

“Week” – Each period of seven (7) consecutive Days beginning at 12:00 midnight falling between a Saturday and a Sunday.

“Wind Turbine Generator” or “WTG” - The machines installed at the Complex with generators for conversion of wind energy into electric energy.

Section 1.2 Rules of Interpretation

In this Agreement:

- 1.2.1 the headings are for convenience only and shall be ignored in construing this Agreement;
- 1.2.2 other than where the context determines otherwise, the singular includes the plural and vice versa;
- 1.2.3 references to Sections, Articles, Recitals and Schedules are, unless otherwise specified, references to Sections and Articles of, and Schedules and Recitals to, this Agreement;
- 1.2.4 unless otherwise provided herein, whenever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed;
- 1.2.5 the words “include”, “including” and “in particular” shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words;
- 1.2.6 references to a Party are references to a party to this Agreement, including that Party’s assigns or transferees permitted in accordance with the terms of this Agreement and its successors in title;
- 1.2.7 in carrying out its obligations and duties under this Agreement, each Party shall have an implied obligation of good faith;
- 1.2.8 reference to any Laws of Pakistan shall include reference to such Laws of Pakistan as amended, re-promulgated, substituted or replaced from time to time;
- 1.2.8 the Schedules (and if any schedules or tables thereto) to this Agreement form part of this Agreement, and capitalized terms and abbreviations used in the Schedules (and if any schedules or tables thereto) which are not defined therein shall have the meanings given to them in Sections 1.1 and 1.3 of this Agreement, respectively; and
- 1.2.9 except as otherwise indicated in this Agreement, references to time are references to time in Pakistan.

Section 1.3 Abbreviations

1.3.1 In this Agreement, the following abbreviations shall have the following meanings:

- °C means degrees Celsius;
- kV means kilovolt or 1,000 Volts;
- kW means kilowatt or 1,000 Watts;
- kWh means kilowatt hour;
- m/s means meters per second;
- MW means megawatt or 1,000,000 Watts;
- Mvar means megavar or 1,000,000 vars;
- MWh means megawatt hour or 1,000 kWh; and
- GWh means gigawatt hour or 1,000,000 kWh.

SAMPLE

ARTICLE II EFFECTIVE DATE AND TERM

Section 2.1 Conditions Precedent and Effective Date

- (a) On the date of execution of this Agreement by the Parties, only Article I (Definitions; Rules of Interpretation), this Section 2.1, Section 2.3, Article XIII (Representations and Warranties), Article XIX (Miscellaneous Provisions), Section 16.7(c), and, in relation to Section 2.10(f), Section 18.2, shall become effective.
- (b) In connection with the issuance of the Letter of Support by AEDB, the Seller has delivered or has caused to be delivered to AEDB the Performance Guarantee.
- (c) On the date of the later of (i) receipt by the Purchaser of notice from AEDB of the occurrence of Financial Closing (other than the delivery of the Seller Letter of Credit), (ii) delivery to the Purchaser of the Seller Letter of Credit, and (iii) provided the Seller has elected to revise the Benchmark Energy Table under Section 2.10, receipt by the Purchaser of the Benchmark Energy Table duly approved in writing by NEPRA (such approval to take place in accordance with Section 2.10), this Agreement shall become effective in its entirety (the “Effective Date”).
- (d) The Seller shall use its reasonable endeavors to cause the occurrence of Financial Closing by the date required in the Letter of Support, and shall promptly give or cause to be given to the Purchaser notice of the occurrence of Financial Closing (other than the delivery of the Seller Letter of Credit). Upon the occurrence of the Financial Closing (other than the delivery of the Seller Letter of Credit), the Seller shall immediately deliver the Seller Letter of Credit to the Purchaser.
- (e) If the Effective Date does not occur by the date required for Financial Closing in the Letter of Support as may be extended by AEDB in accordance with the Letter of Support, the Purchaser may deliver written notice to the Seller terminating this Agreement, which termination shall be effective on the date of delivery of such notice. From the date of such termination, the Parties shall have no further rights against each other and shall be released from all further obligations under this Agreement, subject to any rights and obligations that may have accrued before the date of such termination.

Section 2.2 Term

- (a) Unless terminated earlier in accordance with its terms, this Agreement shall continue in full force and effect until (but excluding) the twentieth (20th) anniversary of the Commercial Operations Date (such period, the “Term”), as such date may be extended pursuant to Section 2.2(b).
- (b) Following the Commercial Operations Date, if there occurs a PPFME or a CLFME that, in either case requires the Purchaser to make payments to the Seller pursuant to Section 15.6(a)(ii) or Section 15.9(c), then the Term shall be extended for a period equal to the number of Days each PPFME or CLFME, as the case may be, was in effect. During such extension period, the Seller shall be paid only

the [Fixed O&M Component and the Variable O&M Component] of the Energy Price for the Net Delivered Energy as stated in the [Reference Tariff Table] and adjusted in accordance with the provisions of Schedule 1.

Section 2.3 Seller Consents

- (a) From the date of execution of this Agreement, the Seller shall, at its own cost and expense, apply for, procure, diligently pursue and, following receipt, maintain (and, where applicable, cause its Contractors to procure and maintain) all Seller Consents.
- (b) Upon receiving a written request from the Seller so to do, the Purchaser shall take such actions as are reasonable under the circumstances to assist the Seller in its efforts to procure or renew any Seller Consents that it has not received after proper application therefor, provided, however, that, where the Seller makes any such request to the Purchaser, the Seller shall:
 - (i) prior to the date upon which its request to the Purchaser is submitted, have done all such things as it is reasonable for the Seller to have done and as are necessary to procure or renew any Seller Consent which is the subject of such request;
 - (ii) notwithstanding the making of any such request, continue diligently to pursue the grant or renewal of any Seller Consent which is the subject of such a request;
 - (iii) at the same time as it submits its request, disclose to the Purchaser the full details of the actions which the Seller has, prior to the date of the request, taken to procure or renew the Seller Consent and of the actions it is continuing to take with respect to the procurement or renewal of any such Seller Consent;
 - (iv) provide the Purchaser with such assistance and information as the Purchaser may reasonably request in connection with the Seller's request; and
 - (v) bear all reasonable out-of-pocket costs and expenses reasonably incurred by the Purchaser in relation to such request from the Seller.
- (c) To the extent material to the Seller's rights or obligations under this Agreement, the Purchaser shall, at its own cost and expense, procure, diligently pursue, and thereafter maintain all Purchaser Consents.
- (d) To the extent material to the Purchaser's rights or obligations under this Agreement, the Seller shall, at its own cost and expense, procure, diligently pursue, and thereafter maintain all Seller Consents.

Section 2.4 Appointment of the Operating Committee

Not later than ten (10) months prior to the then-prevailing Scheduled Commercial Operations Date, the Parties shall establish the Operating Committee to perform the functions set out in Section [5.10](#).

- (a) The Operating Committee shall be comprised of six (6) members. Each Party

shall designate three (3) members to represent it on the Operating Committee, and either Party may remove or replace any of its Operating Committee members at any time upon notice to the other Party.

- (b) The Operating Committee shall develop procedures for the holding of meetings, the keeping of minutes of meetings and the appointment and operation of sub-committees.
- (c) The chairmanship of the Operating Committee shall rotate each six (6) months between the Parties, and the Parties agree that the first chairman shall be nominated by the Purchaser. The chairman shall not have a casting vote.
- (d) Decisions of the Operating Committee shall require the unanimous approval of the members present at a meeting of the Operating Committee where a quorum of the Operating Committee members is present. A quorum of the members of the Operating Committee shall be deemed to be present where at least two (2) members representing the Purchaser and two members representing the Seller are present at such meeting.

Section 2.5 Operating Procedures

- (a) Within thirty (30) Days of the establishment of the Operating Committee, the Parties shall cause the Operating Committee to meet and cause their respective designated members to finalize the Operating Procedures addressing all operational interfaces between the Purchaser and the Seller. The Operating Procedures shall:
 - (i) take proper account of the design of the Complex, the Metering Systems, the Anemometry System, the [Complex Monitoring System/SCADA System] and the Grid System;
 - (ii) refer to the operational practices and procedures stipulated in the Grid Code which are not inconsistent with the operation, scheduling and Despatch of the Complex; and
 - (iii) be consistent with Prudent Electrical Practices, Prudent Utility Practices, and the Technical Limits.
- (b) The procedure for developing and finalising the Operating Procedures shall be as follows:
 - (i) within thirty (30) Days following the establishment of the Operating Committee, the Seller shall deliver to the Purchaser in writing:
 - (A) proposed draft Operating Procedures; and
 - (B) a report identifying the provisions of the Grid Code, if any, which are inconsistent with the operation, scheduling and Despatch of wind powered generation facilities and in relation to which the Seller shall apply to NEPRA to relieve the Seller from the obligation to comply with such provisions ("**Grid Code Release Report**");
 - (ii) the Purchaser shall provide comments in writing on the draft Operating

Procedures and the Grid Code Release Report within thirty (30) Days following the date the draft Operating Procedures are delivered by the Seller to the Purchaser, and each Party shall make a representative available to meet within ten (10) Days following the end of such thirty (30) Day period to review each Party's comments on the draft Operating Procedures and the Grid Code Release Report and on the proposed changes and any objections to the proposed changes of a Party.

- (iii) as soon as is practicable after the meeting referred to in Section 2.5(b)(ii), but in any event within thirty (30) Days following the end of such meeting, the Seller shall provide the Purchaser with proposed final draft Operating Procedures and a revised draft of the Grid Code Release Report, incorporating to the extent agreed each of the Parties' proposed changes;
 - (iv) the Purchaser shall provide final comments on the final draft Operating Procedures and the revised draft of the Grid Code Release Report within fifteen (15) Business Days after its receipt by the Purchaser and, within five (5) Business Days after a request from the Seller, the Purchaser shall make its representatives available in [Lahore], Pakistan, to meet and review its comments and proposed changes with the Seller; and
 - (v) the Seller shall revise the draft Operating Procedures and the Grid Code Release Report (as revised under sub-clause (iv) hereinabove) to incorporate such additions or modifications required by the Purchaser and shall provide final drafts to the Purchaser as soon as practicable, and in any event within ten (10) Days following receipt of the Purchaser's comments and proposed changes to the draft Operating Procedures and the Grid Code Release Report (as revised under sub-clause (iv) hereinabove) . Any Dispute between the Parties as to whether any matter should be included in or excluded from or modified in the way it is then treated in the draft Operating Procedures and the Grid Code Release Report shall be determined in accordance with Section [18.2](#). The determination of the Expert shall be final and binding with respect to the resolution of such Dispute.
 - (vi) Upon finalisation of the Grid Code Release Report pursuant to this Section 2.5(b), the Seller shall forthwith apply to NEPRA for an authorisation relieving the Seller from the provisions identified to that end in the Grid Code Release Report. The Purchaser shall provide such information and shall participate in the proceedings, if any, before NEPRA as may be necessary or appropriate for expeditious and effective decision by NEPRA on the application of the Seller. The decision of NEPRA shall be incorporated in and made an integral part of the Operating Procedures.
- (c) Following the finalisation of the Operating Procedures pursuant to Section 2.5(b), either Party may propose changes to the Operating Procedures from time to time as changes in events and circumstances may require. The Parties shall meet and discuss such proposed changes in good faith and incorporate such changes as are

agreed by the Parties. Any Dispute between the Parties as to whether any matter should be included in or removed from or modified in the way it is then treated in the Operating Procedures shall be determined in accordance with Section [18.2](#). The determination of the Expert shall be final and binding with respect to the resolution of such Dispute.

- (d) The Seller and the Purchaser shall mutually develop an inter-tripping schedule no later than sixty (60) Days prior to the required implementation of such schedule. Such inter-tripping schedule shall be based on a proposed schedule submitted to the Seller by the Purchaser at least one hundred and twenty (120) Days prior to the date implementation of such schedule is required.

Section 2.6 Appointment of the Engineer

- (a) Not later than ninety (90) Days after the Effective Date, the Engineer shall have been appointed by the Seller, with the approval of the Purchaser, (and shall by such date be available to perform the duties of the Engineer provided herein and shall thereafter keep appointed and available for as long as may be necessary to discharge the duties of the Engineer under this Agreement) to carry out the duties of the Engineer specified in this Agreement in accordance with the highest professional standards and duty of care, both to the Seller and to the Purchaser. The Seller shall not replace any Person appointed as the Engineer without the prior written consent of the Purchaser.
- (b) The terms and conditions of appointment of the Engineer shall oblige the Engineer to act independently and impartially, on the basis of his expertise, experience and knowledge in relation to all matters referred to him pursuant to this Agreement and in carrying out his other duties ascribed to him under this Agreement. The costs and remuneration to which the Engineer is entitled under his terms and conditions of appointment shall be borne by the Seller.

Section 2.7 Seller Letter of Credit

- (a) On the Effective Date, the Seller shall have delivered to the Purchaser the Seller Letter of Credit as required in Section [2.1\(d\)](#) and the Purchaser shall notify AEDB of its receipt of the Seller Letter of Credit and request AEDB to return the Performance Guarantee to the Seller. The Seller shall maintain in full force and effect the Seller Letter of Credit in the then-required amount from the Effective Date until the date that is fifteen (15) Business Days following whichever shall first occur of:
 - (i) the Commercial Operations Date; or
 - (ii) if this Agreement is terminated before the Commercial Operations Date has occurred, the date which is thirty (30) Days following the date on which the termination of this Agreement is effective;

provided, that if the Seller is or is claimed to be liable to pay liquidated damages under Section [9.3](#) or on termination of this Agreement pursuant to Section [16.8](#), the Seller shall maintain the Seller Letter of Credit in an amount not less than the amount in dispute plus the Purchaser's reasonable estimate of the Delayed

Payment Rate that will be payable thereon until any dispute in relation thereto has been finally resolved in accordance with this Agreement and all liabilities in relation thereto have been discharged in full.

- (b) The Seller Letter of Credit shall be expressed to continue until the end of the period referred to in Section 2.7(a) above. The Purchaser shall return the Seller Letter of Credit to the Seller within fifteen (15) Business Days following the end of the period referred to in Section 2.7(a). If the Seller provides a replacement or substitute Seller Letter of Credit satisfactory to the Purchaser, the Purchaser shall return the original Seller Letter of Credit within five (5) Business Days after receipt by the Purchaser of such replacement.
- (c) In the event that the Seller shall be required to pay liquidated damages to the Purchaser, and the Seller fails to make any such payments of damages when due, then the Purchaser shall be entitled to draw or collect such amounts, less any amounts disputed by the Seller, from the Seller Letter of Credit upon presentation of a certificate of an authorized officer of the Purchaser stating that (1) amounts shown in the invoice accompanying the certificate are due and payable by the Seller to the Purchaser under this Agreement, and that (2) an invoice for such amount has been delivered to the Seller at least thirty (30) Days prior to the presentation of the certificate and either (a) no amounts shown in such invoice have been disputed by the Seller or (b) a portion of the amount shown in the invoice has been disputed by the Seller, identifying such disputed amount. The certificate shall be accompanied by the relevant invoice delivered to the Seller and any Invoice Dispute Notice delivered to the Purchaser by the Seller. The Purchaser shall not be entitled to draw from the Seller Letter of Credit any amounts shown in an invoice or demand delivered to the Seller that have been disputed by the Seller until such amounts are determined by the Expert or an arbitrator to be payable to the Purchaser in accordance with Article XVIII.
- (d) In the event that the Purchaser draws against any Seller Letter of Credit and it is subsequently determined that the Purchaser was not entitled to do so, then the Purchaser shall repay such amount to the Seller, together with all costs and expenses incurred by the Seller in connection with such drawing (including reasonable attorneys' fees), plus interest thereon from the date of the draw through the date of repayment at the Delayed Payment Rate, compounded semi-annually and shall be computed for the actual number of Days on the basis of a three hundred and sixty-five (365) Day year.
- (e) Provided that the Seller Letter of Credit is delivered to the Purchaser within five (5) Business Days of its issuance, the Seller Letter of Credit shall have a term of not less than twelve (12) Months from the date of its issuance. If at any time that the Seller is required to maintain the Seller Letter of Credit pursuant to Section 2.7(a), the Seller Letter of Credit will expire within ten (10) Days and the effective period of the Seller Letter of Credit has not been extended for a period of not less than ninety (90) Days or a replacement Seller Letter of Credit has not been delivered to the satisfaction of the Purchaser with an effective period of not less than ninety (90) Days following the date of expiration of the existing Seller Letter of Credit, the Purchaser shall be entitled to immediately encash in full the

Seller Letter of Credit; provided, that the Purchaser shall return to the Seller the amount encashed (less any amount properly retained pursuant to Section 2.7(c)) upon delivery of a valid amendment extending the term of the Seller Letter of Credit or a replacement for the expired Seller Letter of Credit to the satisfaction of the Purchaser.

Section 2.8 Reaffirmation of Representations and Warranties

- (a) Along with the notice delivered by the Seller to the Purchaser giving notice of the Effective Date, the Seller shall deliver a certificate to the Purchaser confirming that the representations in Section [13.1\(a\)](#), Section 13.1(e) and Section 13.1(f) are true and accurate as at the Effective Date.
- (b) No later than five (5) Business Days after the date on which the Seller gives the Purchaser notice of the Effective Date, the Purchaser shall deliver a certificate to the Seller, confirming that the representations in Section [13.3\(a\)](#), Section 13.3(e) and Section 13.3(f) were true and accurate as at the Effective Date.

Section 2.9 Specification of Contract Capacity

- (a) The Parties agree that the Contract Capacity is [_____] MW, gross. .
- (b) At any time (and from time to time) after the Effective Date but prior to the occurrence of the Commercial Operations Date, the Seller may elect by notice to the Purchaser to reduce the Contract Capacity by an amount not to exceed in aggregate ten percent (10%) of the Contract Capacity specified in Section 2.9(a). In each such case, the Contract Capacity shall be reduced as specified by the Seller, provided that, if the reduction in the Contract Capacity requested by the Seller is greater than five percent (5%) and less than or equal to ten percent (10%) of the specified Contract Capacity, the Seller shall pay to the Purchaser in immediately available funds within five (5) Business Days after the notice to reduce the Contract Capacity, as liquidated damages for such reduction and not as a penalty, an amount equal to three hundred and fifty thousand Dollars (\$350,000) multiplied by the number of MW (prorated for any fraction thereof) of the reduction in the Contract Capacity.
- (c) From the date of payment of the amount of liquidated damages determined pursuant to Section 2.9(b), the Contract Capacity shall be reduced by the amount stated in such notice to the Purchaser.
- (d) The Seller may deliver additional notices of reduction of the Contract Capacity, provided that the aggregate reduction in Contract Capacity does not exceed ten percent (10%) of the Contract Capacity specified in Section 2.9(a).
- (e) Any liquidated damages payable under Section 2.9(b) shall be in addition to any other liquidated damages that have become or thereafter become payable under Section 9.3.
- (f) In the event the Contract Capacity is reduced under Section 2.9(b) through (e) above, the Benchmark Energy Table shall be revised to account for the reduction in the Complex Power Curve Energy and the Monthly Benchmark Energy corresponding to the revised Contract Capacity. The provisions of Section 2.10

shall, mutatis mutandis, apply to the revision of the Benchmark Energy Table and the revision shall be initiated by the Seller within fifteen (15) Days of the notification of the reduction in the Contract Capacity.

Section 2.10 Benchmark Energy Table

- (a) Within thirty (30) Days of the date of signing of this Agreement, the Seller shall confirm to the Purchaser and AEDB in writing if it elects to revise the values for the Monthly Benchmark Energy and the Complex Power Curve Energy stated in the Benchmark Energy Table included in Annex 2 to Schedule 1 at the time of signing of this Agreement, provided that, the Seller's entitlement to revise the Benchmark Energy Table shall be only due to micro-siting imperatives subject to verification of Benchmark Energy Review Committee.

In the event the Seller does not notify the Purchaser and AEDB of its election to revise the Benchmark Energy Table, AEDB shall within seven (7) days of the expiry of the afore-said thirty (30) Day period convey the written notification to the Purchaser contemplated under Section 2.1(c)(iii) on the basis of the Benchmark Energy Table included in Annex 2 to Schedule 1 at the time of signing of this Agreement and that Benchmark Energy Table shall, except to the extent provided otherwise in this Agreement, become firm for the Term. In the event the Seller elects to revise the Benchmark Energy Table, the Seller shall within the afore-said period of thirty (30) Days submit to AEDB and the Purchaser (Benchmark Energy Review Committee) the proposed revised Benchmark Energy Table in the format set out in Annex 2 to Schedule 1 ("**Seller Proposed Revised Benchmark Energy Table**"). The Seller Proposed Revised Benchmark Energy Table shall be prepared on the basis of (i) the power curve for the WTGs provided by the manufacturer which should be of the same or the latest vintage and efficiency as those proposed in the submission to NEPRA, (ii) extrapolated for the Complex taking into account the ambient conditions, and (iii) clearly stating all losses, to arrive at the predicted quantity of Net Delivered Energy on an annual basis for the Site and the Monthly Benchmark Energy for each of the twelve (12) Months. The Seller shall provide to AEDB copies of the manufacturer's power curve, computer models and the assumptions, calculations and analysis employed in the preparation of the Seller Proposed Revised Benchmark Energy Table and shall further cooperate with and provide all information required by the Benchmark Energy Review Committee in the examination and analysis of the Seller Proposed Revised Benchmark Energy Table.

- (b) The Benchmark Energy Review Committee shall examine the Seller Proposed Revised Benchmark Energy Table within thirty (30) Days of receipt by the Benchmark Energy Review Committee ("**Benchmark Energy Review Committee Review Period**") and upon satisfaction therewith the Benchmark Energy Review Committee shall convey its recommendation for acceptance in writing to the Seller within the Benchmark Energy Review Committee Review Period. If, in the opinion of the Benchmark Energy Review Committee, modifications to the Seller Proposed Revised Benchmark Energy Table are necessary or appropriate, the

Benchmark Energy Review Committee shall communicate its proposed modifications to the Seller within the Benchmark Energy Review Committee Review Period, provided that, the time taken by the Seller to provide any relevant information sought by the Benchmark Energy Review Committee shall be excluded in the computation of the Benchmark Energy Review Committee Review Period.

- (c) Within ten (10) Days after receipt of the modifications to the Seller Proposed Revised Benchmark Energy Table proposed by the Benchmark Energy Review Committee under Section 2.10(b), the Seller may at its option:
 - (i) accept the modifications proposed by the Benchmark Energy Review Committee;
 - (ii) request a meeting with the Benchmark Energy Review Committee to discuss the modifications proposed by the Benchmark Energy Review Committee, whereupon the Seller, AEDB and the Purchaser (including their consultants and contractors) shall within seven (7) days of receipt of the request for the meeting meet at the offices of AEDB at Islamabad (or such other place as agreed to by AEDB) to discuss the said proposed modifications; or
 - (iii) proceed under Section 2.10 (g).
- (d) In the event the Seller agrees (i) to the modifications proposed by the Benchmark Energy Review Committee under Section 2.10(b), or (ii) to revise the Seller Proposed Revised Benchmark Energy Table following the meeting referred to in Section 2.10(c)(ii), it shall within ten (10) Days of the receipt of the modifications proposed by the Benchmark Energy Review Committee or the meeting aforesaid revise the Seller Proposed Revised Benchmark Energy Table consistent with the modifications proposed by the Benchmark Energy Review Committee or the proceedings of the meeting under Section 2.10(c)(ii) and transmit the same to the Benchmark Energy Review Committee whereupon the Benchmark Energy Review Committee shall within ten (10) Days of the receipt of the Seller Proposed Revised Benchmark Energy Table revised as afore-said convey its recommendation for acceptance in writing to the Seller.
- (e) The Seller shall submit the Benchmark Energy Review Committee Recommended Benchmark Energy Table to NEPRA for approval within ten (10) Days of the written recommendation for acceptance by the Benchmark Energy Review Committee under Section 2.10(b) or Section 2.10(d), as the case may be. NEPRA shall examine the Benchmark Energy Review Committee Recommended Benchmark Energy Table within thirty (30) Days of receipt by NEPRA ("**NEPRA Review Period**") and, give its decision in writing to the Seller within the NEPRA Review Period, provided that, the Benchmark Energy Review Committee Recommended Benchmark Energy Table shall be deemed approved by NEPRA in the absence of decision being made by NEPRA and received by Seller within the NEPRA Review Period.
- (f) In the event the Seller disagrees (i) with the modifications proposed by the

Benchmark Energy Review Committee under Section 2.10(b), (ii) with the proceedings of the meeting held under Section 2.10(c)(ii), the Seller may within ten (10) Days of the receipt of the modifications proposed by the Benchmark Energy Review Committee submit Seller's proposed Revised Benchmark Energy Table to NEPRA for decision. In case the Seller is unsatisfied with the decision of NEPRA then the Seller may have recourse under the NEPRA Act. .

- (g) The Seller Proposed Revised Benchmark Energy Table approved by NEPRA under Section 2.10(e) shall thereupon constitute the Benchmark Energy Table in substitution of the Benchmark Energy Table incorporated as Annex 2 to Schedule 1 at the time of signing of this Agreement, provided that, during the period that the Dispute is referred to the Expert under Section 2.10(f) and before the decision of the Expert, the Benchmark Energy Table incorporated as Annex 2 to Schedule 1 at the time of signing of this Agreement shall for all purposes of this Agreement constitute the Benchmark Energy Table.
- (h) In the event of Restoration of the Complex upon and following the occurrence of a Force Majeure Event or partial derating of the Complex for any reason, the Purchaser may require the Seller to demonstrate that the values incorporated in the Benchmark Energy Table remain firm notwithstanding the Restoration or partial derating of the Complex. In the event that revision to the Benchmark Energy Table is necessitated on account of Restoration or partial derating of the Complex, the Seller shall within thirty (30) Days of such request being made by the Purchaser submit to AEDB with a copy to the Purchaser a revised Benchmark Energy Table setting out the new values for the Complex Power Curve Energy and the Monthly Benchmark Energy, and the provisions of Section 2.1(a) through (i) shall, mutatis mutandis, apply in that case for revision of the Benchmark Energy Table.

ARTICLE III
SALE AND PURCHASE OF ENERGY; CARBON CREDITS

Section 3.1 Sale and Purchase of Net Delivered Energy

- (a) Subject to the terms of this Agreement, the Seller shall sell and deliver and the Purchaser shall purchase and accept all Net Delivered Energy generated by the Complex and delivered at the Interconnection Point by the Seller for the consideration described in Article IX.
- (b) For the avoidance of doubt, in no event shall the Purchaser have any obligation to pay for any Net Delivered Energy produced by the Complex prior to the Availability Date.
- (c) The Seller shall not, without the prior written consent of the Purchaser, sell or deliver the electrical output of the Complex to any person other than the Purchaser.
- (d) Six (6) Months before the expiry of the Term, the Parties shall enter into negotiations for sale and purchase of the electrical output of the Complex beyond the Term on terms mutually acceptable to the Parties. In the event the Parties are unable to agree on the terms for the sale and purchase of the electrical output after the Term, the Seller may, subject to the right of first refusal of the Purchaser, sell the electrical output of the Complex to any other person. The right of first refusal of the Purchaser shall be exercisable by the Purchaser within three (3) months of the delivery of a term sheet by the Seller to the Purchaser setting out the terms in adequate detail on which another prospective purchaser has offered to purchase the output of the Complex from the Seller together with evidence of such term sheet being acceptable to such prospective purchaser.
- (e) Seller shall take no action which would encumber, impair or diminish Seller's ability to generate, sell and deliver the Net Delivered Energy in accordance with this Agreement.

Section 3.2 Carbon Credits

The Parties acknowledge that the Complex has the potential to produce substantial Carbon Credits (e.g. Certified Emissions Reduction units under the Clean Development Mechanism, CDM) and other environmental air quality benefits (economic or otherwise) related to the generation of energy after the Availability Date. The Parties also acknowledge that this Agreement creates incremental costs related to the sale of power that are borne by the Purchaser. The Parties therefore agree that any and all such fungible (tradable) Carbon Credits obtained by the Complex shall be jointly marketed, and the proceeds from the open sale of such Credits shared between the Purchaser and the Seller.

The Seller shall apply for and pursue the grant of such Carbon Credits and benefits, as per procedure prescribed by the CDM, and include the expected annual Carbon Credit revenue stream at a projected CER value (in terms of US\$ per tonne of equivalent carbon dioxide abated) in the Complex's financial analysis to be submitted to both the CDM Executive Board for approval of Carbon Credits and to NEPRA along with petition for

tariff determination according to their respective guidelines. Upon the CERs being granted and thereafter verified on an annual basis, the Seller agrees to transfer the same for joint management by the Seller and the Purchaser under administrative oversight as defined by the Alternative Energy Development Board (AEDB). The accumulated CER units shall be marketed under such joint management so as to obtain an optimum price per unit from the international carbon market. The annual proceeds thus obtained for every certified vintage of carbon credits delivered by the Complex shall be allocated to various components/ beneficiaries in the order and manner as follows:

- (a) First, the joint management of the CERs shall receive a nominal deduction to cover its administrative costs;
- (b) Second, the Purchaser shall receive a payment which is the lesser of; (i) the amount up to that required to bring the Complex's return on equity (ROE) to the allowed level specified by NEPRA, as per financial analysis, inclusive of carbon revenues, submitted by the Seller with the Complex's tariff petition, or (ii) the total remaining revenue from the sale of the aforementioned carbon credits, after deduction of the administrative charges specified under Item (a) above; and
- (c) Third, the Seller and the Purchaser shall equally any remaining amounts realized against the CERs earned by the Complex.

In case the Complex does not achieve CDM approval or sufficient CER validation in a given year to fully meet the payment obligation under item b (i) above, the Seller shall not be liable to pay the shortfall to the Purchaser. However, failure by the Seller to properly and reasonably complete the CDM application and validation procedure, regardless of the outcome of such procedure, or to comply with corresponding NEPRA requirements, or to cooperate in the verification of the Complex's actual annual emissions reduction, shall each separately be considered a breach of this Agreement. In furtherance of the foregoing, the Seller shall transfer to the CER management entity all rights, titles and interests in, to, and under such Carbon Credits or benefits and shall sign such documents, assignments, licenses or other instruments as may be required to give effect to the obligations of the Seller hereunder. The Seller shall permit and enable required access to the Complex and related records and data for any verification exercise necessary or appropriate for the purposes aforesaid.

Section 3.3 Observance of Technical Limits

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

ARTICLE IV CONSTRUCTION OF THE COMPLEX

Section 4.1 Construction of the Complex

- (a) The Seller shall commence and proceed with the construction works as soon as reasonably practicable following the Effective Date. The Seller shall procure that the design of the construction works shall be carried out with all proper skill and care and in all material respects in accordance with this Agreement, including the Technical Specifications, the Laws of Pakistan (including the Seller Consents and the Generation Licence), Prudent Utility Practices, Prudent Electrical Practices and the Schedules hereto, so that the Complex is reasonably expected to provide a useful life of not less than the Term. The Complex shall comprise all necessary auxiliary and ancillary plant and equipment required for the safe, reliable and efficient operation of the Complex.
- (b) The Seller shall carry out and complete the construction works such that the Seller is able to achieve the Commercial Operations Date by the Required Commercial Operations Date.
- (c) The Seller shall cause all equipment which is permanently installed by the EPC Contractor as part of the Complex to be new and unused at the time of such installation and to otherwise comply with the requirements of Schedule 2 and 3.

Section 4.2 Submission of Reports and Information

- (a) The Seller shall submit, or cause to be submitted, to the Purchaser the following documents on or before the specified dates:
 - (i) As soon as available, but no later than the Effective Date, a copy of the Implementation Agreement as executed, with any amendments thereto;
 - (ii) Beginning within thirty (30) Days after the Effective Date and ending on the Commercial Operations Date, (A) reasonably detailed Construction Reports delivered to the Purchaser not later than the last Day of March, June, September and December, including any updates to the construction milestone schedule contained therein, (B) such other reports as are submitted to the Seller by the Engineer, and (C) reports, when and as the Seller becomes aware, of any condition or event and/or any change in such condition or event that will have a material and adverse effect on the timely completion of the construction of the Complex.
 - (iii) No later than ninety (90) Days after the Effective Date, (A) evidence demonstrating that the Seller has obtained all Seller Consents then required to be obtained for the lease/ownership, construction, operation and maintenance of, and the supply and delivery of Net Delivered Energy from, the Complex, (B) a list identifying the Seller Consents not yet required to be obtained for the operation and maintenance of, and the supply and delivery of Net Delivered Energy from the Complex, and (C) a list identifying the Seller Consents applied for by the Seller or its Contractors but not yet issued or received, together with a plan reasonably

acceptable to the Purchaser for obtaining such Seller Consents and an estimate of the time within which such Seller Consents will be obtained;

- (iv) At least sixty (60) Days prior to the scheduled commencement of testing and Commissioning of the Complex, a preliminary test schedule for the Complex;
 - (v) On or before the Commercial Operations Date, a certificate from the Engineer addressed to the Seller and the Purchaser to the effect that, based upon its monitoring and review of construction, the construction of the Complex has been carried out in all material respects in compliance with the terms of this Agreement;
 - (vi) On or as soon as practicable following the Construction Start but in any event within ten (10) Business Days thereafter, a copy of the certificate of insurance for the EPC Contractor's All Risk Insurance Policy and, as soon as available, a copy of such policy, and as soon as is available but in any event on or before the Commercial Operations Date and, as and when updated, copies of all insurance policies and certificates of insurance or other certificates of insurance for policies detailed in Schedule 8;
 - (vii) As soon as available, but no later than thirty (30) Days following Commissioning Tests, two copies of all results of the Commissioning Tests, including tests of major equipment included in the Complex, tests of related electricity metering equipment, and a certificate from the Engineer confirming each successful Commissioning Test shall be provided to the Purchaser;
 - (viii) No later than thirty (30) Days following each successful Commissioning Test, for the major items of plant incorporated into the Complex, one copy, as received by the Seller pursuant to the EPC Contract, of all the manufacturers' specifications and manufacturers' operation manuals; and
 - (ix) As soon as available, but no later than thirty (30) Days following the successful completion of the Commissioning Tests, two copies of the Commissioning Tests results performed on the Complex, and a certificate from the Engineer confirming the results of each such test.
- (b) The Seller shall notify the Purchaser promptly from time to time whenever it determines that the then expected date for the Commissioning of the Complex is unfeasible or inappropriate, and shall specify a revised expected date for Commissioning which shall not in any event be earlier than ten (10) Business Days following the date of delivery of such notice to the Purchaser.
- (c) The Purchaser shall provide to the Seller within fifteen (15) Business Days after receipt of a written request from the Seller, documents and information on the Grid System and such other documents and data in the Purchaser's possession and control as may be reasonably necessary for the Seller to undertake the Seller Interconnection Works and the construction works, including details of all existing and planned facilities necessary to connect the Complex with the Grid System, Despatch and communications procedures currently in use by the

Purchaser and any planned changes to the Despatch and communication procedures then in effect. In connection with the provision of such documents and information, the Purchaser shall allow the Seller during the Purchaser's regular business hours to make copies of such documents and information, at the Seller's sole cost and expense, and to have reasonable access to and to consult with the Purchaser's (or the Grid System Operator's) relevant personnel engaged in the management, operation, maintenance and reinforcement of the Grid System. When such documents and information is no longer required for the purposes provided herein, such documents and information shall be returned to the Purchaser or destroyed by the Seller.

- (d) Each Party shall notify the other Party in a timely manner upon becoming aware of any changes to the information provided to the other Party pursuant to this Section 4.2.

Section 4.3 Delivery of Electrical Power

From and after the completion and commissioning of the Purchaser Interconnection Facilities, the Purchaser shall, to the extent necessary to carry out any testing of the Complex, including Commissioning Tests, transport to the Complex electrical energy in accordance with the schedules provided to the Purchaser pursuant to Section 4.2 and Section [8.2](#).

Section 4.4 Purchaser Observation Visits

The Purchaser shall have the right, on a recurring basis and upon reasonable prior notice to the Seller to have the Purchaser's officers, employees, and representatives observe the progress of the Construction Works and the Seller Interconnection Works and the operation of the Complex. The Seller shall comply with all reasonable requests of the Purchaser for, and assist in arranging, any such observation visits. The Purchaser's visits shall be reasonable both in terms of the frequency of such visits and the number of persons. All persons visiting the Complex, or the Site on behalf of the Purchaser shall comply with the Seller's and its Contractors' generally applicable safety regulations and procedures made available to such persons and shall comply with the reasonable instructions and directions of the Seller and its Contractors, and shall not unreasonably cause any interference with or disruption to the activities of the Seller or its Contractors on the Site.

ARTICLE V
CONTROL AND OPERATION OF COMPLEX

Section 5.1 Operation and Maintenance of the Complex

- (a) The Seller shall operate and maintain the Complex in accordance with the terms of this Agreement, the operating procedures developed in accordance with Section 2.5, the Laws of Pakistan, the Grid Code, the Seller Consents, Prudent Utility Practices and the Prudent Electrical Practices; provided, however, that the Seller may contract with the O&M Contractor to operate and maintain the Complex; provided, further, that the appointment of the O&M Contractor by the Seller shall not relieve the Seller of any of its obligations or potential liability regarding the insuring, operation or maintenance of the Complex or any liability whatsoever resulting from a breach of any term or condition of this Agreement.
- (b) The Complex will be operated within the range of voltage levels specified in Schedule 5. Subject to Technical Limits, the Seller shall operate and maintain the Complex in a manner that will not have an adverse effect on the Purchaser's voltage level or voltage waveform.

Section 5.2 Availability

- (a) The Seller shall be responsible for the mechanical and electrical availability of the Complex and its components for generation of Net Delivered Energy throughout the Term. The Seller shall be responsible for that at any time that the speed of wind at the Site enables generation and delivery of Net Delivered Energy (as determined on the basis of functional and technical specifications in Schedules 2 and 5), the Complex generates and delivers the Net Delivered Energy at the Interconnection Point, except when and to the extent that generation and delivery of Net Delivered Energy is prevented partially or completely during the continuance of or on account of a Force Majeure Event, Scheduled Outage or Maintenance Outage.
- (b) At any time that the speed of wind at the Site enables generation and delivery of Net Delivered Energy (as determined on the basis of functional and technical specifications in Schedules 2 and 5), which, however, the Complex is partially or wholly unable to generate and deliver for reasons attributable to the Seller (including mechanical or electrical non-availability of the Complex or any component thereof), such partial or complete non-availability of the Complex shall not constitute a Non-Project Event and the Net Delivered Energy not generated as a consequence shall be excluded in the computation of Non-Project Missed Volume.

Section 5.3 Forecasting of Net Delivered Energy

- (a) Without prejudice to the provisions of Section 2.5(b) relating to the Grid Code Release Report, the Parties agree that in view of the intermittency inherent in wind resource and therefore the generating capability of the Complex, meticulous adherence to the provisions of the Grid Code relating to the scheduling and dispatch of generation facilities (specifically, the "Scheduling and Despatch Sub-Code" of the Grid Code) connected to the Grid System is not possible in the case

of the Complex.

- (b) Notwithstanding Section 5.3(a), the Seller acknowledges that accuracy in forecasting the Net Delivered Energy the Complex is able to deliver is material for the quality and reliability of electricity supplies across the Grid System. The Seller accordingly agrees that it shall use state-of-the-art best possible means available to predict the long-term and short-term availability of the wind at the Site and on that basis shall provide to the Purchaser:
 - (i) not later than thirty (30) Days before the beginning of each Agreement Year, a year ahead forecast of Net Delivered Energy on a Monthly basis for the succeeding Agreement Year; and
 - (ii) not later than one (1) Week before the beginning of each Month, a Month ahead forecast of Net Delivered Energy on a Weekly basis for the succeeding Month.
- (c) The forecasts of Net Delivered Energy provided by the Seller to the Purchaser under Section 5.3 (b) shall not be binding on the Seller or the Purchaser.

Section 5.4 Despatch Instructions

- (a) Subject to Section 5.4(b), the Seller shall comply with Despatch Instructions issued by the System Operator, provided, that:
 - (i) such Despatch Instructions are consistent with the Technical Limits; and
 - (ii) the Complex can be operated consistent with the Despatch Instructions in view of the then prevailing wind speed at the Site.
- (b) The Seller shall not be in breach of Section 5.4(a) for failure to execute a Despatch Instruction due to a Non-Project Event.

Section 5.5 Scheduled Outage

The Seller shall not undertake Scheduled Outages in the Months of [May, June, July, August]. The Seller shall consult the [Purchaser][Grid System Operator] before developing the Scheduled Outage programme and shall carry out Scheduled Outage in accordance with the Scheduled Outage programme approved by the [Purchaser][Grid System Operator]. To the extent possible, the Scheduled Outages of individual WTGs shall be phased for minimising the reduction in the total available generation capacity of the Complex.

Section 5.6 Maintenance Outages

The Seller shall advise the Purchaser of the need for any Maintenance Outages, together with the proposed commencement date and estimated duration of the work to be undertaken. The Purchaser shall advise the Seller of the periods during which such Maintenance Outage may be undertaken, such periods to be reasonable in light of the Purchaser's requirements for Net Delivered Energy and the necessity for the Maintenance Outage. The Seller shall, subject to the Technical Limits and Prudent Utility Practices, use reasonable endeavours to carry out the Maintenance Outage during the times provided by the Purchaser in

accordance with this Section 5.6.

Section 5.7 Recording of Communications

All communications made between the Seller and the Control Centre relating to Despatch Instructions, including communications by the Seller declaring partial or complete inability of the Complex to comply with the Despatch Instructions (together with the reasons therefor) shall be recorded by the Seller and a copy or transcript of such recording shall be provided to the Purchaser at its request.

Section 5.8 Emergency Set-Up and Curtailment Plans

The Seller shall co-operate with the Purchaser in developing Emergency procedures for the Complex, including voltage reduction to effect load curtailment, and shall, to the extent consistent with the Technical Limits, comply with such Emergency procedures.

Section 5.9 Employment of Qualified Personnel

From and after the first date that Net Delivered Energy is delivered from the Complex to the Interconnection Point, the Seller and the Purchaser shall ensure that their and/or their respective Contractors' personnel are on duty at the Complex and the Control Centre, respectively, at all times, and that such personnel are adequately qualified and trained, and who have experience as necessary and appropriate to undertake the duties for which they are engaged at the Complex and the Control Centre.

Section 5.10 Operating Committee Duties

- (a) The Operating Committee shall be responsible for assisting the Parties in finalising the Operating Procedures in accordance with Section [2.5](#) and for advising the Parties in relation to the following matters relating to the interaction of the Complex and the Grid System:
- (i) the co-ordination of the respective programmes and procedures of the Parties for the construction and operation and maintenance of the Seller Interconnection Facilities, the Complex, the Purchaser Interconnection Facilities, and all related equipment;
 - (ii) the steps to be taken on the occurrence of a Force Majeure Event affecting a Party, the Complex, or the Grid System, or a shutdown or reduction in capacity for any other reason affecting the Seller Interconnection Facilities, the Grid System, or the Complex, or any related equipment;
 - (iii) safety matters affecting the Complex, the Seller Interconnection Facilities, the Grid System, the Parties or their Contractors;
 - (iv) review and revision of protection schemes;
 - (v) inspection, testing and calibration of the Anemometry System, the agreed accuracy limits therefor and adjustments to be made to wind speed data upon the Anemometry System being inaccurate in excess of the agreed limits since the last inspection; and

- (vi) any other matter agreed upon by the Parties.
- (b) The Operating Committee shall have no power or authority to amend or modify the provisions of this Agreement or to determine the rights or obligations of the Parties under this Agreement.

Section 5.11 Maintenance of Operating Records

- (a) Each Party shall keep complete and accurate records and all other data reasonably required for the proper administration of this Agreement. Without prejudice to the generality of the foregoing, the Seller shall maintain (where applicable, through automated data generation, processing and archiving capabilities of the [Complex Monitoring System/SCADA System]) accurate and up-to-date operating log, in a format mutually agreed upon by the Parties, at the Site with records and data of:
 - (i) gross electricity generation by each WTG for each hour;
 - (ii) Net Delivered Energy for each hour;
 - (iii) WTG availability data for each hour;
 - (iv) actual wind speed measured at ten (10) minute intervals at the anemometers installed on the WTGs;
 - (v) Reactive Power in respect of each hour;
 - (vi) Grid System Frequency;
 - (vii) kV bus voltage (132kV, 220kV, 500kV or as otherwise applicable) at all times;
 - (viii) changes in operating status, Scheduled Outages and Maintenance Outages;
 - (ix) ambient site conditions;
 - (x) Despatch Instructions; and
 - (xi) other matters agreed upon by the Parties.

The data aforesaid recorded by the [Complex Monitoring System/SCADA System] shall be available for [viewing/downloading] [at the Control Centre] through real-time on-line [redundancy enabled V-SAT] communication system provisioned by the Seller at its expense. The [Complex Monitoring System/SCADA System] shall be enabled to create and archive automated access logs with fields that include as a minimum (i) the identity of the person accessing the [Complex Monitoring System/SCADA System], (ii) the activity performed for the relevant access session, and (iii) time and date stamping. All such records and data shall be maintained for a minimum of sixty (60) Months after the creation of such record or data and for any additional length of time required by any Public Sector Entity with jurisdiction over either Party and neither Party shall dispose of or destroy any such records or data after such sixty (60) Month period unless the Party desiring to dispose of or destroy any such records or data has first given thirty (30) Days prior written notice to the other Party, generally describing the records or data to be destroyed or disposed of, and the Party receiving such notice

has not objected thereto in writing within ten (10) Days.

- (b) Either Party shall have the right, upon ten (10) Days prior written notice to the other Party, to examine the records and data kept by the other Party pursuant to Section 5.11(a) at any time during normal office hours during the period such records and data are required hereunder to be maintained. For the avoidance of doubt, it is agreed that references to records and data in this Section 5.11 includes records and data created, recorded, maintained and retrieved in electronic form.

Section 5.12 Tampering with the Metering System, the Anemometry System and the [Complex Monitoring System/SCADA System]

The Seller shall not tamper, and shall ensure that its employees, Contractors or subcontractors of any tier do not tamper, with the Metering System, the Anemometry System or the [Complex Monitoring System/SCADA System]. Should the Seller breach the foregoing covenant, the Seller shall (a) take all remediable action reasonably acceptable to the Purchaser to ensure that such tampering does not reoccur, including the development or addition of security systems, and (b) compensate the Purchaser for two (2) times the amount or reasonably estimated amount of any overpayment by the Purchaser resulting from such tampering, which for purposes of such determination shall be assumed to have occurred immediately after the last known accurate test of the Metering System, the Anemometry System or the [Complex Monitoring System/SCADA System] (unless the Seller demonstrates to the reasonable satisfaction of the Purchaser, or the Expert determines, that the tampering did not occur until a later date, in which case such later date shall be used as the reference date for determination of such amount). The Parties have agreed that the amount of such compensation constitutes liquidated damages to the Purchaser for any such breach and, subject to Sections 16.1(h) and Section 16.4, shall be the sole remedy of the Purchaser therefor. The Seller waives, to the fullest extent permitted by law, any claim that such compensation is void as a penalty.

Section 5.13 Cessation of Operation of the Complex

- (a) If, after the Commercial Operations Date, without the prior written consent of the Purchaser, the Seller shall have ceased to operate the Complex for a period of forty eight (48) consecutive hours other than because of a Force Majeure Event, a Schedule Outage or a Maintenance Outage, then the Purchaser shall be entitled to enter the Complex and operate it until the Seller demonstrates to the reasonable satisfaction of the Purchaser that the Seller can and will resume normal operation of the Complex or until the Lenders shall have exercised their rights to enter the Complex and operate it, and as soon as is practicable, send written notice of such entry to the Agent (as defined in Section 16.5) in accordance with the procedure set forth in Section 16.5. During any period that the Purchaser shall operate the Complex pursuant to this Section, the Purchaser shall (i) operate the Complex within the Technical Limits, (ii) bear all costs of such operation, and (iii) continue to pay to the Seller the Non-Escalable Component of the Energy Price, less the return on equity component [and insurance component] thereof (as determined in accordance with Scheduled 1), during such period. For the avoidance of doubt,

the Seller shall not be entitled to any payment during such period to which it would not be entitled if it itself had been operating the Complex.

- (b) Notwithstanding the foregoing and any other provision in this Agreement to the contrary, if any insurance coverage that was obtained by the Seller and is set forth in [Part ____] of Schedule 8 is not available or in effect during any time that the Purchaser is entitled to operate the Complex pursuant to this Section 5.13 or does not cover such operation, then the Purchaser shall not enter or operate the Complex, and shall immediately cease operation and promptly quit possession of the Complex, as the case may be, unless and until such time that the Purchaser either:
- (i) obtains, and thereafter continuously maintains, and provides written evidence to the Seller and the Agent of the procurement of, the policies of insurance set forth in Schedule 8 with terms and conditions which in all material respects (including deductibles, endorsements, terms for reinsurance and security in favor of the Lenders) conform to the terms and conditions of the policies of insurance of such type which had been most recently procured by the Seller with an internationally reputable insurer(s) with a rating of not less than _____; or
 - (ii) agrees in writing to defend, indemnify and hold the Seller harmless from and against any loss or damage sustained as a result of an event that occurred during the period of the Purchaser's operation of the Complex to the extent that such loss or damage would have been covered by the insurance set forth in Schedule 8 that the Seller most recently had in effect prior to the Purchaser's operation of the Complex, including but not limited to loss or damage to the Complex and loss or damage resulting from third Party claims.
- (c) In the event that, at any time, the Purchaser obtains insurance pursuant to this Section 5.13, (i) the Seller and the Lenders (so long as they shall have an insurable interest in the Complex) shall be named as joint insureds and the Lenders (so long as they shall have an insurable interest in the Complex) shall be named as the sole loss payee on any such insurance, and (ii) the Seller shall reimburse the Purchaser for the actual out of pocket costs of such insurance and all reasonable administrative costs incurred by the Purchaser in procuring such insurance.
- (d) Notwithstanding any other provision of this Agreement to the contrary, the Purchaser shall indemnify, defend and hold harmless the Seller from any loss or damage to the Complex incurred or sustained by the Seller by reason of the Purchaser's negligence or willful misconduct in the operation of the Complex during such period, but only to the extent that such loss or damage is not covered by the Seller's insurance.

Section 5.14 Free of Liens

The Seller shall at all times keep the Complex free and clear of all Liens other than those in favour of the Lenders as permitted under Section [19.9](#).

ARTICLE VI INTERCONNECTION FACILITIES

Section 6.1 Construction of the Seller Interconnection Facilities

- (a) The Seller shall carry out or cause to be carried out the Seller Interconnection Works with all proper skill and care and in all material respects in accordance with:
- (i) this Agreement;
 - (ii) the Laws of Pakistan and the applicable Seller Consents;
 - (iii) save to the extent provided otherwise in the Grid Code Release Report as approved by NEPRA for incorporation into the Operating Procedures under Section 2.5(b), the Connection and the Protection & Metering Sub-Codes of the Grid Code;
 - (iv) the Generation Licence, if applicable;
 - (v) Prudent Utility Practices and Prudent Electrical Practices; and
 - (vi) Schedule [3](#),

so that the Seller Interconnection Facilities can be reasonably expected to provide a useful life of not less than the Term.

- (b) The design, scope and specification of the Seller Interconnection Works are set out in Schedule 3. The Seller shall give the Purchaser in the Construction Reports not less than thirty (30) Days' prior notice of the date from which it or its Contractor will commence the Seller Interconnection Works and shall complete the Seller Interconnection Works in accordance with the Interconnection Works Schedule. Subject to Section [5.1](#) of the Implementation Agreement, the Seller shall procure all Seller Consents necessary for carrying out the Seller Interconnection Works.

Section 6.2 Purchaser Interconnection Facilities

The Purchaser shall be responsible for the design, construction, financing and completion [(excluding the Metering System, as provided in Section [7.2\(b\)](#)], and commissioning of the Purchaser Interconnection Facilities in accordance with Schedule 3 of this Agreement. [If the Purchaser Interconnection Facilities are to be constructed by the Seller: The EPC contract for the design, procurement, construction, completion, testing and commissioning of the Purchaser Interconnection Facilities shall be subject to the approval of the Purchaser.]

Section 6.3 Data Necessary for Construction of Interconnection Facilities

The Seller and the Purchaser shall exchange all information within the time period provided therefor in the Interconnection Works Schedule. Within ten (10) Days of a request by either Party, the requested Party shall provide all additional information reasonably requested by the requesting Party in connection with the execution of its Interconnection Works.

Section 6.4 Granting of Easements and Rights-of-Way

- (a) If required, the Seller shall grant to the Purchaser permanent easements and rights of way across the Site necessary to carry out and complete the Purchaser Interconnection Works and to operate, maintain, replace and/or remove the Purchaser Interconnection Facilities. The easements and rights of way shall grant to the Purchaser adequate and continuing rights for the purposes set forth in this Section 6.4 to enter the Site subject only to the Purchaser giving prior notice to the Seller. Upon request by the Purchaser the Seller shall execute such easements, rights of way, licenses and other documents, each in recordable form, as the Purchaser may reasonably require to record any and all of the above rights. Consideration for such rights shall be the execution of this Agreement and no other consideration shall be required. Insofar as it shall be consistent with the Laws of Pakistan, all easements, rights of way, licenses and other rights hereunder shall survive termination or expiration of this Agreement. Revocable licenses, if any, granted to the Purchaser pursuant to this Section 6.4 shall include such reasonable further term, not to exceed ninety (90) Days beyond the Term, to allow the Purchaser to remove the Purchaser Interconnection Facilities. When on Site the Purchaser shall comply with all reasonable instructions of the Seller and its Contractors relating to the carrying out of any work on the Site and, notwithstanding any other provision in this Agreement to the contrary, shall indemnify and hold the Seller and the Contractors harmless from any loss or damage sustained by virtue of the Purchaser's negligence or willful misconduct in the exercise of rights pursuant to this Section 6.4, but only to the extent that such loss or damage is not covered by insurance.
- (b) Except as provided in Section 6.4(a), the Purchaser shall be responsible for obtaining all rights-of-way, easements and other real or personal property interests necessary to construct, operate and maintain the Purchaser Interconnection Facilities during the Term.

Section 6.5 Construction and Completion of Purchaser Interconnection Facilities [Insert if the Purchaser will construct the Purchaser Interconnection Facilities]

- (a) On or after the Effective Date, the Seller shall give to the Purchaser not less than _____ (__) months prior written notice of the Scheduled Commercial Operations Date then anticipated by the Seller. Following the receipt of such notice, the Purchaser shall commence the final design of the Purchaser Interconnection Facilities. Thereafter, the Purchaser shall give the Seller reports on the progress of the Purchaser Interconnection Works as appropriate until the same are completed. The Purchaser shall complete the Purchaser Interconnection Works and be able to accept Net Delivered Energy at the Interconnection Point to carry out the Acceptance Tests and the Commissioning Tests no later than one hundred (120) Days prior to the Scheduled Commercial Operations Date provided to the Purchaser pursuant to the first sentence of this Section 6.5(a); provided, however, that such completion date shall be extended on a Day-for-Day basis for any changes in the Scheduled Commercial Operations Date and to the extent

necessary because of the occurrence of any of the following:

- (i) the failure by the Seller to execute, in sufficient time for the Purchaser to complete the Purchaser Interconnection Facilities, such easements, rights-of-way, licenses and other documents, each in recordable form, as the Purchaser may reasonably require to record the deeds, easements, rights-of-way and licenses granted pursuant to Section 6.4;
- (ii) the failure by the Seller to provide the Purchaser, on a timely basis, with any technical data not included in Schedule 3 available to the Seller and requested by the Purchaser relating to the Complex reasonably necessary for the Purchaser to undertake the design, construction, installation, commissioning, maintenance and operation of the Purchaser Interconnection Facilities;
- (iii) a Force Majeure Event that materially and adversely affects the Purchaser's ability to perform its obligations in accordance with this Article VI;
- (iv) any other failure by the Seller to perform in accordance with this Agreement that materially and adversely affects the Purchaser's ability to perform its obligations in accordance with this Article VI;

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

- (b) If the Purchaser has not completed, commissioned and energized the Purchaser Interconnection Facilities by the date required in this Section 6.5, as such date may be extended, and such delay causes a delay in the Commissioning of the Complex, the Required Commercial Operations Date shall be extended Day-for-Day until the date on which the Purchaser Interconnection Works are completed. In addition, if the Purchaser has not completed the Purchaser Interconnection Works by the date which is fifteen (15) Days following such date, and such delay causes a delay in Commissioning of the Complex, as certified by the Engineer, then the Purchaser shall pay to the Seller Monthly, in arrears, (and prorated for any portion of a Month) an amount equal to the Carrying Costs. Such payments shall commence on the Scheduled Commercial Operations Date prevailing immediately prior to such delay and shall continue until the earlier of (i) the end of a period equal to the period of delay in completing the Purchaser Interconnection Facilities and (ii) the completion of the first attempted Commissioning Tests (whether successfully completed or not); provided, however, that the payment of such amounts by the Purchaser and extension of the Required Commercial Operations Date shall be subject to certification by the Engineer that the delay caused by the Purchaser has caused the then scheduled Acceptance Test or the Commissioning Tests to be delayed.
- (c) The Purchaser shall have no obligation to make the payments provided in this Section 6.5 if and to the extent that the delay in the Commissioning Tests would nevertheless have occurred regardless of the Purchaser's delay or deferral of such

tests. If payments by the Purchaser under this Section 6.5 shall have commenced or the obligation for such payments shall have accrued, the Complex shall be tested at the first available opportunity thereafter. Except as provided in this Section 6.5 and Section 16.2(h), the Seller shall be entitled to no other compensation or claim for damages under this Agreement as a result of delay in the completion of the Purchaser Interconnection Facilities or deferral of the Commissioning Tests by the Purchaser.

[Section 6.5/6 [Financing/Construction] of Purchaser Interconnection Facilities by the Seller

Include (in addition to Section 6.5) if Purchaser will construct the Purchaser Interconnection Facilities but the Seller will finance the cost of such facilities: The Purchaser shall be responsible for the design, procurement (excluding the Metering System, as provided in Section 6.3), construction, completion, testing, and commissioning of the Purchaser Interconnection Facilities in accordance with the terms this Agreement. The Seller shall be responsible for financing and paying for the costs as and when incurred by the Purchaser in its design, procurement, construction, completion, testing and commissioning of the Purchaser Interconnection Facilities (including the cost of procuring right-of-way), and such financing provided by the Seller to the Purchaser shall be reimbursed to the Seller by the Purchaser through a Supplemental Tariff approved by NEPRA under and pursuant to a Interconnection Facilities Financing and Supplemental Tariff Agreement to be agreed by the Parties.]

[Include if the Seller will finance *and* construct the Purchaser Interconnection Facilities, and in such case, *replace* Section 6.5 with this section:

- (a) The Seller shall be responsible for the financing, design, procurement (excluding the Metering System, as provided in Section 6.3), construction, completion, testing, and commissioning of the Purchaser Interconnection Facilities in accordance with the terms this Agreement. The Seller shall be reimbursed by the Purchaser for the costs of the Purchaser Interconnection Facilities through a Supplemental Tariff approved by NEPRA under and pursuant to a Interconnection Facilities Supplemental Tariff Agreement to be agreed by the Parties.
- (b) Upon completion and commissioning of the Purchaser Interconnection Facilities, such facilities shall be conveyed to the Purchaser, along with the assignment to the Purchaser all warranty rights and claims against the Contractor that may arise under the EPC contract for the Purchaser Interconnection Works, which assignment shall be in form and substance acceptable to the Purchaser. The Seller shall supply the Purchaser with copies of “as-built” drawings and records relating to the Purchaser Interconnection Facilities on or as soon as reasonably practicable and in any event, no later than sixty (60) Days after the date on which the Purchaser takes over the Purchaser Interconnection Facilities and one set of operation and maintenance manuals relating to such facilities no later than thirty (30) Days prior to the date on which the Purchaser is to take over the Purchaser Interconnection Facilities under this Section 6.5.]

Section 6.6 Protective Devices

- (a) As part of the Seller Interconnection Works, the Seller shall install protective relays in accordance with Schedule 3. The Seller shall maintain the settings of all

relays in the Complex at the levels agreed by the Seller and the Purchaser, and the Seller shall not change such settings without the prior consent of the Purchaser.

- (b) The Seller and the Purchaser shall verify the operation of the protection devices in accordance with the testing programme set out in Schedule 3.
- (c) Subject to giving the Seller reasonable notice, the Purchaser may require the Seller to modify or expand the requirements for protective devices. Following approval by the Purchaser of the costs of such modification or expansion, the Seller shall perform such modification or expansion. Such work shall be completed within a reasonable time under the circumstances. The Purchaser shall be notified in advance of, and shall have the right to observe, all work on the protective devices
- (d) Following completion of such modification or expansion work, the Seller shall provide the Purchaser with an invoice for the reasonable and necessary costs therefor, together with supporting documentation with respect thereto. The Purchaser shall pay the Seller the required amount within thirty (30) Days after delivery of the invoice by the Seller.
- (e) Each Party shall notify the other Party in advance of any changes to either the Complex or the Grid System that may affect the proper co-ordination of protective devices between the two systems, and neither Party shall make any such changes to either the Complex or the Grid System, as the case may be, without the other Party's approval.

Section 6.7 Testing

The Parties shall cooperate in testing the Purchaser Interconnection Facilities and the Seller Interconnection Facilities in accordance with the schedule developed by the Operating Committee (but in no event later than the time provided in Section 6.5) and at such other times thereafter as either Party may reasonably require.

ARTICLE VII METERING AND METEOROLOGY

Section 7.1 Metering Systems

- (a) The Parties acknowledge that for the purposes of determining Net Delivered Energy, the Metering System and Back-Up Metering System are required prior to the delivery of any Net Delivered Energy to the Interconnection Point for sale hereunder.
- (b) Not later than one hundred and eighty (180) Days prior to the then Scheduled Commercial Operations Date, the Purchaser shall have procured at its expense and shall provide to the Seller the Metering System. If the Purchaser has not provided the Metering System to the Seller by such date, the Seller may procure the Metering System (with specifications stated in Schedule 6 (Metering; Environmental Standards;) and invoice the Purchaser for the reasonable cost thereof as a Pass-Through Item. The Seller shall procure and install an electronic recorder or any other state-of-the-art recording equipment, approved by the Purchaser, capable of making continuous recordings of the Net Delivered Energy, which after procurement and installation by the Seller shall constitute a part of the Metering System. Such Net Delivered Energy shall be measured and recorded on appropriate magnetic media or equivalent, which recording shall be used to compute Energy Payments.

Section 7.2 Installation of Metering Systems

- (a) The Seller shall at its expense install the Metering System and shall procure and install the Back-Up Metering System (in accordance with Schedule 3) which are consistent with the requirements in Schedule 6 (Metering; Environmental Standards) and shall:
 - (i) prior to the delivery of any Net Delivered Energy from the Complex to the Interconnection Point for which payment is required to be made by the Purchaser hereunder, install, test and commission, and calibrate or recalibrate as necessary, the Metering System and the Back-Up Metering System at the higher voltage side of and as close as possible to the Interconnection Point²;
 - (ii) secure the Metering System and Back-Up Metering System in a locked and walled enclosure; and
 - (iii) ensure that it or its Contractors, employees, agents and invitees (other than the Purchaser), and others for whom the Seller is responsible shall not

² [Note: NTDC is currently designing the Transmission System requirements for the clustered wind farm sites. NTDC may require the Seller to provide 2 breakers to NTDC in the sub-station of the Complex to have 2 circuits (in / out) for each Complex and provide space within the sub-station of the Complex for switching facilities of NTDC. In such case, the metering would be undertaken on the outgoing side of the power transformer of the Complex and not on the outgoing busbars].

tamper with the Metering System or the Back-Up Metering System.

- (b) When the Metering System has been shown by testing in accordance with Section 7.3(a) to satisfy the required level of accuracy of measurement, the Seller shall transfer possession (or if the Seller has procured the Metering System, subject to payment therefor as provided herein, ownership) of such Metering System to the Purchaser, and the Purchaser shall thereafter be responsible for the ownership and maintenance of the Metering System. The Purchaser shall be provided with not less than forty-eight (48) hours notice of and have the right to be present at and to observe the installation and all testing of the Metering System. The Seller shall grant to the Purchaser all necessary easements and rights-of-way for the location of the Metering System on the Site and for ingress and egress thereto and therefrom.

Section 7.3 Testing of Metering System

- (a) The Seller shall test the accuracy and calibrate or recalibrate, if necessary, of each of the Metering System and the Back-Up Metering System in accordance with Schedule 6 not later than the earlier of (i) thirty (30) Days after the relevant Metering System or Back-Up Metering System is installed by the Seller or (ii) the Day before the date of first delivery to the Interconnection Point of any Net Delivered Energy from the Complex, as the case may be, that is to be paid for by the Purchaser pursuant to this Agreement. Thereafter, the Purchaser shall test the accuracy of each of the Metering System at any time that the readings of Net Delivered Energy from the Metering System and the Back-Up Metering System differ by an amount greater than one-half of one percent (0.5%). In such an event, the Purchaser shall test the accuracy of the Metering System and recalibrate the Metering System, if necessary. The Purchaser shall give the Seller not less than forty-eight (48) hours notice of such tests and the Seller shall have the right to witness such tests, as well as any inspection of the Metering System or adjustment thereof; provided that if the Seller's representative fails to attend such tests, inspection or adjustment, such right shall have been waived with respect to such test, inspection and/or adjustment.
- (b) Following testing and any recalibration, if necessary, and return to service of the Metering System pursuant to Section 7.3(a), above, the Seller shall if necessary test the accuracy of the relevant Back-Up Metering System and recalibrate the relevant Back-Up Metering System. The Seller shall give the Purchaser no less than forty-eight (48) hours notice of such tests and the Purchaser shall have the right to witness such tests, as well as any inspection of the Back-Up Metering System or adjustment thereof; provided that if the Purchaser fails to attend such tests, inspection or adjustment such right shall have been waived with respect to such test, inspection and/or adjustment.
- (c) In addition to the tests to be carried out pursuant to Section 7.3(a), if the Seller believes that the Metering System is inaccurate it shall inform the Purchaser, requesting that the Metering System's accuracy be tested, and the Purchaser shall test the Metering System within a reasonable time. If the Purchaser believes that the Metering System is inaccurate it shall inform the Seller, and the Purchaser

shall test the Metering System within a reasonable time. The Purchaser shall give the Seller no less than forty-eight (48) hours notice of such tests and the Seller shall have the right to witness such tests, as well as any inspection of the Metering System or adjustment thereof; provided that if the Seller fails to attend such tests, inspection or adjustment such right shall have been waived with respect to such test, inspection and/or adjustment. The Seller shall bear the cost of such additional test requested by it unless the test indicates that the Metering System is inaccurate by more than one-half of one percent (0.5%), in which case the Purchaser shall bear the cost of the additional test.

- (d) In addition to the tests to be carried out pursuant to Section 7.3(b), if the Purchaser believes that the Back-Up Metering System is inaccurate it shall inform the Seller, requesting that the Back-Up Metering System's accuracy be tested, and the Seller shall test the Back-Up Metering System within a reasonable time. If the Seller believes that the Back-Up Metering System is inaccurate it shall inform the Purchaser, and the Seller shall test the Back-Up Metering System within a reasonable time. The Seller shall give the Purchaser no less than forty-eight (48) hours notice of such tests and the Purchaser shall have the right to witness such tests, as well as any inspection of the Back-Up Metering System or adjustment thereof; provided that if the Purchaser fails to attend such tests, inspection or adjustment such right shall have been waived with respect to such test, inspection and/or adjustment. The Purchaser shall bear the cost of such additional test requested by it, unless the test indicates that the Back-Up Metering System is inaccurate by more than one-half of one percent (0.5%), in which case the Seller shall bear the cost of the additional test.

Section 7.4 Reading Meters

- (a) The Seller shall, at its own cost and expense, procure and install telemetry and electronic data recording systems capable of recording the Net Delivered Energy measured by the Metering System and procure and install such systems for the Back-Up Metering System on a continuous basis and capable of storing such recordings for not less than ninety (90) Days. All metering data recorded by the Metering System and the Back-up Metering System shall also be telemetered at [Control Centre / Other] through telemetry facilities provisioned by the Seller at its expense. Subject to the provisions of Section 7.4(d) and verification of the data recording system pursuant to Section 7.4(b), the Parties agree that the information contained in or obtained from such electronic data recording and telemetry systems shall be used to determine the Net Delivered Energy. The electronic data recording system and the telemetry system related to the Metering System and the Back-Up Metering System shall constitute a part of the Metering System and the Back-Up Metering System, respectively, for all purposes under this Agreement, and the electronic data recording system and the telemetry system related to the Metering System shall be conveyed to the Purchaser as a part of the Metering System in accordance with the provisions of this Article VII.
- (b) ³The information contained in the electronic data recording system shall be

³ To consider substitution of this provision with telemetered data.

verified by checking that the sum of the hourly readings in the electronic data recording system over a specified period are consistent with the local totalized readings for the Metering System (or, if applicable, the Back-Up Metering System) over the same period (determined by subtracting the local totalized reading at the beginning of the period from the local totalized reading at the end of the period). In order to verify the information contained in the electronic data recording system the following procedure shall apply:

- (i) the local totalized readings of the Metering System and the Back-Up Metering System shall be read on the Availability Date and thereafter Monthly on the last Business Day of each Month or such other Day as may be mutually agreed upon by the Parties;
 - (ii) the Purchaser shall take such reading during normal business hours unless otherwise mutually agreed by the Parties;
 - (iii) the Purchaser shall give the Seller at least forty-eight (48) hours notice of the time the Purchaser intends to take such reading and the Seller shall have the right to witness any such reading;
 - (iv) if a Seller representative is present at such reading, then such reading shall be jointly taken and recorded;
 - (v) if a Seller representative is not present at such reading, then the Purchaser representative shall take and record such reading and make a photographic record thereof;
 - (vi) the Purchaser shall maintain a log of all such meter readings; and
 - (vii) the recorded measurements for each hour during the relevant period and the local totalized recorded measurements shall be delivered by the Purchaser to the Seller within two (2) Business Days after the readings are taken.
- (c) The Metering System shall be used to measure the Net Delivered Energy, provided, that during any period when the Metering System is out of service as a result of maintenance, repairs or testing, then the best available information, which may include the metering data recorded through the telemetry system or the data recorded at the electronic data recording system of the Back-Up Metering System, shall be used to measure the Net Delivered Energy and the provisions of Section 7.4(a) and Section 7.4(b) shall apply to the reading of the Back-Up Metering System.
- (d) If, in any test carried out pursuant to Section 7.3(a), the Metering System is found to be inaccurate by more than one-half of one percent (0.5%), or is otherwise unavailable or functioning improperly, then the correct amount of Net Delivered Energy delivered to the Purchaser for the actual period during which inaccurate measurements were made, if any, shall be determined as follows:
- (i) the readings of the Back-Up Metering System shall be used to calculate the correct amount of Net Delivered Energy, unless a test of such Back-Up Metering System, as required by either Party, reveals that the Back-Up

Metering System is inaccurate by more than one-half of one percent (0.5%) or is otherwise functioning improperly;

- (ii) if the Back-Up Metering System is found to be inaccurate by more than one-half of one percent (0.5%) or is otherwise unavailable or functioning improperly, then the Seller and Purchaser shall jointly prepare an estimate of the correct reading on the basis of all available information, including the telemetered data, and such guidelines as may have been agreed to between the Seller and the Purchaser as part of the Operating Procedures;
- (iii) if the Purchaser and the Seller fail to agree upon an estimate for the correct reading, the Seller will estimate the reading and any Dispute shall be referred by either Party for resolution in accordance with Section [18.1](#) and Section 18.2; and
- (iv) the difference between the previous payments by the Purchaser for the period of inaccuracy and the recalculated amount shall be offset against or added to the next payment to the Seller under this Agreement, as appropriate, plus interest at the Delayed Payment Rate. If the period of inaccuracy cannot be accurately determined, it shall be deemed to have begun on the date which is midway between the date the meter was found to be inaccurate and the date of the last meter reading accepted by the Parties as accurate. In no event, however, shall any such adjustment be made for any period prior to the date on which the Metering System was last tested and found to be accurate within plus or minus one-half of one percent (0.5%) and not otherwise functioning improperly.

Section 7.5 Sealing of Metering Systems

- (a) The Metering System and the Back-Up Metering System shall be jointly sealed by the Parties.
- (b) Seals on the Metering System shall be broken only by the Purchaser personnel acting in accordance with the terms of this Agreement. The Purchaser shall give the Seller at least forty eight (48) hours advance notice of the breaking of seals on any part of a Metering System. Such notice shall specify the time at which a meter seal shall be broken by Purchaser personnel, and the Seller shall be given the opportunity to be present when such seals are broken.
- (c) Seals on the Back-Up Metering System shall be broken only by Seller personnel acting in accordance with the terms of this Agreement. The Seller shall give the Purchaser at least forty-eight (48) hours advance notice of the breaking of seals on any part of a Back-Up Metering System. Such notice shall specify the time at which a meter seal shall be broken by Seller personnel, and the Purchaser shall be given the opportunity to be present when such seals are broken.
- (d) If any seal securing the Metering System or the Back-Up Metering System is found to be broken, or if the Metering System or the Back-Up Metering System has been found to have been tampered with, and, in either case, the Metering System is found to be inaccurate by more than one-half of one percent (0.5%) or is otherwise unavailable or functioning improperly, then the provisions of

Section 7.4(d) shall apply to determine the correct amount of Net Delivered Energy.

Section 7.6 Repair, Replacement or Recalibration of Metering System and Back-Up Metering System

- (a) If any component of the Metering System is found to be outside acceptable limits of accuracy, or otherwise not functioning properly, the Purchaser shall forthwith repair, recalibrate or replace such component of the Metering System at its own cost and expense.
- (b) If any component of the Back-Up Metering System is found to be outside acceptable limits of accuracy, or otherwise not functioning properly, the Seller shall forthwith repair, recalibrate or replace such component of the Back-Up Metering System at its own cost and expense.
- (c) Upon the completion of any examination, maintenance, repair or recalibration of, or replacement of any component in, the Metering System or the Back-Up Metering System, as the case may be, such Metering System shall be jointly sealed in accordance with Section 7.5.

Section 7.7 Protective Devices; Telecommunications Circuit

- (a) Not later than one hundred and twenty (120) Days prior to the Commercial Operations Date and in any event before any Net Delivered Energy is delivered from the Complex to the Interconnection Point, the Seller shall at its own cost and expense procure and shall have installed and have operational the following equipment:
 - (i) Telecommunications and tele-protection equipment (power line carrier or, at the Seller's option, power line carrier and/or microwave system) reasonably acceptable to the Purchaser at the Complex and compatible with similar equipment at the grid station located at [_____];
 - (ii) A communications unit in the control room of the Complex compatible with the Control Centre's PBX system to permit voice communications between the Complex and the Control Centre;
 - (iii) Telecommunication links and facilities adequate for the Purchaser for real-time on-line access, with data downloading capabilities in real-time, for all data measured and recorded by the Complex Monitoring System, the Anemometry System and the instrumentation on the Meteorological Towers.
 - (iv) Equipment in the Complex to transmit and receive facsimiles; and
 - (v) Tele-metering and data interface (or interface with the Purchaser's microwave system adjacent to the Complex) for the Purchaser's SCADA satisfying the Purchaser's reasonable requirements, which tele-metering and data interface is described in Schedule 3.
- (b) The selection and installation of items to be provided by the Seller in accordance

with this Section 7.7 shall be subject to the prior written approval of the Purchaser.

Section 7.8 Anemometry System

- (a) The Seller shall install the Anemometry System at the Meteorological Towers at the hub-height of the WTGs, provided that, if the hub-heights of the WTGs are variable due to topographical conditions at the Site, then the Anemometry System shall be installed at the hub-height of the WTGs in the first row in the predominant wind direction (as provided in the feasibility study for the Project). At least one of the Meteorological Towers with the Anemometry System shall be placed facing the predominant wind direction, unaffected by the wake-effect of the WTGs, to measure and record the free-stream wind flow at the Site in the predominant wind direction. The Seller shall ensure that at any time at least one anemometer comprised in the Anemometry System is measuring the undisturbed free-stream wind flow and the reference wind speed for all purposes under this Agreement shall be the highest wind speed recorded at any anemometer comprised in the Anemometry System. All Meteorological Towers on which the Anemometry System is installed shall be sited at a distance between two (2) to four (4) times the rotor diameter of the WTGs from the nearest row of WTGs. Each anemometer shall be individually calibrated and shall be placed at an appropriate distance from the support structures it is placed on and from other anemometers comprising the Anemometry System.
- (b) The Anemometry System shall include data loggers to be placed at the base of the Meteorological Towers through screened cables with back-up battery power capability with at least [72] hours of continuous operation on battery power. The sensors in the Anemometry System will record at one (1) minute interval basis (i) the speed of the wind, and (ii) the data-logger battery voltage. The wind data recorded by the data logger of the Anemometry System shall be [readable through real-time on-line communication links connecting the data logger / downloadable via modem] at [grid station / Control Centre].
- (c) Without prejudice to the specific requirements stated hereinabove, the Anemometry System shall be installed, calibrated, tested, maintained and operated, and all data collected through the Anemometry System shall be collected, sampled, processed and reported in accordance with the applicable IEC Standard(s) [IEC 61400-Part 12] [prevalent on the Availability Date and shall be duly certified for such compliance by the Engineer on the Availability Date] [from time to time during the Term].
- (d) The data recorded at the data logger shall be backed-up by the Seller at regular [weekly] intervals with a copy of the backed-up data being provided to the Purchaser on digital storage media. Each Party shall maintain the wind data metered by the Anemometry System for a period of five (5) years from the date it is recorded.
- (e) The procedures under Section 5.10(a)(v) for inspection, testing and calibration of the Anemometry System and adjustments to recorded wind data upon the

Anemometry System being discovered on any inspection (requested by the Purchaser, the Seller, or otherwise) to be inaccurate in excess of the agreed limits shall be developed by the Operating Committee as close as possible to provisions hereinbefore applicable for the Metering System and the Back-Up Metering System.

Section 7.9 Meteorological Towers

The Seller shall install and maintain at least two (2) towers with [Weather Station] [instrumentation] specified in Schedule 2 (*Description of the Complex*) for measurement of ambient conditions including temperature, air pressure, wind direction, wind density, relative humidity and other parameters in accordance with the provisions of Schedule 5 (*Technical Limits; Minimum Functional Requirements [and Acceptance Tests]*).

SAMPLE

ARTICLE VIII
TESTING OF THE COMPLEX

Section 8.1 Acceptance Tests

- (a) Not later than thirty (30) Days after the date the Seller has signed the EPC Contract, the Seller shall provide to the Purchaser, along with a certificate attesting to the accuracy, conformity to the original and completeness of, copies of the tests agreed between the Seller and the EPC Contractor which correspond to the tests stipulated under Sections 8.2(c) (the "**Acceptance Tests**").
- (b) The Seller shall forthwith but in any event within seven (7) Days of the occurrence thereof inform the Purchaser along with copies and a certificate attesting to the accuracy, conformity to the original and completeness of the copies of any amendments to the Acceptance Tests.
- (c) For the avoidance of doubt, the Purchaser shall not have the right to determine or direct the nature or content of the Acceptance Tests agreed between the Seller and the EPC Contractor.

Section 8.2 Testing of the Complex Prior to Commercial Operations Date

- (a) The Seller shall provide the Purchaser on an on-going basis with relevant information regarding its programme for conducting the Acceptance Tests and shall deliver a final programme for the said tests, including the expected duration and a tentative schedule therefor, not less than thirty (30) Days prior to the commencement of such tests. The Seller shall advise the Purchaser in writing of any changes in its final schedule for the said tests not less than seven (7) Days prior to the commencement of the tests. Such final schedule shall not materially increase or advance the timing of the Purchaser's obligations under this Agreement without the prior written consent of the Purchaser.
- (b) For the purposes of this Agreement, to the extent the Acceptance Tests serve to test and demonstrate the technical and functional requirements of the Complex stipulated in the Commissioning Tests under Section 8.3 and Schedule 7 (Commissioning Tests), the Purchaser shall, provided such tests satisfy the Commissioning and test criteria provided in Schedule 7, treat such Acceptance Tests as the relevant Commissioning Tests.
- (c) The Seller shall cause all Acceptance Tests which can be carried out before synchronisation of the Complex to the Grid System to be so carried out in the presence of the Engineer and shall provide copies of the relevant certificates of acceptance issued to the EPC Contractor to be counter-certified by the Engineer as to their accuracy and content. The Acceptance Tests for the Engineer to issue the Certificate of Availability under Section 8.3(a) shall (without prejudice to the authority of the Engineer to require additional tests in his professional opinion) be the following:
 - [(i) automatic voltage regulator setting and adjusting in stand still condition and with the generator running at no load;]

- (ii) turbine control tests;
- (iii) open and short circuit tests on each generator;
- (iv) functional testing and timing of high voltage switchgear in the switchyard of the Complex;
- (v) verification that the protection level settings for the following are as agreed by the Operating Committee:
 - (A) stator earth fault;
 - (B) negative phase sequence;
 - (C) generator transformer over-current and earth fault; and
 - (D) high voltage bus-bar protection;
- [(vi) voltage phasing checks between the sub-station of the Complex and the Grid System;]
- (vi) inter-tripping circuits checks between the Complex and the Purchaser's equipment; and
- (vii) matching of digital outputs of the SCADA / Complex Monitoring System with the Metering System and the Back-up Metering System.

The Purchaser shall be given not less than seventy-two (72) hours notice of such tests (and any retests thereof) and shall have an opportunity to be present at and observe all such tests.

Section 8.3 Tests Upon Synchronization of the Complex and Commissioning Tests

- (a) Upon successful completion of the Acceptance Tests referred to Section 8.2 (c), once the Seller is satisfied that the Complex is capable of continued operation, the Seller shall request the Engineer to issue the Certificate of Availability. The Engineer, upon being satisfied in this behalf, shall deliver to the Seller the Certificate of Availability which shall attest, as a minimum, that (i) the requirements of Sections 8.1(a) and 8.2(c) are met, and (ii) the Complex is ready for synchronous operation with the Grid System. Upon receipt of the Certificate of Availability, the Seller shall provide a copy to the Purchaser. Forthwith upon receipt of a copy of the Certificate of Availability, but in any event no later than the following Day, the Purchaser shall energise and keep energised the Purchaser Interconnection Facilities (if not already done) for receipt of Net Delivered Energy.
- (b) The Seller shall be entitled to commence and the Purchaser shall be obliged to accept deliveries of Net Delivered Energy at the Interconnection Point on the Day after the Availability Date. At any time thereafter, the Seller shall perform, at the first availability opportunity, the tests stipulated in Schedule 7 (the "**Commissioning Tests**"). The Commissioning Tests shall satisfy the minimum performance criteria included in Schedule 7.
- (c) The Seller shall to the extent practicable or possible notify the Purchaser of the schedule for performance of the Commissioning Tests. To the extent the

Purchaser is able to be present and observe any such tests it shall have the right to be so present, provided that, recognising the intermittency of wind, (i) the Seller may perform such Commissioning Tests as can be performed without the presence of the Purchaser, and (ii) the Purchaser shall issue standing instructions to its personnel at the relevant grid station to accede to requests of the Seller at short or instantaneous notice to conduct such operations of the Purchaser Interconnection Facilities as shall enable the Commissioning Tests to be carried out. The Seller may repeat the Commissioning Tests as many number of times as required by the Seller and upon the Complex having satisfied the Commissioning Tests to establish the Commercial Operations Date, the Seller shall notify the Purchaser that the Seller has designated such tests as the Commissioning Tests.

- (d) The Commercial Operations Date shall occur as of the first Day after the Day the Complex is Commissioned when declared by the Seller and subsequently certified in writing by the Engineer.
- (e) Notwithstanding commencement of deliveries of Net Delivered Energy on the Day after the Availability Date but before the Commercial Operations Date, in the event any Commissioning Tests demonstrate a defect, fault, inadequacy in design or construction or defect or fault in the operation of (i) any safety or protective devices comprising the Seller Interconnection Facilities, (ii) the voltage regulation system, (iii) the power electronic converter, (iv) the reactive compensation system, or (v) any other equipment comprised in the Complex that, in each case, causes an Emergency or has a real likelihood of causing an Emergency, the Purchaser may require the Seller to interrupt delivery of the Net Delivered Energy to the Interconnection Point until the defect or fault is removed. The Seller shall in that case take such remedial measures as may be necessary or appropriate to ensure the Complex operates consistent with the safety, technical and functional requirements stipulated in this Agreement (including under Sections 6.6, 7.7, 8.2 (c) and Schedules 3, 5 and 7). Upon certification by the Engineer that appropriate remedial measures have been implemented by the Seller, the Purchaser shall resume acceptance of Net Delivered Energy at the Interconnection Point.

Section 8.4 Copies of Test Results

The Seller shall provide the Purchaser with copies of the test results of all tests performed pursuant to Sections 8.2 and 8.3 above and after every general overhaul of a WTG or other major equipment at the Complex. The Purchaser shall not use or disclose such results other than in connection with the administration and enforcement of this Agreement.

Section 8.5 Scheduling and Accommodation of Additional Tests

If, during or following a Scheduled Outage, a Maintenance Outage, or a Force Majeure Event, the Seller is required to undertake additional tests of one or more WTGs or the Complex that are not required under this Article VIII and which require that electric energy is delivered to the Grid System, the Purchaser shall accommodate such tests as soon as reasonably practicable following a request therefor from the Seller.

Section 8.6 Testing Disputes

Any Dispute between the Seller and the Purchaser arising under this Article VIII shall be resolved in accordance with the provisions of Article [XVIII](#); provided that, in the case of a Dispute as to the successful completion of the Commissioning Tests, as certified by the Engineer, such Dispute shall, unless the Parties otherwise agree, be referred to the Expert, and the determination of the Expert under Section 18.2 shall be implemented and followed by the Parties prior to and pending any further dispute resolution proceedings pursued by a Party under Section 18.3.

SAMPLE

**ARTICLE IX
COMPENSATION, PAYMENT AND BILLING**

Section 9.1 Energy Payments

(a) Subject to Section 9.5(c), and in accordance with the procedures specified in Section 9.4, the Purchaser shall pay to the Seller, Monthly in arrears, the Energy Payments, for the Monthly Energy, consisting of Regular Energy Payment and, as applicable, the Bonus Energy Payment or the Shortfall Energy Payment (the "**Monthly Energy Payment**") determined as follows:

(i) Regular Energy Payment: The Regular Energy Payment for the Regular Energy shall be calculated as follows:

$$\mathbf{REP}_m = \mathbf{EP}_m * \mathbf{RE}_m$$

Where:

\mathbf{REP}_m = Regular Energy Payment for the preceding Month;
 \mathbf{EP}_m = Energy Price for the preceding Month, calculated in accordance with the provisions of Part II of Schedule 1;
 \mathbf{RE}_m = Regular Energy for the Month, determined as follows:

$$\mathbf{RE}_m = \mathbf{ME}_m \leq \mathbf{MBE}_m$$

Where:

$$\mathbf{ME}_m = \mathbf{NDE}_m + \mathbf{NPMV}_m$$

\mathbf{NDE}_m = Net Delivered Energy for the preceding Month ; and

\mathbf{NPMV}_m = Non-Project Missed Volume for the preceding Month ; and

\mathbf{MBE}_m = Monthly Benchmark Energy for the preceding Month.

\mathbf{ME}_m = Monthly Energy for the Month

(ii) Bonus Energy Payment: In the event Bonus Energy is established for a given Month, the Bonus Energy Payment for that Month shall be calculated as follows:

$$\mathbf{BonEP}_m = \mathbf{EP}_m * \mathbf{BonE}_m * \mathbf{0.1}$$

Where:

\mathbf{BonEP}_m = Bonus Energy Payment for Bonus Energy for the preceding Month ;

\mathbf{EP}_m = Energy Price for the preceding Month, calculated in accordance with the provisions of Part II of Schedule 1;

BonE_m = Bonus Energy for the preceding Month; determined as follows:

$$\text{BonE}_m = \text{ME}_m - \text{RE}_m$$

RE_m = Regular Energy for the preceding Month, determined under Section 9.1(a)(i).

ME_m = Monthly Energy for the Month

(iii) Shortfall Energy Payment: In the event Shortfall Energy is established for a given Month, the Shortfall Energy Payment for that Month shall be calculated as follows:

(A) Provided the value of the Complex Yield Surplus, as determined under Section 9.1(b) below, is a positive number (including zero):

$$\text{SFEP}_m = (\text{SFE}_m - X) * \text{EP}_m$$

Where:

SFEP_m = Shortfall Energy Payment for the preceding Month;

SFE_m = Shortfall Energy, computed as follows:

$$\text{SFE}_m = \text{MBE}_m - \text{CPCE}_{\text{maws}}$$

Where:

MBE_m = Monthly Benchmark Energy

CPCE_{maws} = the Complex Power Curve Energy, according to Part I of the Benchmark Energy Table, corresponding to the Monthly Actual Wind Speed for that Month

X = the Complex Yield Surplus

EP_m = Energy Price for the preceding Month, calculated in accordance with the provisions of Part II of Schedule 1;

(B) Provided the value of the Complex Yield Surplus, as determined under Section 9.1(b) below, is a negative number (below zero):

$$\text{SFEP}_m = \text{SFE}_m * \text{RE}_m / \text{CPCE}_{\text{maws}} * \text{EP}_m$$

Where:

SFEP_m = Shortfall Energy Payment for the preceding Month;

SFE_m = Shortfall Energy, computed in the manner provided in Section 9.1(a)(iii)(A) above;

RE_m = Regular Energy for the preceding Month, determined under Section 9.1(a)(i).

EP_m = Energy Price for the preceding Month, calculated in accordance with the provisions of Part II of Schedule 1;

$CPCE_{maws}$ = the Complex Power Curve Energy, according to Part I of the Benchmark Energy Table, corresponding to the Monthly Actual Wind Speed for that Month.

- (b) The value of the Complex Yield Surplus referred in Section 9.1 (a)(iii) (A) and (B) shall be determined as follows:

$$X = RE_m - CPCE_{maws}$$

Where:

X = the Complex Yield Surplus

RE_m = Regular Energy for the preceding Month, determined under Section 9.1(a)(i).

$CPCE_{maws}$ = the Complex Power Curve Energy, according to Part I of the Benchmark Energy Table, corresponding to the Monthly Actual Wind Speed for that Month

- (c) For the avoidance of doubt, the Monthly Energy Payment may include Bonus Energy Payment or the Shortfall Energy Payment, but not both.

Section 9.2 Pass-Through Item(s); Supplemental Tariffs

- (a) Subject to Section 9.5(c), the Purchaser shall pay the Seller, in accordance with the procedures specified in Section 9.4, any amount for the Pass-Through Item(s) evidenced in accordance with this Agreement and Schedule 1. Each invoice for the Pass-Through Item(s) delivered to the Purchaser in accordance with Section 9.4 shall be accompanied by the invoice(s) or payment receipts to the Seller for which recovery from the Purchaser is being sought. In addition to the other Pass-Through Items specified in this Agreement, if and to the extent required to be paid by the Seller under the Laws of Pakistan, the Seller shall be entitled to recover as a Pass-Through Item payments by the Seller into the Workers' Welfare Fund and the Workers' Profit Participation Fund for its employees paid in accordance with the Laws of Pakistan.
- (b) Subject to Section 9.5(c), the Purchaser shall pay the Seller, in accordance with the procedures specified in Section 9.4, the Supplemental Tariffs calculated by the Seller in accordance with Schedule 1. Supplemental Tariffs shall be determined as provided in Schedule 1, and invoiced in the same manner and on the same schedule as invoices for Energy Payments, as provided in Section 9.4(a)(i).

Section 9.3 Liquidated Damages

- (a) Without prejudice to the Purchaser's rights under Article XVI, the Parties agree that any liquidated damages payable under this Section 9.3 shall be the Purchaser's sole and exclusive remedy against the Seller in respect of the matters to which such liquidated damages relate.
- (b) If the Seller is in breach of its obligation under Section 4.1(b) to achieve the Commercial Operations Date by the Required Commercial Operations Date, then for each Month (prorated Daily) thereafter until the Commercial Operations Date is actually achieved, the Seller shall pay the Purchaser as liquidated damages an amount equal to three Dollars (\$ 3.00) per kW of Contract Capacity per Month (prorated Daily) until the Commercial Operations Date is achieved. The Parties acknowledge and agree that it would be difficult or impossible at the date of this Agreement to determine with absolute precision the amount of damages that would or might be incurred by the Purchaser as a result of the Seller's failure to perform those matters for which liquidated damages are provided under this Section 9.3.
- (c) The Parties agree that the amounts of liquidated damages provided under this Section 9.3 are in lieu of actual damages and are the Parties' reasonable and genuine estimates of the losses and damages that may reasonably be anticipated from such failures in respect of such matters, and do not constitute a penalty.

Section 9.4 Billing

- (a) On or after the first (1st) Business Day of each Month, the Seller shall submit an invoice to the Purchaser stated in Rupees for the following:
 - (i) the Monthly Energy Payment due in respect of the previous Month (or part-Month). Such invoice shall set forth for the relevant Month, the Energy Price (as determined in accordance with Schedule 1), the Net Delivered Energy, the Non-Project Missed Volume, if any (duly supported with relevant data and records, including data and records generated by the [Complex Monitoring System/SCADA System] and the Anemometry System), computation of Regular Energy and, as applicable, Bonus Energy or Shortfall Energy, and such other information and calculations, in reasonable detail, so as to enable the Purchaser to confirm that the calculation of the amounts shown in the invoice comply with the provisions of this Agreement and Schedule 1;
 - (ii) any Pass-Through Item due in respect of the previous Month (or part-Month) in accordance with Schedule 1; and
 - (iii) any interest payable hereunder on an amount not paid by the Due and Payable Date, showing the calculation of such claimed interest in reasonable detail, together with such supporting information as may reasonably be necessary to substantiate the amounts claimed in the invoice.

- (b) If Shortfall Energy is established for a given Month, the invoice for the Monthly Energy Payment shall also set forth, *inter alia*, particulars of the Monthly Actual Wind Speed, duly supported with relevant data and records, including data and records generated by the [Complex Monitoring System/SCADA System] and the Anemometry System.
- (c) At any time after the first (1st) Business Day of each Month:
 - (i) the Purchaser shall submit an invoice to the Seller for delivery and sale of energy by the Purchaser at the Interconnection Point to the Complex in the preceding Month at the then prevailing rate under the Purchaser's bulk-supply tariff category C-3 (or any substitute tariff category as approved by NEPRA from time to time); and
 - (ii) the Purchaser may submit an invoice to the Seller stated in Rupees for (A) the amount of liquidated damages due to the Purchaser under this Agreement for the previous Month (or part-Month), and (B) any interest payable hereunder on amount not paid by the Due and Payable Date, showing the calculation of such claimed interest in reasonable detail, together with such supporting information as may reasonably be necessary to substantiate the amounts claimed in the invoice.
- (d) The information in support of the invoices submitted by the Seller shall include, *inter alia*, the relevant Foreign Exchange Bulletins showing the applicable exchange values between the Rupee and the Dollar; the relevant GOP Bureau of Statistics publication showing the relevant wholesale price index values; [the relevant United States Bureau of Labour Statistics publication showing the relevant United States Consumer Price index values]; evidence of the relevant KIBOR and LIBOR values, as applicable; invoices or payment receipts for any amount claimed as Pass-Through Items; paper and electronic copies of meter readings showing the Net Delivered Energy; and electronic copies of readings of Anemometry System and the [Complex Monitoring System/SCADA System].
- (e) Either Party may require clarification or substantiation of any amount included in an invoice or statement submitted under Section 9.4(a) through (d) by delivering notice of such requirement to the other Party. The Party receiving such request shall provide the requested clarification and substantiation of such invoice or statement within five (5) Business Days of its receipt of such request.

Section 9.5 Payment

- (a) Subject to Section 9.6,
 - (i) the Purchaser shall pay the Seller the amount shown on an invoice delivered in accordance with Section 9.4(a) , less deductions for any Disputed amounts or portions of amounts shown in the invoice, on or before the thirtieth (30th) Day following the Day the invoice is received by the Purchaser; and
 - (ii) the Seller shall pay the Purchaser the amount shown on an invoice

delivered in accordance with Section 9.4(c), less deductions for any Disputed amounts or portions of amounts shown in the invoice, on or before the thirtieth (30th) Day following the Day the invoice is received by the Seller,

(in each case, the “Due and Payable Date”); provided that, if such date is not a Business Day, the Due and Payable Date shall be the next following Business Day.

- (b) Any invoice delivered pursuant to this Article IX shall be paid in Rupees.
- (c) Each Party shall have the right to set off any amounts due and payable by it to the other Party under this Agreement against any and all amounts then due and payable to it by the other Party under this Agreement. Such rights of set-off shall relate only to amounts that are then due and payable to and by a Party and are undisputed or have been determined to be payable by the Expert or through arbitration.
- (d) Late payments by either Party of amounts due and payable under this Agreement shall bear interest at a rate per annum equal to the Delayed Payment Rate, prorated Daily.
- (e) The Purchaser’s obligation to pay any amount under this Agreement shall remain in full force and effect, and shall not be affected by the provisions of the Guarantee, except to the extent that the Purchaser’s obligation to the Seller has been discharged in accordance with the Guarantee.
- (f) Payments received by either Party shall be applied against outstanding invoices on the ‘first in, first out’ principle, so that the invoices that have been outstanding the longest (in whole or in part) shall be paid first.
- (g) The Purchaser shall have no obligation to pay Supplemental Tariff, including Pass-Through Items or other payments required under Section 9.2, unless the supporting information and data required under Section 9.2 with respect thereto are provided to it.

Section 9.6 Payment Disputes

- (a) At any time within three hundred and sixty (360) Days after receipt of an invoice, a Party may serve notice (an “Invoice Dispute Notice”) on the other Party that the amount of such invoice (or part thereof) is in dispute. Each Invoice Dispute Notice shall specify the invoice concerned and the amount in dispute, giving reasons as complete and as detailed as reasonably possible. A Party shall be entitled to submit any Dispute relating to an invoice to Dispute resolution in accordance with Article XVIII, so long as it has delivered an Invoice Dispute Notice to the other Party in accordance with this Section 9.6(a). A Party submitting an Invoice Dispute Notice may require such Dispute to be immediately referred to the Expert for determination pursuant to Section 18.2.
- (b) Upon resolution of the Dispute under Section [18.1](#) or the determination of the Dispute by the Expert under Section 18.2 and without prejudice to the right of either Party to refer a Dispute to arbitration, any amounts disputed and not paid

but determined to be owed by a Party or any amounts paid and determined not to be owed shall be paid or repaid to the other Party, as the case may be, within seven (7) Business Days after such resolution or determination, together with interest thereon from but excluding the date initially owed or paid until and including the date paid or repaid, as the case may be, at the Delayed Payment Rate.

- (c) Following such resolution or determination by an Expert, neither Party may refer a Dispute regarding such matter to arbitration under Section 18.3, unless and until it has paid all amounts resolved or determined to be payable in accordance with Section 9.6(b).

Section 9.7 Supporting Data

- (a) The Seller shall maintain accurate and complete records and data, as reasonably necessary to calculate or confirm the correctness of, the Energy Price, Energy Payments, any Pass-Through Items, any Supplemental Tariffs, and any other claims for payment or recovery of costs or expenses made by the Seller under this Agreement. All such records and data shall be maintained for a period of not less than thirty-six (36) months following the last date on which such data and information was relevant for claims by the Seller for payment by the Purchaser.
- (b) The Purchaser shall maintain accurate and complete records and data, as reasonably necessary to calculate or confirm the correctness of the invoices for liquidated damages and any other claims for payment or recovery of costs or expenses made by the Purchaser under this Agreement. All such records and data shall be maintained for a period of not less than thirty-six (36) months following the last date on which such data and information was relevant for claims by the Purchaser for payment by the Seller.
- (c) The Seller shall maintain accurate and complete records and data relating to:
 - (i) Non-Project Missed Volume, including (A) communications by the Seller announcing a Non-Project Event, (B) verifications sought by the Purchaser and responses made by the Seller relating to a Non-Project Event, (C) Despatch Instructions resulting in a Non-Project Event, (D) operating logs and records of the [Complex Monitoring System/SCADA System] recording the status of availability of the Complex, (E) data on wind speed for the duration of the Non-Project Event recorded by the Anemometry System, and (F) [other relevant data and records]; and
 - (ii) the Monthly Actual Wind Speed,

as reasonably necessary to calculate or confirm the correctness of Non-Project Missed Volume, the Energy Price, the Energy Payments and any other claims for payment or recovery of costs or expenses made by the Seller under this Agreement. All such records and data shall be maintained for a period of not less than thirty six (36) months following the last date on which such data and information was relevant for claims by the Seller for payment by the Purchaser.

Section 9.8 Reserve Fund

- (a) On or before the Commercial Operations Date, the Seller shall establish and maintain, for the remaining Term, a separate reserve fund for the payment of expenses described in Section 9.8(c) (the “Reserve Fund”) with a depository institution and under depository agreements reasonably satisfactory to the Purchaser. On the termination of this Agreement, all amounts in the Reserve Fund shall be payable to the Seller.
- (b) The Reserve Fund shall be funded by the Seller out of retained earnings commencing on the date that the first Monthly Energy Payment is made. On each date of payment of the Monthly Energy Payment, one twenty fourth (1/24) of the annual operating and maintenance budget for the Complex will be deposited into the Reserve Fund until a reserve equal to nine (9) such deposits has been established. After the second Agreement Year and at any time thereafter, the Reserve Fund may be re-established at such other level that the Parties agree is appropriate for a facility of this size and type, considering Prudent Utility Practices, the design, technology and operating history of the Complex and other pertinent information. Any investment income resulting from the depository arrangements of the Reserve Fund shall remain in the Reserve Fund; provided, however, that so long as no Seller Event of Default exists, any monies in excess of the minimum investment required above may be paid to the Seller upon its request.
- (c) Monies in the Reserve Fund may be drawn on and used by the Seller, (i) to pay Major Maintenance Expenses (as defined below) and (ii) only to the extent the Seller lacks other available funds therefor, for the purpose of paying maintenance and associated operating expenses with respect to the Complex or to pay for alterations, repairs, improvements, renewals and replacements with respect to the Complex which are necessary for the proper operation of the Complex. As used herein “Major Maintenance Expenses” means expenses for an item of maintenance or repair of the Complex which will require a material expenditure and which is anticipated to be performed in accordance with manufacturers’ recommendations, sound engineering practices or Prudent Utility Practices but which is not expected to be performed on an annual or more frequent basis.
- (d)
 - (i) If after the withdrawal of any funds from the Reserve Fund for the payment of Major Maintenance Expenses as described in Section 9.8(c)(i), the amount in the Reserve Fund is less than the amount required pursuant to Section 9.8(b), the Seller shall replenish the Reserve Fund by depositing funds therein in accordance with Section 9.8(b).
 - (ii) If, after the withdrawal of any funds from the Reserve Fund for the purpose described in Section 9.8(c)(ii) above, the amount remaining in the Reserve Fund is less than the amount required pursuant to Section 9.8(b) above, the Seller shall replenish the Reserve Fund by depositing therein, within one (1) Month after the end of such Month in which such withdrawal occurred, an amount sufficient to restore the amount required

in Section 9.8(b). Such amount shall be paid out of fifty percent (50%) of the [Escalable Component] of the Monthly Energy Payment available during the Month; provided, however, that if the Seller's net cash flow is insufficient to fund the Reserve Fund at the required level, any shortfall shall be carried over and shall be due the following Month(s).

- (e) The Seller shall keep accurate records with respect to the Reserve Fund and all disbursements therefrom and shall, upon the Purchaser's reasonable request, supply a complete accounting or independent audit thereof to the Purchaser.
- (f) Separate accounts established at the request of the Lenders pursuant to the Financing Documents for the purpose of paying maintenance and associated operating expenses that in all material respects satisfy the provisions of this Section 9.8 shall satisfy the Seller's obligation to maintain a Reserve Fund hereunder. In addition, if and so long as the Seller has in effect a long term maintenance agreement that provides annual maintenance and major overhauls for agreed substantially equal Monthly installments, which agreement is reasonably acceptable to the Purchaser, such agreement shall satisfy the requirements for the maintenance of the Reserve Fund hereunder.

ARTICLE X LIABILITY

Except as required by Section 11.1, neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory for any indirect, consequential, incidental, punitive or exemplary damages. Neither Party shall have any liability to the other Party except pursuant to, or for breach of, this Agreement; provided, however, that this provision is not intended to constitute a waiver of any rights of one Party against the other with regard to matters unrelated to this Agreement or any activity not contemplated by this Agreement.

SAMPLE

ARTICLE XI INDEMNIFICATION

Section 11.1 Indemnification.

- (a) Purchaser's Indemnification. Except as specifically provided elsewhere in this Agreement, the Purchaser shall indemnify and defend the Seller, for itself and as trustee for its officers, directors and employees against, and hold the Seller, its officers, directors and employees harmless from, at all times after the date hereof, any and all losses incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, the Seller, its officers, directors and employees, for personal injury or death to persons or damage to property arising out of any negligent or intentional act or omission by the Purchaser in connection with this Agreement. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 11.1(a) shall apply to any Loss in respect of and to the extent which the Seller receives proceeds from insurance policies or indemnification from another party.
- (b) The Seller. The Seller shall indemnify and defend the Purchaser, for itself and as trustee for its officers, directors and employees against, and hold the Purchaser, its officers, directors and employees harmless from, at all times after the date hereof, any and all Loss, incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, the Purchaser, its officers, directors and employees, for personal injury or death to persons or damage to property arising out of any negligent or intentional act or omission by the Seller in connection with this Agreement. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 11.1(b) shall apply to any Loss in respect of and to the extent to which the Purchaser receives proceeds from insurance policies.
- (c) Joint Negligence. In the event injury or damage results from the joint or concurrent negligent or intentional acts or omissions of the Parties, each Party shall be liable under this indemnification in proportion to its relative degree of fault.
- (d) Survival. The provisions of this Section 11.1 shall survive for a period of five (5) years following termination of this Agreement (or such later date as the Seller actually vacates the Site where the Complex has been or is to be transferred to the GOP or its designee following termination of the Implementation Agreement).

Section 11.2 Assertion of Claims to Exceed Minimum Indemnification Amount

Each Party shall be solely liable, and shall not be entitled to assert any claim for indemnification under this Agreement, for any Loss that would otherwise be the subject of indemnification under this Agreement, until all losses of such Party, in the aggregate, during the then-current Agreement Year, exceed the Minimum Indemnification Amount. For the purposes of this Section 11.2, a Loss (or claim for indemnification) shall be deemed to arise in the Agreement Year the event giving rise to such Loss (or claim for indemnification) occurred, or if the event is continuing in more than one Agreement Year, in the Agreement Year such event ends.

Section 11.3 Indemnification for Fines and Penalties

Any fines or other penalties incurred by a Party for non-compliance with the applicable Laws of Pakistan, unless they result directly from an act or omission of the other Party (in which case, they shall be reimbursed by the other Party), shall not be reimbursed by the other Party but shall be the sole responsibility of the non-complying Party.

Section 11.4 Defense of Claims

- (a) The indemnifying Party shall be entitled, at its option and expense and with counsel of its selection, to assume and control the defense of such claim, action, suit or proceeding at its expense, with counsel of its selection, subject to the prior approval of the indemnified Party; provided, however, it gives prompt notice of its intention to do so to the indemnified Party, and reimburses the indemnified Party for the reasonable costs and expenses incurred by the indemnified Party prior to assumption by the indemnifying Party of such defense.
- (b) Unless and until the indemnifying Party acknowledges in writing its obligation to indemnify the indemnified Party and assumes control of the defense of a claim, suit, action or proceeding in accordance with Section 11.4(a), the indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with counsel of its own selection, any claim, action, suit or proceeding by any third party, alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expense thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder.
- (c) Upon assumption by the indemnifying Party of the control of the defense of a claim, suit, action or proceeding, the indemnifying Party shall reimburse the indemnified Party for the reasonable costs and expenses of the indemnified Party in the defense of the claim, suit, action or proceeding prior to the indemnifying Party's acknowledgment of the indemnification and assumption of the defense.
- (d) Neither Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other Party, provided, however, that after agreeing in writing to indemnify the indemnified Party, the indemnifying Party may settle or compromise any claim without the approval of the indemnified Party.
- (e) Following acknowledgment of the indemnification and assumption of the defense by the indemnifying Party, the indemnified Party shall have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such indemnified Party, when and as incurred, unless (i) the employment of counsel by such indemnified Party has been authorized in writing by the indemnifying Party, (ii) the indemnified Party shall have reasonably concluded that there may be a conflict of interest between the indemnifying Party and the indemnified Party in the conduct of the defense of such action, (iii) the indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the indemnified Party to assume the defense of such action and shall have been so notified by the

indemnified Party, or (iv) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party either that there may be specific defenses available to it that are different from or additional to those available to the indemnifying Party or that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement. If clause (ii), (iii) or (iv) of the preceding sentence shall be applicable, then counsel for the indemnified Party shall have the right to direct the defense of such claim, action, suit or proceeding on behalf of the indemnified Party and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

Section 11.5 Notice of Claims

Each Party shall promptly notify the other Party of any Loss, claim, proceeding or other matter in respect of which it is or it may be entitled to indemnification under this Article XI. Such notice shall be given as soon as is reasonably practicable after the relevant Party becomes aware of such Loss, claim, proceeding or other matter.

SAMPLE

ARTICLE XII INSURANCE⁴

Section 12.1 Maintenance of Insurance Policies

- (a) Subject to the provisions of this Article XII, the Seller, at its sole cost and expense, shall obtain and maintain, or cause to be obtained and maintained, during the Term the policies of insurance set forth on Schedule 8 in the amounts set forth therein and during the periods mentioned therein, with financially sound insurer(s); provided, however, that such amounts may be changed from time to time with the prior written consent of the Purchaser; provided, further, that the Seller shall not be in breach of its obligations hereunder if and to the extent that (i) any particular insurance is not available to it under commercially reasonable terms and for commercially reasonable rates for reasons other than any negligence or default by, or condition (financial or otherwise) of, the Seller or (ii) the Seller is unable to obtain (having exercised all reasonable efforts) any endorsements or written acknowledgements required under this Agreement.
- (b) Following a Pakistan Political Event to the extent that the insurance required by Section 12.1(a) above is not available to the Seller at commercially reasonable rates due to the occurrence of the Pakistan Political Event, upon notice to the Purchaser by the Seller, the additional cost of such insurance attributable to the occurrence of the Pakistan Political Event as determined by an Expert in conformity with the provisions of Section 18.2, shall be recoverable by the Seller from the Purchaser and treated as a Pass-Through Item. In such an event, in lieu of making such payment to the Seller, the Purchaser in its sole discretion may elect to procure the insurance required by Section 12.1(a) on behalf of the Seller with insures of a rating not less than the Seller's existing insurers or the insures with whom such insurance was procured by the Seller prior to the occurrence of the Pakistan Political Event and deduct the insurance cost component of the then prevailing Energy Price as full compensation therefor; provided, that the Purchaser shall, within fifteen (15) Business Days of procuring such insurance, provide to the Seller receipts for the payment of premia and copies of the certificates of insurance or policies, if available, of insurance obtained by the Purchaser. The Seller shall be named as an additional insured. The Seller shall be named as the loss payee (subject to any assignment of insurance proceeds to the Lenders) on any such insurance procured by the Purchaser pursuant to this Section 12.1(b). The additional compensation provided under this Section 12.1(b) and any such deduction shall cease as soon as the Seller's insurance rates are no longer affected by the Pakistan Political Force Majeure Event (or the other event described above). From time to time, at the request of the Purchaser or the Seller, the Expert will determine the extent to which the Seller's insurance rates are then affected by the Pakistan Political Event.

⁴ This Article will generally follow lender's requirements. However, certain provisions require the Purchaser and the GOP to be additional loss payees or endorsees of specified insurances as contemplated in Schedule 8 and these requirements will hold.

Section 12.2 Maintenance of “Occurrence” Form Policies

The coverage requested in Section 12.1 and any “umbrella” or excess coverage shall be “occurrence” form policies. In the event the Seller has “claims made” form coverage, the Seller must obtain prior approval of all “claims-made” policies from the Purchaser.

Section 12.3 Policy Endorsements

The Seller shall cause the insurers to provide the following endorsement items in the comprehensive or commercial general liability and, if applicable, umbrella or excess liability policies relating to the ownership, construction, operation and maintenance of the Complex provided pursuant to Section 12.1:

- (a) The Purchaser, its directors, officers and employees shall be additional insureds under such policies with respect to claims arising out of or in connection with this Agreement;
- (b) The insurance shall be primary with respect to the interest of the Purchaser, its directors, officers, and employees and any other insurance maintained by them is excess and not contributory with such policies;
- (c) The following cross liability clause shall be made a part of the policy:
“In the event of claims being made by reason of (i) personal and/or bodily injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, or (ii) damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies have been issued to each insured hereunder, except with respect to the limits of insurance.”;
- (d) The insurer shall waive all rights of subrogation against the Purchaser, its officers, directors and employees; and
- (e) Notwithstanding any provision of the policy, the policy may not be canceled or not renewed or materially changed by the insurer without giving thirty (30) Days written notice to the Purchaser except in the case of non-payment, in which case it will be ten (10) Days with prior written notice to the Purchaser. All other terms and conditions of the policy shall remain unchanged.

Section 12.4 Endorsements to Fire and Perils and Machinery Breakdown Policies

The Seller shall cause the insurers to provide the endorsements referred to in Section 12.3(a), (b), (d) and(e) in the fire and perils and machinery breakdown policies covering the Complex as required by Section 12.1.

Section 12.5 Certificates of Insurance

The Seller shall cause its insurers or agents to provide the Purchaser with certificates of insurance evidencing the policies and endorsements listed above. Failure by the Seller to obtain the insurance coverage or certificates of insurance required by this Article XII shall not in any way relieve or limit the Seller’s obligations and liabilities under any provision of this Agreement. If the Seller shall fail to procure or maintain any insurance required pursuant to this Article XII, then the Purchaser shall have the right to procure

such insurance in accordance with the requirements of Schedule 8 and shall be entitled to offset the premiums paid for such insurance against any amounts owed to the Seller pursuant to the terms of this Agreement. The Seller shall be named as the loss payee on any such insurance procured by the Purchaser pursuant to this Section 12.5.

Section 12.6 Insurance Reports

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

SAMPLE

ARTICLE XIII
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 13.1 Representations and Warranties of the Seller

The Seller hereby represents and warrants to the Purchaser that:

- (a) The Seller is a [private/public] limited company, duly organized, validly existing and in good standing under the Laws of Pakistan, and has, so far as it is material to the Purchaser, complied fully with all requirements of the Companies Ordinance (XLVII) of 1984 and all other applicable Laws of Pakistan.
- (b) The Seller has full corporate power and authority to execute and deliver this Agreement, and to own its properties and to execute, to deliver and to perform its obligations under this Agreement. Execution, delivery and performance of this Agreement by the Seller, (i) has been duly authorized by all requisite corporate action on the part of the Seller, and no other proceedings on the part of the Seller or any other Person are necessary for such authorization, and (ii) will not (A) violate (1) the Laws of Pakistan or any applicable order of any Public Sector Entity and (2) any provision of the Memorandum and Articles of Association of the Seller, or (B) violate, be in conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any indenture, agreement for borrowed money, bond, note, instrument or other agreement to which the Seller is a Party or by which the Seller or its property is bound, excluding defaults or violations that would not, individually or in the aggregate, have a material adverse effect on the business, properties, financial condition or results of operation of the Seller or on its ability to perform its obligations hereunder.
- (c) Assuming it constitutes a legal, valid and binding obligation of the Purchaser, this Agreement constitutes a legal, valid and binding obligation of the Seller, enforceable against it in accordance with its terms, subject to (i) bankruptcy, insolvency, reorganization, moratorium, or other similar laws now or hereafter in effect relating to creditors' rights, and (ii) to general principles of equity.
- (d) To the best of its knowledge after reasonable inquiry, except for the Specified Consents, no filing or registration with, no notice to and no permit, authorization, Consent or approval of any Person is required for the execution, delivery or performance of this Agreement by the Seller.
- (e) The Seller is not in default under any agreement or instrument of any nature whatsoever to which it is a Party or by which it is bound, in any manner that would have a material adverse effect on its ability to perform its obligations hereunder, the validity or enforceability of this Agreement.
- (f) There is no action, suit, proceeding or investigation pending or, to the Seller's knowledge, threatened, (i) for the dissolution of the Seller, or (ii) against the Seller which, if adversely determined, would have a material adverse effect on its ability to perform its obligations hereunder, the validity or enforceability of this Agreement.

Section 13.2 Certificates

The Seller shall, upon request by the Purchaser, deliver or cause to be delivered from time to time to the Purchaser certifications of its officers, accountants, engineers, or agents as to the performance of its obligations under this Agreement, including a certificate by the Engineer regarding compliance of the Complex with the provisions of this Agreement and the Environmental Standards, and as to such other matters as the Purchaser may reasonably request; provided, however, that the Purchaser shall only be entitled to request each certificate from such accountants, engineers or agents once within any twelve (12) Month period.

Section 13.3 Representations and Warranties of Purchaser

The Purchaser hereby represents and warrants that:

- (a) It is duly incorporated under the Laws of Pakistan, and has, so far as it is material to the Seller, complied fully with all applicable Laws of Pakistan.
- (b) The Purchaser has full corporate power and authority to execute and deliver this Agreement, and to own its properties and to execute, to deliver and to perform its obligations under this Agreement. Execution, delivery and performance of this Agreement by the Purchaser, (i) has been duly authorized by all requisite corporate action on the part of the Purchaser, and no other proceedings on the part of the Purchaser or any other Person are necessary for such authorization, and (ii) will not (A) violate (1) the Laws of Pakistan or any applicable order of any Public Sector Entity or (2) any provision of any incorporating document, or (B) violate, be in conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any indenture, agreement for borrowed money, bond, note, instrument or other agreement to which the Purchaser is a Party or by which the Purchaser or its property is bound, excluding defaults or violations that would not, individually or in the aggregate, have a material adverse effect on the business, properties, financial condition or results of operation of the Purchaser or on its ability to perform its obligations hereunder.
- (c) Assuming it constitutes a legal, valid and binding obligation of the Seller, this Agreement constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms, subject to (i) bankruptcy, insolvency, reorganization, moratorium, or other similar laws now or hereafter in effect relating to creditors' rights and (ii) to general principles of equity.
- (d) To the best of its knowledge after reasonable inquiry, except for approvals already given or obtained, no filing or registration with, no notice to and no permit, authorization, Consent or approval of any Person is required for the execution, delivery or performance of this Agreement by the Purchaser.
- (e) The Purchaser is not in default under any agreement or instrument of any nature whatsoever to which it is a Party or by which it is bound in any manner that would have a material adverse effect on its ability to perform its obligations hereunder, the validity or enforceability of this Agreement.

- (f) There is no action, suit, proceeding or investigation pending or, to the Purchaser's knowledge, threatened, (i) for the dissolution of the Purchaser, or (ii) against the Purchaser which, if adversely determined, would have a material adverse effect on its ability to perform its obligations hereunder, the validity or enforceability of this Agreement.

SAMPLE

ARTICLE XIV TAXES

Section 14.1 Taxes Applicable to the Seller

Subject to Section 14.3 and Section 14.4, all present and future federal, provincial, municipal or other lawful Taxes applicable to the Seller, the Complex, the Project and the Seller's other assets shall be paid by the Seller as and when required under the Laws of Pakistan. Nothing herein shall limit or restrict the provisions of Section 14.4 or Schedule 1, which allow the Seller to recover certain Tax Costs paid by it from the Purchaser as provided therein.

Section 14.2 Taxes Applicable to Purchaser

All present and future federal, provincial, municipal or other lawful Taxes applicable to the Purchaser arising from or in connection with its rights and obligations under this Agreement shall be paid by the Purchaser as and when required under the Laws of Pakistan.

Section 14.3 Notice of Changes in Tax

- (a) If a Change in Tax occurs or if the Purchaser reasonably believes that a Change in Tax has occurred which:
- (i) applies to the Complex or the sales of Net Delivered Energy hereunder; and
 - (ii) causes the Seller to incur any Tax Costs or realise any Tax Savings in relation to the Project,
- then either Party may give the other Party notice of such Change in Tax (a "Change in Tax Notice") with reasonable details of any of the circumstances specified in clause (i) or clause (ii), above, or both. The Seller shall give the Purchaser notice within thirty (30) Days of becoming aware of a Change in Tax resulting in a Tax Saving.
- (b) No later than forty-five (45) Days from the date of delivery of a Change in Tax Notice, the Seller shall provide the Purchaser with a detailed calculation of the relevant Tax Costs or Tax Savings or effects of the withholding Taxes resulting from the Change in Tax in writing, accompanied by a statement from an international accounting firm or other reputable and qualified professional consultant certifying that the Seller will incur, realise or become subject to such additional Tax Costs or Tax Savings or variation in withholding Tax in relation to the Project (a "Change in Tax Assessment").
- (c) Either Party may from time to time deliver to the other Party further Change in Tax Notices, and within forty-five (45) Days of delivery of a Change in Tax Notice the Seller shall provide the Purchaser with a detailed calculation of any additional Tax Cost or Tax Saving in relation to the Project that has or can reasonably be expected to result from any such Change in Tax.
- (d) Neither Party may request reimbursement for any Tax Cost or Tax Saving that arises due to a Change in Tax unless it delivers a Change in Tax Notice on or

before the fifth (5th) anniversary of the Day on which the Change in Tax occurs.

Section 14.4 Consequence for Tax Costs and/or Tax Savings resulting from a Change in Tax

With effect from the date on which the Change in Tax occurs:

- (a) The Purchaser shall reimburse the Seller for any Tax Costs or any increase in withholding Tax incurred or suffered by the Seller, through one or more Supplemental Tariffs, calculated in accordance with Section 9.2 and Schedule 1; and/or
- (b) The Seller shall reimburse the Purchaser for any Tax Savings or any decrease in withholding Tax realised by the Seller, as calculated pursuant the relevant Change in Tax Assessment, through an adjustment to the actual Tariff or by set-off against the Monthly Energy Payment (at the option of the Purchaser) payable by the Purchaser, as calculated in accordance with Schedule 1.

Any Dispute as to the amount of the Tax Costs or Tax Savings resulting from a Change in Tax or the amount of the Supplemental Tariffs or the adjustment to the actual Tariff or set-off against the Monthly Energy Payment shall be resolved in accordance with Article XVIII.

Section 14.5 Disputed Taxes

In the event that the Seller or the Purchaser desires to dispute any Change in Tax, it shall provide notice of its desire to pursue such dispute to the other Party. Following the delivery or receipt, as the case may be, of such notice of a desire to dispute a Change in Tax, the Party raising the dispute shall prepare and deliver to the other Party within forty-five (45) Days of the delivery or receipt, as the case may be, of such notice, a written report in reasonable detail describing the Change in Tax, its likely effects on the Tariff and the merits and probable success of the proposed dispute. The Parties shall meet within thirty (30) Days of the receipt of such report and determine whether the dispute of the relevant Change in Tax should be pursued by the Party raising the dispute. If so agreed, the Party raising the dispute shall diligently prosecute such dispute. Any costs and expenses reasonably incurred by the Seller in disputing any Change in Tax that the Parties have agreed to dispute in accordance with this Section 14.5 shall be reimbursed by the Purchaser as a Pass-Through Item in accordance with Schedule 1. Nothing in this Section 14.5 shall preclude a Party from disputing at its sole cost and expense any Tax or Change in Tax applicable to it.

ARTICLE XV FORCE MAJEURE

Section 15.1 Definition of Force Majeure

A “Force Majeure Event” shall mean any event or circumstance or combination of events or circumstances (including the effects thereof) that is beyond the reasonable control of a Party and that on or after the Effective Date, materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement (including a Party’s ability to deliver or receive energy from the Complex); provided, however, that such material and adverse effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts and activities to protect the Complex from a casualty or other event; that are reasonable in light of the probability of the occurrence of such event, the probable effect of such event if it should occur, and the likely efficacy of the protection measures. “Force Majeure Events” hereunder shall include each of the following events and circumstances (including the effects thereof), but only to the extent that each satisfies the above requirements:

- (a) The following political events that occur inside or directly involve Pakistan (each a “Pakistan Political Event”, and to the extent also a Force Majeure Event, a “Pakistan Political Force Majeure Event” or “PPFME”):
 - (i) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, or act or campaign of terrorism or political sabotage; or
 - (ii) any Lapse of Consent that shall have existed for thirty (30) consecutive Days or more; or
 - (iii) any strike, work-to-rule, go-slow, or analogous labour action that is politically motivated and is widespread or nationwide; or
- (b) any Change in Law (and to the extent also a Force Majeure Event, a “Change in Law Force Majeure Event” or “CLFME”); or
- (c) Other events beyond the reasonable control of the affected Party (each an “Other Force Majeure Event”), including, but not limited to:
 - (i) lightning, fire, earthquake, tsunami, flood, storm, cyclone, typhoon, or tornado; or
 - (ii) any Lapse of Consent that shall have existed for less than thirty (30) consecutive Days; or
 - (iii) any strike, work-to-rule, go-slow, or analogous labour action that is not politically motivated and is not widespread or nationwide; or
 - (iv) fire, explosion, chemical contamination, radioactive contamination, or ionizing radiation; or
 - (v) epidemic or plague.

- (d) Force Majeure Events shall expressly not include the following conditions, except and to the extent that such events or circumstances occur directly as a consequence of a Force Majeure Event:
 - (i) late delivery or interruption in the delivery of machinery, equipment materials, spare parts or consumables ;
 - (ii) a delay in the performance of any Contractor; or
 - (iii) normal wear and tear or random flaws in materials and equipment or breakdown in equipment.

Section 15.2 Notification Obligations

- (a) If by reason of a Force Majeure Event a Party is wholly or partially unable to carry out its obligations under this Agreement, the affected Party shall:
 - (i) give the other Party notice of the Force Majeure Event(s) as soon as practicable, but in any event, not later than the last of, forty-eight (48) hours after the affected Party becomes aware of the occurrence of the Force Majeure Event(s) or twenty-four (24) hours after the resumption of any means of providing notice between the Seller and the Purchaser, and
 - (ii) give the other Party a second notice, describing the Force Majeure Event(s) in reasonable detail and, to the extent which can be reasonably determined at the time of such notice, providing a preliminary evaluation of the obligations affected, a preliminary estimate of the period of time that the affected Party shall be unable to perform such obligations and other relevant matters as soon as practicable, but in any event, not later than seven (7) Days after the initial notice of the occurrence of the Force Majeure Event(s) is given by the affected Party. When appropriate or when reasonably requested to do so by the other Party, the affected Party shall provide further notices to the other Party more fully describing the Force Majeure Event(s) and its cause(s) and providing or updating information relating to the efforts of the affected Party to avoid and/or to mitigate the effect(s) thereof and estimates, to the extent practicable, of the time that the affected Party reasonably expects it shall be unable to carry out any of its affected obligations due to the Force Majeure Event(s).
- (b) The affected Party shall provide notice to the other Party:
 - (i) with respect to an ongoing Force Majeure Event, of the cessation of the Force Majeure Event, and
 - (ii) of its ability to recommence performance of its obligations under this Agreement as soon as possible and in any event not later than seven (7) Days after the occurrence of each of clause (i) and (ii) above.
- (c) Failure by the affected Party to have given written notice of a Force Majeure Event to the other Party within the forty-eight (48) hour period or twenty-four (24) hour period required by Section 15.2(a) shall not prevent the affected Party from giving such notice at a later time; provided, however, that in such case the affected Party shall not be excused pursuant to Section 15.4 for any failure or

delay in complying with its obligations under or pursuant to this Agreement until such notice has been given. If said notice is given within the forty-eight (48) hour period or twenty-four (24) hour period required by Section 15.2(a), the affected Party shall be excused for such failure or delay pursuant to Section 15.4 from the date of commencement of the relevant Force Majeure Event.

Section 15.3 Duty to Mitigate

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

Section 15.4 Delay Caused by Force Majeure

So long as the affected Party has at all times since the occurrence of the Force Majeure Event complied with the obligations of Section 15.3 and continues to so comply then (i) the affected Party shall not be liable for any failure or delay in performing its obligations (other than an obligation to make a payment or provide security) under or pursuant to this Agreement during the existence of a Force Majeure event and (ii) any performance deadline that the affected Party is obligated to meet under this Agreement shall be extended; provided, however, that no relief, including the extension of performance deadlines, shall be granted to the affected Party pursuant to this Section 15.4 to the extent that such failure or delay would have nevertheless been experienced by the affected Party had the Force Majeure Event not occurred; provided, further, that, in the case of a Force Majeure Event which damages the Complex, in no event shall the obligations of the affected Party under this Agreement to meet performance deadlines be extended beyond the end of the Restoration Period. Other than for breaches of this Agreement by the other Party, and without prejudice to the affected Party's rights to indemnification pursuant to Article XI or for payment pursuant to Article IX, Section 15.6, Section 15.8 and Section 15.9, the other Party shall not bear any liability for any Loss suffered by the affected Party as a result of a Force Majeure Event.

Section 15.5 Payment During Force Majeure Event

Upon the occurrence of any Force Majeure Event after the Commercial Operations Date, then during the pendency of a Force Majeure Event, the Purchaser shall pay to the Seller Energy Payments for Net Delivered Energy during the pendency of such Force Majeure Event that the Seller is able to provide during the pendency of the Force Majeure Event.

Section 15.6 Restoration of the Complex; Additional Compensation

(a)

(i) In the event that a PPFME results in material damage to the Complex or that compliance by the Seller with a Change in Law requires a material modification or a material capital addition to the Complex (each such event referred to herein as a "Restoration"), the Seller shall, within thirty (30) Days after the date by which it was first required to provide notice to the Purchaser under Section 15.2(a), except if the Pakistan Political Event has not ended by the

time of such notice, in which case within thirty (30) Days of the notice required by Section 15.2(b), develop and deliver to the Purchaser a preliminary written estimate (the "Preliminary Estimate") of: (A) the projected range of cost to effect the Restoration, less any insurance proceeds available or likely to become available to the Seller (the "Restoration Cost Estimate") and the Threshold Amount; and (B) a preliminary schedule for the activities required to complete Restoration, including, if the Restoration Cost Estimate is greater than the Threshold Amount (as defined in Section 15.6(j)), a reasonable period to arrange the financing, (such schedule and each such schedule contained in the Report to be delivered pursuant to Section 15.6(b) shall be referred to herein as the "Restoration Schedule," which Restoration Schedule shall include the period of time reasonably estimated to complete the Restoration, which period shall be referred to herein as the "Restoration Period"). The Seller shall make the Preliminary Estimate as comprehensive and as complete as possible under the circumstances. The Purchaser and the Seller shall meet within fifteen (15) Days of the delivery of the Preliminary Estimate to discuss the conclusions set forth therein.

(ii) If there occurs such a PPFME or a CLFME that prevents or delays the construction of the Complex, the Purchaser shall within thirty (30) Days of the delivery by the Seller for an invoice therefor, pay to the Seller, for each Month (prorated for portion thereof) of the PE Compensation Period (as defined below) an amount equal to (i) the Carrying Cost if the PPFME or the CLFME occurs after the first WTG constituting a part of the Complex has left its port of origin for transport into Pakistan but prior to the Commercial Operations Date, or (ii) [the Non-Escalable Component and the Escalable Component less the Variable O&M Component] of the Energy Price if the PPFME or the CLFME occurs after the Commercial Operations Date (but only to the extent that the Energy Payment is not paid to the Seller by the Purchaser pursuant to Section 15.5). The term "PE Compensation Period" shall mean the period beginning with the onset of PPFME or the CLFME, as the case may be, (unless a timely notice was not given under Section 15.2(a)(i) in which case from the time such notice was given) and ending on either, as appropriate, (A) the earlier of the date the Seller is able to resume performance of its obligations under this Agreement, as specified in the notice given pursuant to Section 15.2(b); (B) the last Day of the Restoration Period (as such Restoration Period may have been extended due to an intervening Force Majeure Event or pursuant to Section 15.9) or (C) the Day of termination of this Agreement under Section 15.(6)(e) or Section 15.9 or Article XVI. Notwithstanding any contrary provision of this Agreement, all amounts payable under this paragraph are to be paid to the Seller no later than the Day the compensation amount determined in accordance with Section 15.1(e) and Article XV of the Implementation Agreement is paid.

- (b) If the Seller concludes that the Restoration Cost Estimate shall be less than the Threshold Amount and the Purchaser, within fifteen (15) Days of its receipt of the Preliminary Estimate, agrees with the Restoration Cost Estimate and with the Restoration Schedule, then the Seller shall, subject to Section 15.6(d), proceed with the Restoration in accordance with the Restoration Schedule.

- (c) If (i) the Seller concludes that the Restoration Cost Estimate shall be less than the Threshold Amount and the Purchaser, within fifteen (15) Days of its receipt of the Preliminary Estimate, notifies the Seller that the Purchaser disagrees with the Seller's conclusion and/or that it disagrees with the Restoration Schedule or (ii) the Seller concludes that the Restoration Cost Estimate shall be greater than the Threshold Amount and the Purchaser, within fifteen (15) Days of its receipt of the Preliminary Estimate, agrees with such conclusion, then the Seller shall proceed with the preparation of a Report (as defined in Section 15.7(a)) and the provisions of Section 15.7(b) shall apply.
- (d) If the Seller concludes that the Restoration Cost Estimate shall be greater than the Threshold Amount and the Purchaser, within fifteen (15) Days of its receipt of the Preliminary Estimate, disagrees with the Preliminary Estimate, such matter (and any disagreement regarding the Restoration Schedule) shall be referred to an expert for resolution pursuant to Section 15.7(c) within twenty (20) Days of the date the Purchaser delivers notice to the Seller that the Purchaser disagrees with the Restoration Cost Estimate. If the expert concludes that the Restoration Cost Estimate is less than the Threshold Amount, the provisions of Section 15.6(b) shall apply. If the expert concludes that the Restoration Cost Estimate is greater than the Threshold Amount, then the Seller shall proceed with the preparation of a Report and the provisions of Section 15.7 shall apply.
- (e) If a Report is required to be prepared, then at the conclusion of the meetings of the Parties to discuss the Report (as contemplated by Section 15.7(b), the Parties shall either agree or disagree with respect to the matters addressed therein. If the Parties reach agreement on such matters, or, in the case of a disagreement, after resolution by an expert pursuant to Section 15.7(c) the Purchaser shall, within fifteen (15) Days of such agreement or resolution, provide the Seller with a written notice of its election to either (i) terminate this Agreement pursuant to Section 15.9(a) with the approval of the GOP and the GOP pay the applicable compensation pursuant to Section 15.1(e)(i) of the Implementation Agreement or (ii) authorise the Seller to proceed with Restoration, in which case the following provisions shall apply:
- (i) the Seller shall proceed in good faith to try to secure financing for the cost of Restoration on terms satisfactory to the Purchaser. If the Seller is unable to obtain binding commitments for such financing within three hundred (300) Days of receipt of the Purchaser's notice authorizing the Seller to proceed with Restoration, then unless the Purchaser commits to provide financing for the Restoration within the next sixty (60) Days and provides such funds to the Seller within one hundred and twenty (120) Days thereafter, the failure to secure financing shall be treated as an election by the Purchaser to terminate the Agreement pursuant to Section 15.8(a), in which case the GOP shall be required to pay the applicable compensation pursuant to Section 15.1(e) (iii) of the Implementation Agreement;
 - (ii) if financing for the Restoration has been secured, then the Seller shall proceed with the Restoration in accordance with the Restoration Schedule

and, upon completion of the Restoration, the Seller shall be entitled to special compensation pursuant to Section 15.8(b) or Section 15.8(c), as the case may be; and

- (iii) the Seller shall provide the Purchaser with a summary of all costs actually incurred in implementing the Restoration, together with copies of all invoices for such work.
- (f) If the Complex or any part thereof is damaged as a result of an Other Force Majeure Event and the Seller fails to restore the operation of the Complex within thirty (30) Days following the commencement of that Other Force Majeure Event, then the Seller shall prepare and deliver a Report pursuant to Section 15.7(a) .
- (g) If the Parties conclude (or the expert concludes) that the Complex can be restored such that the Seller can continue to meet its obligations under this Agreement, the Seller shall proceed with the Restoration in accordance with the Restoration Schedule contained in the Report.
- (h) If the Parties conclude (or the expert concludes) that the Complex can be restored such that the Seller can continue to meet its obligations under this Agreement but the Purchaser does not agree with the Restoration Schedule contained in the Report, then the Purchaser shall notify the Seller within fifteen (15) Days of the receipt of the Report and shall, in such notice, propose an alternative Restoration Schedule. The Seller and the Purchaser shall try, in good faith, to agree upon a revised Restoration Schedule. If the Parties cannot agree upon a revised Restoration Schedule within the fifteen (15) Day period following the notice, then either Party may submit the matter to an expert pursuant to Section 15.7(c) to determine the proper Restoration Schedule. Notwithstanding the foregoing, the Seller shall, subject to satisfying any of the conditions or requirements of the entity providing financing for the Restoration (including any insurance company paying a claim to the Seller), have the option to proceed with the Restoration while the issue of the Restoration Schedule is being resolved.
- (i) (intentionally left blank)
- (j) For the purposes of this Article XV, the term "Threshold Amount" shall mean, for any event, the EPC cost multiplied by a percentage equal to twenty-five percent (25%) at any time prior to or on the Commercial Operations Date and such percentage decreasing on a straight-line basis to five percent (5%) at the beginning of the last Agreement Year prior to the end of the Term, and remaining at five percent (5%) thereafter until the end of the Term.
- (k) Notwithstanding anything herein to the contrary, in the event of (i) the occurrence of a PPFME that has a material adverse effect on the Seller's ability to operate the Complex and such PPFME continues for a period exceeding one hundred and eighty (180) Days (not including the effects thereof), (ii) a series of such related PPFMEs that continue in the aggregate for a period that exceeds one hundred and eighty (180) Days (not including the effects thereof) during any Agreement Year, or (iii) a CLFME following which (x) the Parties agree or the expert determines that a Restoration is not feasible or the Purchaser decides that the cost of

Restoration is not acceptable and (y) the Complex does not operate for one hundred and eighty (180) Days following such determination or decision, and during such period the Change in Law is not rescinded or modified in a way to permit or avoid the Restoration, the Seller or the Purchaser with the approval of the GOP shall have the option to terminate this Agreement immediately by delivering written notice of such termination to the other Party, and, following such termination, the GOP shall be required to pay to the Seller the compensation provided in Section 15.1(e)(v) of the Implementation Agreement.

Section 15.7 Appraisal Report and Use of Expert

- (a) When required by Section 15.6, the Seller shall commence the preparation of an appraisal report (the “Report”) within fifteen (15) Days after the date it was determined that a Report would be necessary, and deliver a copy of such Report to the Purchaser as soon as practicable, but in any event not later than sixty (60) Days thereafter. The Report shall address, in such detail as is practicable under the circumstances and accompanied by reasonable supporting data, the following matters (to the extent applicable):
- (i) describe the Force Majeure Event and the damage to the Complex, and/or the other effects or impacts on, the Complex, (ii) estimate in good faith the time it shall take to restore the Complex (as much as it may be possible to do so) to its condition immediately prior to the Force Majeure Event or to bring the Complex into compliance with the Change in Law and (iii) propose a Restoration Schedule; or in the case of a Force Majeure Event covered by Section 15.6(a), provide a statement and explanation in good faith regarding whether Restoration or modification of the Complex or necessary capital additions are technically feasible, including the Seller’s good faith estimate of:
 - (i) the cost to restore the Complex to its condition immediately prior to the Force Majeure Event and the associated delay costs or the costs to come into compliance with the Change in Law;
 - (ii) variations to the Monthly Benchmark Energy and Complex Power Curve Energy values set out in the Benchmark Energy Table;
 - (iii) a revised cash flow forecast for the Complex; and
 - (iv) the insurance proceeds, if any, that may be recovered, the date or dates on which such proceeds may be received, and the particular purposes for which such proceeds are required to be applied;
 - (v) in the case of a PPFME or a CLFME covered by Section 15.6(a), describe the plan to fund the costs of the Restoration;
 - (vi) in the case of a PPFME or a CLFME covered by Section 15.6(a) , the projected Supplemental Tariff payable under this Agreement that would be required to pay special compensation under Section 15.8; and

- (vii) provide certificates and reports of the Seller's financial and technical advisers, as appropriate or as reasonably requested by the Purchaser, in support of the applicable matters referred to in this Section 15.7(a).
- (b) Within fifteen (15) Days of the delivery of a Report to a Party or such further time as the Parties may agree, the Parties shall meet to discuss the Report and any action(s) to be taken. In connection with the review by the Purchaser of a Report prepared by the Seller, the Seller shall provide promptly to the Purchaser such additional financial and related information pertaining to the Report and the matters described therein as the Purchaser may reasonably request.
- (c) The following Disputes between the Purchaser and the Seller shall be submitted to the expert for resolution within the time period specified: (i) with respect to Disputes regarding any matter set forth in a Report, no later than twenty (20) Days after expiration of the period for review and consultation provided by Section 15.7(b); (ii) with respect to Disputes pursuant to Section 15.6 within the applicable period provided for in Section 15.6; and (iii) with respect to whether an item of cost incurred by the Seller should be recovered as provided in Section 15.8(d), within twenty (20) Days following the delivery of a written request to do so by either Party.
- (d) In addition to the requirements under Section 18.2, the Expert shall be an engineer with extensive experience in the construction and operation of electric power plants similar to the Complex.
- (e) If the Seller or the Purchaser reasonably believes that the cost of a Restoration is likely to exceed two-thirds (2/3) of the Threshold Amount, then the Parties shall cooperate in good faith to select an expert each time that a Preliminary Estimate is to be prepared pursuant to Section 15.6 and engage such expert to be available in case a dispute shall need to be resolved. The expert shall be provided with a copy of the Preliminary Estimate and any other written materials prepared by either Party and asked to read all materials that are provided.
- (f) Once a Dispute is referred to the expert, each Party shall provide all materials in support of its position to the expert and to the other Party in accordance with Section 18.2. Each Party shall use its best efforts to provide the expert with any additional information the expert requests. The expert shall be charged with the responsibility of using his best efforts to render his decision regarding any referred matter within thirty (30) Days of the date of the referral. Each Party shall be responsible for paying fifty percent (50%) of the costs of the expert and shall pay for its own costs.
- (g) Notwithstanding any other provision in this Agreement to the contrary regarding the role of experts in resolving Disputes, unless the Parties agree to the contrary in writing signed by both Parties at the time the expert is selected, the decision of the expert as to any matter referred under Section 15.6 shall be final and binding on both Parties and shall not be subject to appeal. The Parties expressly waive, to the fullest extent permitted by law, any and all rights that they may now have or may have in the future to contest the decision of the expert before any arbitral tribunal or any court or other adjudicatory or administrative body.

Section 15.8 Supplemental Tariffs

- (a) In the case of a Force Majeure Event that is covered by Section 15.6(a), the Purchaser shall determine whether to proceed with the Restoration (subject to the obligation to pay special compensation pursuant to Section 15.8(b) or Section 15.8(c), as the case may be), or terminate this Agreement. The Seller acknowledges that the Purchaser may delegate the review of a Report to any Relevant Authority and agrees to cooperate with such Relevant Authority as if it were the Purchaser. The determination required to be made by the Purchaser under this Section 15.8(a) shall be made no later than fifteen (15) Business Days after the receipt of the Report by the Purchaser; provided, however, that if any matter is submitted to an expert for resolution pursuant to Section 15.7(c), such determination shall be made by the Purchaser no later than ten (10) Days after the decision is made by the expert.
- (b) In the case of a PPFME covered by Section 15.6(a), the Seller shall, unless this Agreement has been terminated by the Purchaser pursuant to Sections 15.6(e), 15.6(k), or Section 15.9, be entitled to receive Supplemental Tariffs in accordance with the procedures set forth in Schedule 1 to recover over the remainder of the Term (unless a shorter period for recovery of such costs is agreed by the Parties) the costs incurred in effecting the Restoration as provided in Section 15.8(d).
- (c) In the case of a CLFME covered by Section 15.6(a) the Seller shall, unless this Agreement has been terminated by the Purchaser pursuant to Section 15.6(e), 15.6(k), or Section 15.9, be entitled to receive Supplemental Tariffs in accordance with the procedures set forth in Schedule 1 to recover the costs of complying with the Change in Law.
- (d) The Seller shall, unless this Agreement has been terminated by the Purchaser, be entitled to receive a Supplemental Tariff such that it will recover from the Purchaser the costs that are actually incurred by the Seller to effect the Restoration to the extent those costs exceed any insurance proceeds; provided, however, that each such item of cost shall have been reasonable and appropriate for the Seller to effect such Restoration consistent with the standards for the original construction, the applicable Laws of Pakistan, Prudent Utility Practices and the use of efficient and, to the extent consistent with Prudent Utility Practices, low cost Restoration methods. The Seller shall deliver a schedule of such costs to the Purchaser, together with copies of the invoices, for review by the Purchaser. If the Purchaser contests any item of cost on the basis of the foregoing standards and the Purchaser and the Seller cannot agree, the issue of whether such item of cost should be recovered under this Agreement shall be referred to an expert pursuant to Section 15.7(c) to render a decision based on the foregoing standards.
- (e) If there is any Dispute as to whether any payment is due and payable to the Seller pursuant to this Section 15.8 or any Dispute as to the amount or timing of any such payment, then pending resolution of the Dispute, the Purchaser shall be obligated to pay to the Seller the undisputed amount. Amounts determined through the Dispute resolution procedure to be payable by the Purchaser shall be

paid to the Seller with interest equal to the Delayed Payment Rate from the date payment was due to the date of payment by the Purchaser.

Section 15.9 Termination as a Result of a Force Majeure Event

- (a) If this Agreement is terminated under Sections 15.6(e), 15.6(k) or Section 15.9(c) or (d), then the provisions of Section 15.1(e) of the Implementation Agreement shall be applied to determine whether compensation is to be paid by the Purchaser to the Seller and the amount of such compensation.
- (b) If the Seller is required to proceed with a Restoration and the Restoration has not been or shall not be completed by the end of the Restoration Period (as such Restoration Period may have been extended due to an intervening Force Majeure Event), or within the Restoration Cost Estimate, then the Seller may, and if the Restoration Cost Estimate or Restoration Period is expected to be exceeded by fifteen percent (15%), the Seller shall, develop a revised cost estimate and schedule as soon as possible and provide an explanation of the delay or revised cost or both to the Purchaser. If the Purchaser does not accept the explanation or the revised schedule or cost estimate, the matter shall be referred to an expert selected pursuant to Section 15.6(g) for resolution, and the Purchaser shall continue to make the appropriate payments pending resolution of the dispute by the expert.
- (c) The expert shall make its determination with respect to the revised schedule or revised cost and the Seller's liability therefor within thirty (30) Days of such referral. If the expert determines that the delay was not reasonable and that it was due to the Seller's negligence, fault, or unnecessary delay the Restoration Period shall not be revised. If the expert concludes that the delay was reasonable under the circumstances and not due to the negligence, fault or unreasonable delay of the Seller, the expert shall fix the revised Restoration Period (the "Extended Period") and Restoration Cost Estimate. If the revised Restoration Cost Estimate is more than one hundred and fifteen percent (115%) of the Restoration cost Estimate, or the revised Restoration Period is more than one hundred and fifteen percent (115%) of the Restoration Period, the Purchaser with the approval of the GOP may elect to terminate this Agreement, unless the Seller elects to attempt to complete the Restoration during the Extended Period, as described below. Upon such termination, the provisions of Section 15.1(e)(vi) of the Implementation Agreement shall apply. If the revised Restoration Cost Estimate or Restoration Period do not exceed the one hundred and fifteen percent (115%) threshold, or the Purchaser does not terminate this Agreement, the Purchaser shall continue to make payments of the [Carrying Cost plus 50% of Return on Equity] to the Seller during such revised schedule period. After the end of the Restoration Period, as it may have been revised, the Purchaser shall have no further obligation to make payments of the [Carrying Cost plus 50% of Return on Equity] and any additional costs incurred by the Seller to expedite the completion of the Restoration shall not be included in the costs that form the basis of the Tariff under Section 15.8 of this Agreement.
- (d) Notwithstanding the provisions of Section 15.9(c), if the Restoration has not been

completed by the end of the Extended Period (as defined in the next sentence), then, unless the Seller is diligently attempting to complete the Restoration, the Purchaser, with the written approval of the GOP, shall be entitled to terminate this Agreement upon thirty (30) Days notice, whereupon Section 15.1(e)(iv) of the Implementation Agreement in case of a Restoration related to PPFME or CLFME and Section 15.1(d) of the Implementation Agreement in case of a Restoration related to Other Force Majeure Event shall apply. The Extended Period shall commence on the first Day following the end of the Restoration Schedule (as such Restoration Schedule may have been extended due to an intervening Force Majeure Event or revised in accordance with Section 15.9(c) and shall end on the last Day of a period equal to twenty-five (25%) percent of the number of Days in the Restoration Schedule (as it may have been revised); provided, however, that the Extended Period shall be extended for the full period of any intervening Force Majeure Event plus the period of time necessary for the Seller to overcome the effects of the intervening Force Majeure Event.

Section 15.10 Notice of Termination

A Party shall exercise any right to terminate this Agreement under this Article XV by delivering a notice of termination to the other Party in accordance with Section 19.1. Any such notice from the Purchaser shall be executed by a duly authorized representative of the GOP. A copy of any notice from the Seller shall be delivered to the GOP at the same time the notice is delivered to the Purchaser in accordance with the provisions of Section 18.1 of the Implementation Agreement. Such notice shall identify the PPFME or CLFME in reasonable detail and the basis for termination. Termination of this Agreement shall be effective at 5:00 p.m. on the thirtieth (30th) Day following the date of delivery of such notice.

ARTICLE XVI TERMINATION

Section 16.1 Seller Events of Default

The following events shall be events of default by the Seller (each a “Seller Event of Default”), provided, however, that no such event shall be a Seller Event of Default if it is caused in whole or material part by a breach by the Purchaser of, or a default by the Purchaser under, this Agreement (including any Purchaser Event of Default), a breach by the GOP of, or a default by the GOP under, the Implementation Agreement (including any GOP Event of Default thereunder, or if it occurs as a result of a Force Majeure Event (except in the case of Section 16.1(c)):

- (a) the failure of the Seller:
 - (i) to achieve the Construction Start Date within ninety (90) Days following Financial Closing; or
 - (ii) to achieve the Commercial Operations Date not later than four hundred (400) Days after the Required Commercial Operations Date;
- (b) after the Construction Start Date but prior to the achievement of the Commercial Operations Date, the failure of the Seller to prosecute the Project in a diligent manner or, following the Commercial Operations Date, an Abandonment by the Seller, in each case, without the prior written consent of the Purchaser and which in each case continues for a period of thirty (30) consecutive Days;
- (c) the Seller’s failure (i) to pay any amount due from it under the provisions of Section 9.4 of this Agreement by the Due and Payable Date for the relevant invoice or to make any other payment when required to be made, in each case, that is not remedied within thirty-five (35) Days following notice from the Purchaser to the Seller stating that a payment default has occurred and is continuing and describing such payment default in reasonable detail or (ii) to post and thereafter maintain security in the amount required under Section 2.7 as required to be maintained by the Seller under this Agreement;
- (d) any breach by the Seller of its obligations under Section 19.9 (*Assignment*);
- (e) except for the purpose of amalgamation or reconstruction that does not affect the ability of the amalgamated or reconstructed entity, as the case may be, to perform its obligations under this Agreement, the occurrence of any of the following events:
 - (i) any proceeding being validly instituted under the Laws of Pakistan for the dissolution of the Seller that is not stayed or suspended in ninety (90) Days;
 - (ii) the passing of a resolution for the dissolution or winding up of the Seller;
 - (iii) the voluntary filing by the Seller of a winding up petition, or a request for a moratorium on debt payments or other similar relief;
 - (iv) the appointment of a provisional liquidator in a proceeding for the winding up of the Seller after notice to the Seller and due hearing, which

appointment has not been set aside or stayed within ninety (90) Days of such appointment; or

- (v) the making by a court with jurisdiction over the Seller of an order winding up the Seller which order is not stayed or reversed by a court of competent jurisdiction within ninety (90) Days;
- (f) any statement, representation or warranty by the Seller in this Agreement (or in a certificate delivered pursuant to Section [2.8](#)) proving to have been incorrect, in any material respect, when made or when reaffirmed and such incorrect statement, representation or warranty having a material adverse effect on the Seller's ability to perform its obligations under this Agreement or having a material adverse effect on the rights or obligations of the Purchaser under this Agreement;
- (g) any material breach or material default by the Seller of this Agreement (other than any breach or default referred to in the other sub-sections of this Section 16.1), including any material breach or default in the performance of its obligation to act in accordance with Prudent Utility Practices, which is not remedied within thirty (30) Days after notice from the Purchaser, stating that a material breach or default under of this Agreement has occurred and is continuing and identifying the material breach or default in question in reasonable detail;
- (h) tampering on three (3) or more separate occasions by the Seller or its Contractors or their employees acting in the course of their employment with the Metering System, the Back-Up Metering System, the Anemometry System or the [Complex Monitoring System/SCADA System];
- (i) the suspension or termination of the Generation Licence;
- (j) (i) the exercise by the Lenders of their remedies under the Financing Documents with respect to either the assets comprising the Complex or any Ordinary Share Capital pledged to the Lenders under the Financing Documents such that the Seller or its management are removed by the Lenders from control of the Complex or of the Seller, and (ii) the failure by the Lenders or the Agent to deliver a Succession Notice pursuant to Section [19.9\(c\)](#) or to transfer the Complex and the rights and obligations of the Seller under this Agreement and the Implementation Agreement to a Transferee within two hundred and forty (240) Days after the Seller or its management are removed by the Lenders from control of the Complex or of the Seller; and
- (k) any material breach by the Seller of the Implementation Agreement that is not remedied within thirty (30) Days after notice from the Purchaser or the GOP to the Seller, which notice states that a material breach of such agreement has occurred and is continuing that could result in the termination of such agreement, and identifies the material breach in question in reasonable detail.
- (l) any material breach by the Seller of the Site Sub-lease that is not remedied within thirty (30) Days after notice from AEDB to the Seller, which notice states that a material breach of the Site Sub-lease has occurred and is continuing that could

result in the termination of the Site Sub-lease, and identifies the material breach in question in reasonable detail.

Section 16.2 Purchaser Events of Default

The following events shall be events of default by the Purchaser (each a “Purchaser Event of Default”); provided, however, that no such event shall be a Purchaser Event of Default if it is caused in whole or material part by a breach by the Seller of, or a default by the Seller under, this Agreement (including any Seller Event of Default), or if it occurs as a result of a Force Majeure Event (except in the case of Section 16.2(b)):

- (a)
 - (i) the Purchaser’s obligations under this Agreement ceasing to be guaranteed under the Guarantee; or
 - (ii) upon assignment by Purchaser under Section 19.9(h), (A) the obligations of the successor entity ceasing to be guaranteed under the Guarantee or, (B) where a substitute guarantee is offered for the performance of the obligations of the successor entity, such guarantee being issued by an entity with credit rating inferior to the then prevailing credit rating of the GOP or being on terms and conditions materially inferior to the terms and conditions of the Guarantee;
- (b) the Purchaser’s failure to pay any amount due from it under the provisions of Section 9.4 of this Agreement by the Due and Payable Date for the relevant invoice or to make any other payment when required to be made, in each case, that is not remedied within thirty-five (35) Days following notice from the Seller to the Purchaser stating that a payment default has occurred and is continuing and describing such payment default in reasonable detail;
- (c) except for the purpose of amalgamation or reconstruction that does not affect the ability of the amalgamated or reconstructed entity, as the case may be, to perform its obligations under this Agreement and provided the obligations of the amalgamated or reconstructed entity, as the case may be, continue to be guaranteed under the Guarantee, or continue to be guaranteed on terms and conditions which in the reasonable business judgment of the Seller (taking into account, *inter alia*, the creditworthiness of the guarantor) provide an acceptable alternative to the Guarantee, the occurrence of any of the following events:
 - (i) any proceeding being validly instituted under the Laws of Pakistan for the dissolution of the Purchaser that is not stayed or suspended within ninety (90) Days;
 - (ii) the passing of a resolution for the dissolution or winding up of the Purchaser;
 - (iii) the voluntary filing by the Purchaser of a winding up petition;
 - (iii) the appointment of a provisional liquidator in a proceeding for the winding up of the Purchaser after notice to the Purchaser and due hearing, which appointment has not been set aside or stayed within ninety (90) Days of such appointment; or

- (v) the making by a court with jurisdiction over the Purchaser of an order winding up the Purchaser that is not stayed or reversed by a court of competent jurisdiction within ninety (90) Days;
- (d) any statement, representation or warranty made by the Purchaser in this Agreement proving to have been incorrect, in any material respect, when made or when reaffirmed and such incorrect statement, representation or warranty having a material adverse effect on the Purchaser's ability to perform its obligations under this Agreement or having a material adverse effect on the rights or obligations of the Seller hereunder;
- (e) any material breach or material default by the Purchaser of this Agreement (other than any breach or default referred to in the other sub-sections of this Section 16.2) which is not remedied within thirty (30) Days after notice from the Seller to the Purchaser, stating that a material breach or default has occurred under this Agreement and is continuing, and identifying the material breach or default in question in reasonable detail;
- (f) any material default by the GOP under the Implementation Agreement or the Guarantee, which default has not been remedied by the GOP within thirty (30) Days after delivery by the Seller to the Purchaser of a copy of the notice sent by the Seller to the GOP, which notice shall state that a material default has occurred under the Implementation Agreement or Guarantee, as the case may be, and is continuing, and identify the breach or default in question in reasonable detail;
- (g) any Change in Law making, as a result of such change:
 - (i) any material undertaking or obligation of:
 - (A) the Purchaser under this Agreement; or
 - (B) the GOP under the Implementation Agreement or the Guarantee, unenforceable, invalid, or void; or
 - (ii) unlawful for the Seller to make or receive any payment, to perform any obligation or to enjoy or to enforce any material right or material benefit under this Agreement,

where in the case of clause (i) or clause (ii) above, the effect continues for more than ninety (90) Days, provided always that, a Purchaser Event of Default under sub-clause (i) shall not be deemed to have occurred for as long as the Purchaser is making the payments to the Seller under Section 15.6(a)(ii) or Section 15.9(c), as the case may be;
- (h) the failure by the Purchaser to complete and commission the Purchaser Interconnection Facilities within one hundred and fifty-five (155) Days following the Required Commercial Operations Date; or
- (i) tampering on three (3) or more separate occasions by the Purchaser or its Contractors or their employees acting in the course of their employment with the Metering System, the Back-Up Metering System, the Anemometry System or the [Complex Monitoring System/SCADA System].

Section 16.3 Notice of Intent to Terminate

- (a) If any Seller Event of Default or Purchaser Event of Default, as the case may be, occurs and is continuing, the non-defaulting Party may deliver a notice (“Notice of Intent to Terminate”) to the defaulting Party which notice shall specify in reasonable detail the Seller Event of Default or the Purchaser Event of Default, as the case may be, giving rise to the Notice of Intent to Terminate, including, as applicable, whether such event of default does not affect the Complex in any material respect.
- (b) The following cure periods (each a “Cure Period”) shall apply:
- (i) In the case of a Seller Event of Default arising under Section 16.1(c)(i) or a Purchaser Event of Default arising under Section 16.2(b), the Cure Period shall be forty-five (45) Days;
 - (ii) In the case of a Seller Event of Default arising under Section 16.1(c)(ii), the Cure Period shall be five (5) Business Days; and
 - (iii) In the case of any other Purchaser Event of Default or any other Seller Event of Default, as the case may be, the Cure Period shall be ninety (90) Days;

in each case from the date the relevant Notice of Intent to Terminate is deemed to have been delivered.

Section 16.4 Termination Notice

- (a) In the event that a defaulting Party has not, following its receipt of a Notice of Intent to Terminate, remedied the Seller Event of Default or Purchaser Event of Default, as the case may be, described therein before the expiry of the relevant Cure Period, the non-defaulting Party may terminate this Agreement by delivering a notice of termination (the “Termination Notice”) to the defaulting Party. This Agreement shall terminate on the date specified in the Termination Notice (the “Termination Date”), which date shall not be earlier than the date that is ten (10) Business Days following the date on which the Termination Notice is delivered to the other Party or later than thirty (30) Days following the date of such delivery. Upon any termination of this Agreement pursuant to this Section 16.4(a) the provisions of Article XVII shall apply.
- (b) The Parties shall continue to perform their respective obligations under this Agreement pending the final resolution of any Dispute raised by the receiving Party of a Notice of Intent to Terminate or a Termination Notice; provided that the notice of Dispute has been delivered to the Party claiming the occurrence of the Purchaser Event of Default or the Seller Event of Default, as the case may be, before the end of the relevant Cure Period.

Section 16.5 Notice to the Lenders of the Seller’s Default

- (a) Anything in this Agreement notwithstanding, from and after the occurrence of Financial Closing the Purchaser shall not seek to terminate this Agreement (other than pursuant to Sections 16.1(a)(i) or 16.1(j)) as the result of any default of the Seller without first giving a copy of any notices required to be given to the Seller

under Sections 16.3 and 16.4 to the Lenders, such notice to specify to the Lenders the period for curing such default specified in Section 16.3(b) (the “Initial Cure Period”), which period shall commence upon delivery of each such notice to the Lenders. The Lenders will designate in writing to the Purchaser an agent (the “Agent”) and any notice required hereunder shall be delivered to such Agent, such notice to be effective upon delivery to the Agent as if delivered to each of the Lenders. Each such notice shall be in writing and shall be deemed to have been delivered (i) when presented personally to the Lenders or the Agent, (ii) when transmitted by the Purchaser and received by the Lenders or the Agent by facsimile to the number specified in accordance with the procedure set forth below, or (iii) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the Lenders at the address notified to the Purchaser within five (5) Business Days following Financial Closing (or such other address or to the Agent at such address as the Lenders may have specified by written notice delivered in accordance herewith). Any notice given by facsimile under this Section 16.5 shall be confirmed in writing delivered personally or sent by prepaid post, but failure to so confirm shall not void or invalidate the original notice if it is in fact received by the Lenders or the Agent. If the address of the Lenders or Agent is outside Pakistan, any notice delivered to the Lenders or the Agent pursuant to this Section 16.5 shall be presented personally or sent by international courier or facsimile, and if sent by facsimile, confirmed by international courier, and the Initial Cure Period shall commence upon receipt by the Lenders or the Agent of the notice referenced above. The address and facsimile number for the Agent shall be provided to the Purchaser by the Seller within five (5) Business Days following Financial Closing and thereafter may be changed by the Lenders or the Agent by subsequent delivery of a notice to the Purchaser at the address or facsimile number for the Purchaser provided in Section 19.1 (or at such other address or facsimile number subsequently delivered to the Lenders or the Agent in accordance with this Section 16.5) and otherwise in accordance with the requirements of Section 19.1.

- (b) Except for notices of termination pursuant to Sections 16.1(a)(i) or 16.1(j), no rescission or termination of this Agreement by the Purchaser shall be valid or binding upon the Lenders without such notice, and the expiration of the Initial Cure Period, the Evaluation Period provided in this Section 16.5(b) and, if applicable, the Lender Cure Period provided in this Section 16.5(b), as such Lender Cure Period may be extended. The Lenders may make, but shall be under no obligation to make, any payment or perform or procure the performance of any act required to be made or performed by the Seller, with the same effect as if made or performed by the Seller. If the Lenders fail to cure or procure the cure of, or are unable or unwilling to cure or procure the cure of, any Seller Event of Default pursuant to Section 19.9(d) prior to the expiration of the periods referred to above in this Section 16.5(b), then the Purchaser shall have all its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that, upon the expiration of the Initial Cure Period, the Lenders shall have a further period (an “Evaluation Period”) during which the Lenders may

evaluate such Seller Event of Default, the condition of the Complex and other matters relevant to the actions to be taken by the Lenders concerning such Seller Event of Default. The Evaluation Period shall end on the earlier to occur of (i) the delivery by the Lenders to the Purchaser of notice that the Lenders have elected to attempt to cure or procure the cure of such Seller Event of Default or otherwise pursue the Lenders' right or remedies under the Financing Documents, and (ii) forty-five (45) Days following the end of the Initial Cure Period. During the Evaluation Period the Purchaser's right to terminate this Agreement in respect of such Seller Event of Default shall be suspended. Upon delivery of the notice described in clause (i) of this Section 16.5(b), the Lenders shall be granted an additional period of sixty (60) Days (the "Lender Cure Period") within which to cure or procure the cure of any such Seller Event of Default. During the Lender Cure Period, the Purchaser's right to terminate this Agreement in respect of any such Seller Event of Default shall be suspended so long as the Lenders are diligently attempting to cure or procure (other than by the Seller, unless the Seller is acting at the direction of the Lenders) the cure of such Seller Event of Default or are pursuing the enforcement of their rights and remedies under the Financing Documents against the Seller. In the event that any such Seller Event of Default is not cured on or before the expiration of the Lender Cure Period the Purchaser may immediately terminate this Agreement effective upon delivery to the Lenders or the Agent of notice of such termination.

Section 16.6 Obligations upon Termination

Upon expiration or termination of this Agreement, the Parties shall have no further obligations or liabilities hereunder except for those obligations and liabilities that (a) arose prior to such termination, (b) expressly survive such termination, including without limitation, the obligation to pay amounts due under Sections 5.15, 16.7, Article XI, and liquidated damages under Section 9.3, and/or (c) survive such termination pursuant to Section 17.1.

Section 16.7 Reimbursement

- (a) In the event of a termination of this Agreement after the Effective Date and prior to the Commercial Operations Date for any reason other than (i) a Purchaser Event of Default; (ii) a GOP Event of Default under the Implementation Agreement; (iii) a PPFME, or (iv) a CLFME, the Seller shall reimburse the Purchaser for all costs and expenses (including reasonable attorneys' fees) relating to the Project incurred by the Purchaser prior to such termination, which amount in any event shall not exceed the Rupee equivalent of one hundred and fifty thousand Dollars (\$150,000) plus all reasonable costs (excluding overhead and general as well as administrative costs) incurred by the Purchaser on the construction of the Purchaser Interconnection Facilities, whether incurred by the Purchaser before or after the notice given by the Seller pursuant to the first sentence of Section 6.5(a). The amount of such construction costs shall be subject to independent audit, at the request and sole expense of the Seller. Upon a request by the Seller in writing, the Purchaser shall deliver to the Seller a good faith, non-binding estimate of any such costs and expenses which exceed the equivalent of five thousand Dollars (\$5,000), together with a description of the Purchaser

Interconnection Works undertaken and firm orders placed by the Purchaser in contemplation of execution of the Purchaser Interconnection Works.

- (b) In the event that this Agreement is terminated pursuant to Section 16.4 due to the Seller Event of Default set forth in Section [16.1\(a\)](#), then the Purchaser shall be immediately entitled to encash the Seller Letter of Credit (or any remaining portion thereof) in full. The Parties agree that any such encashment constitutes liquidated damages for such Seller Event of Default and shall be the exclusive remedy available to the Purchaser therefor, and the Seller shall not have any obligation to compensate the Purchaser for any amount pursuant to Section 16.7(a). The Seller hereby waives to the fullest extent permitted by law any claim that the encashment of the Seller Letter of Credit in such amount is void as a penalty.
- (c) In the event the Seller wants to walk away if the decision of the Revised Benchmark Table is not acceptable to the Seller, the Seller may terminate this Agreement. Upon such termination by the Seller, the Purchaser shall return the Seller Letter of Credit to the Purchaser without any draws thereon. The Seller shall not have any claims or recourse against the Purchaser after termination.

Section 16.8 Other Remedies

- (a) The exercise of the right of a Party to terminate this Agreement, as provided herein, does not preclude such Party from exercising other remedies that are provided herein or are available at law; provided, however, that no Party shall have a right to terminate or treat this Agreement as repudiated except in accordance with the provisions of this Agreement. Subject to the provisions of Article [X](#) and except as may otherwise be set forth in this Agreement, remedies are cumulative, and the exercise of, or failure to exercise, one or more of them by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies by such Party.
- (b) Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the Parties agree that the Purchaser may be damaged in amounts that may be difficult or impossible to determine in the event the Seller Event of Default described in Section [16.1\(a\)](#) occurs. Therefore, the Parties have agreed that, in such event, the amounts set forth in Section [16.7](#) are reasonable and constitute liquidated damages to the Purchaser and it is further understood and agreed that the payment of such amounts under Section 16.7, and any encashment of the Seller Letter of Credit pursuant to its terms, shall be in lieu of actual damages for such occurrence and the collection of such sums and the termination of this Agreement pursuant to Section 16.1(a) is the sole remedy of the Purchaser for such event.
- (c) Notwithstanding the foregoing or any other provision of this Agreement, the Parties agree that, in the event the Seller terminates this Agreement and the Implementation Agreement as a result of a Purchaser Event of Default under this Agreement pursuant to Section 14.1(b)(v) of the Implementation Agreement and the Seller receives from the GOP compensation for such default and termination pursuant to Section 15.1(b) of the Implementation Agreement, then, upon receipt

of such payment and termination of this Agreement, any claims by the Seller against or liability of the Purchaser under this Agreement (except as provided in Section 16.6) shall be fully extinguished and the Seller shall have no further claim or recourse against the Purchaser under this Agreement.

- (d) Notwithstanding the foregoing or any other provision of this Agreement, the Parties agree that, in the event that the GOP terminates the Implementation Agreement as a result of a Seller Event of Default under this Agreement pursuant to Section 14.1(a)(ix) of the Implementation Agreement, the GOP elects to purchase the Complex and the Seller transfers the Complex to the GOP pursuant to Section 15.1(a)(ii) of the Implementation Agreement, then, upon such transfer, any claims by the Purchaser against or liability of the Seller under this Agreement (except as provided in Section 16.7, which shall constitute independent and separate rights of the Purchaser) shall be fully extinguished and the Purchaser shall have no further claim or recourse against the Seller under this Agreement.

- [(e) Notwithstanding the foregoing or any other provision of this Agreement, the Parties agree that, in the event that either the GOP or the Seller terminates the Implementation Agreement pursuant to Section 5.7 thereof, this Agreement shall immediately terminate upon termination of the Implementation Agreement. Upon the transfer of the Complex to the GOP or its designee pursuant to Article XV of the Implementation Agreement, any claims against or liability of either Party under this Agreement as a consequence of such termination shall be fully extinguished and the Purchaser and the Seller shall have no further claim or recourse against the Seller or the Purchaser, as the case may be, under this Agreement, except for claims existing or having accrued prior to the date of such termination.]

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Section 16.9 Notice to the GOP of a Purchaser Event of Default

Anything in this Agreement notwithstanding, the Seller shall not seek to terminate this Agreement as a result of any default of the Purchaser without first giving a copy of any notices required to be given to the Purchaser under Sections 16.3 and 16.4 to the GOP, such notices to be coupled with a statement of the period available to cure any such default within the same cure period as provided to the Purchaser hereunder and such cure period to commence upon delivery of each such notice to the GOP. Each such notice shall be deemed to have been delivered (a) when presented personally to the GOP, (b) when transmitted by facsimile, or (c) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the GOP, at the address indicated in Section 18.1 of the Implementation Agreement (or such other address as the GOP may have specified by written notice delivered in accordance therewith). No rescission or termination of this Agreement by the Seller shall be of any effect without such notice and expiration of such Cure Period. Except as provided by the terms of the Guarantee, the GOP may, but shall be under no obligation, to make any payment or to perform any act required of the Purchaser hereunder with the same effect as if the payment or act had been made or performed by the Purchaser. If the GOP fails to cure or is unable or

unwilling to cure a default of the Purchaser within the cure periods provided to the Purchaser under this Agreement, the Seller shall have all of its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that, with respect to any default of the Purchaser other than a payment default, if the GOP is diligently attempting to cure such default of the Purchaser and demonstrable progress toward affecting such cure is being made, the GOP shall be granted an additional period not exceeding ninety (90) Days to effect such cure before the Seller may exercise its rights and remedies with respect to such default set forth in this Agreement.

SAMPLE

ARTICLE XVII
RIGHTS AND OBLIGATIONS OF PARTIES ON TERMINATION

Section 17.1 Survival of Rights and Obligations

- (a) On the expiry of this Agreement or the earlier termination of this Agreement pursuant to Section [16.4\(a\)](#) or Article [XV](#), all covenants, obligations, representations and warranties contained in this Agreement shall terminate and be of no force or effect and the Parties shall have no further obligations or liabilities under this Agreement, except for those obligations and liabilities which arose prior to and remain undischarged at the date of expiry or termination, and those obligations and liabilities which expressly survive such expiry or termination pursuant to Section 17.1(b) of this Agreement.
- (b) Notwithstanding anything contained in this Agreement to the contrary, the provisions of Section [5.11](#) (Maintenance of Operating Records), Section [9.7](#) (Supporting Data), this Article XVII (Rights and Obligations of Parties on Termination), Article I (Definitions; Rules of Interpretation); Article X (Liability), Section 16.7(c), Article XVIII (Dispute Resolution) and Article XIX (Miscellaneous) shall expressly survive any termination or expiry of this Agreement for a period of thirty six (36) months from the date of such expiry or termination.

Section 17.2 Liability of the Parties on Termination

Subject to Section 17.1, the Parties shall have no right to receive, nor liability to pay, damages or other compensation on or as a result of termination of this Agreement under Article XV, or Article XVI, except for amounts payable by, and liabilities of, a Party arising prior to such termination and except for those rights and liabilities expressly set out in Section [16.8](#) and in Article XV of the Implementation Agreement.

ARTICLE XVIII
RESOLUTION OF DISPUTES

Section 18.1 Resolution by Parties

- (a) In the event that a Dispute arises, the Parties shall attempt in good faith to settle such Dispute by mutual discussions within thirty (30) Days after the date that the disputing Party delivers written notice of the Dispute to the other Party.
- (b) The Party alleging the existence of a Dispute shall give to the other Party written notice setting out the material particulars of the Dispute in the written notice delivered pursuant to Section 18.1(a). Representatives from each of the Purchaser and the Seller shall meet in [Lahore] to attempt in good faith to resolve the Dispute;
- (c) If the Dispute is not resolved within thirty (30) Days after the date of receipt of notice described in Section 18.1(a) by the relevant Party (or within such longer period of time as the Parties may agree), then the provisions of Section 18.2 and Section 18.3 shall apply, as appropriate.

Section 18.2 Determination by Expert

- (a) In the event that the Parties are unable to resolve a Dispute in accordance with Section 18.1 within the time periods set forth therein, then either Party, in accordance with this Section 18.2, may refer the Dispute to an expert (the “Expert”) for consideration of the Dispute and to obtain a determination from the Expert as to the resolution thereof. Notwithstanding the foregoing, either Party may require that any Dispute be referred for resolution to arbitration pursuant to Section 18.3 without first referring it to an Expert.
- (b) The Party initiating submission of the Dispute to the Expert shall provide the other Party with a notice stating that it is submitting the Dispute to an Expert and nominating the person it proposes to be the Expert. Within fifteen (15) Days of receiving such notice, the other Party shall notify the initiating Party whether such person is acceptable, and if such nominated expert is not acceptable to the responding Party, the responding Party shall propose a person to be the Expert. If the Party receiving such notice fails to respond or notifies the initiating Party that the person is not acceptable or nominates an expert that is not acceptable to the initiating Party, the Parties shall meet within five (5) Business Days and discuss in good faith for a period of five (5) Days to agree upon a person to be the Expert. Failing nomination by the responding Party of an expert within the period provided or failing such agreement by the Parties of the Expert, at the end of the meeting, the [_____ (for financial and billing matters) or NEPRA (for technical matters)] shall be requested to select the Expert, provided that, in respect of Section 2.10(f), the Expert shall be selected by [•]. The selection of the Expert by the relevant selecting entity shall be binding on the Parties; provided, however, that unless the selecting entity be informed by consent of the Parties that the Expert may be a Pakistan national, the Expert shall not be a national of the jurisdiction of either Party or of the jurisdiction of any Investor or group of Investors holding directly or beneficially more than five percent (5%) of

the Ordinary Share Capital, nor shall any such Expert be an employee or agent or former employee or agent or have a material interest in the business of any such Person.

- (c) Consideration of the Dispute by an Expert shall be initiated by the Party who is seeking consideration of the Dispute by concurrently submitting to both the Expert and the other Party, written materials setting forth:
 - (i) a description of the Dispute;
 - (ii) a statement of the initiating Party's position, and whether a hearing is requested by such Party; and
 - (iii) copies of records supporting the initiating Party's position.
- (d) Within ten (10) Days of the date that a Party has submitted the materials described in Section 18.2(c), the other Party may submit to the Expert, with copies to the other Party:
 - (i) a description of the Dispute;
 - (ii) a statement of such Party's position and, if not already requested, whether a hearing is requested by such Party; and
 - (iii) copies of any records supporting the Party's position.

The Expert shall consider any such information submitted by the responding Party and may consider any additional information submitted by either Party at a later date but, in such event, the other Party shall be concurrently provided with such information and shall be allowed reasonable opportunity to respond thereto.

- (e) Each Party shall have access to the other Party's relevant records and be entitled to receive copies of the records submitted by the other Party.
- (f) Each Party shall designate one person knowledgeable about the issues in Dispute who shall be available to the Expert to answer questions and provide any additional information requested by the Expert. Except for such person, a Party shall not be required to, but may, provide oral statements or presentations to the Expert or make any particular individuals available to the Expert. If a hearing is requested by either Party pursuant to Section 18.2(c)(ii) or (d)(ii), the Expert shall nominate a time and place for a hearing of the Parties on the Dispute.
- (g) The Expert shall provide a determination within fifteen (15) Days after the ten (10) Day response period provided in Section 18.2(d) has expired, or within such further time as is agreed in writing by the Parties. If the Expert's determination is given within such fifteen (15) day period, as may be extended by the Parties, the Parties may review and discuss the determination with each other in good faith for a period of ten (10) Days following delivery of the determination before proceeding with any other actions.
- (h) The proceedings shall be without prejudice to any Party, and any evidence given or statements made in the course of this process may not be used against a Party in any other proceedings. The process shall not be regarded as an arbitration and the laws relating to commercial arbitration shall not apply.

- (i) Unless the Parties agree in writing at the time the Expert is selected, stating that the decision of the Expert shall be binding, and except for the matters referred to in Section 18.2(m), the recommendation of the Expert shall not be binding; provided, however, that if arbitration proceedings in accordance with Section 18.3 have not been commenced within seventy-five (75) Days from the date the Expert's determination was received by the Parties in accordance with Section 18.2(g) the Expert's determination shall be final and binding on the Parties, and any right of such Parties to resort to arbitral, judicial or other proceedings in relation to the subject matter of the determination shall stand waived to the fullest extent permitted by law.
- (j) Subject to Section 18.2(i), if a Party does not accept the determination of the Expert with respect to the Dispute or if the Expert has not provided a determination within the time period specified in Section 18.2(g), any Party may initiate arbitration proceedings in accordance with Section 18.3.
- (k) The costs of engaging an Expert shall be borne equally by the Parties and each Party shall bear its costs in preparing materials for, and making presentations to, the Expert.
- (l) The failure of any Party to comply with the provisions and time periods set out in this Section 18.2 shall not prevent (i) the Expert from proceeding; and/or (ii) any Party from requesting that the Expert proceedings be terminated and the matter referred immediately to arbitration in accordance with Section 18.3.
- (m) Except in the case of manifest error or fraud, unless resolved by the Parties in accordance with Section 18.1, the Expert's determination rendered in accordance with this Section 18.2 shall be final and binding on the Parties and shall not be referable to arbitration or otherwise subject to appeal on all matters and issues in respect whereof the Parties have agreed that the Expert's determination shall be final and binding on the Parties and shall not be referable to arbitration or otherwise subject to appeal.
- (n) In respect to all matters other than those described in Section 18.2 (m), either Party may serve a written notice on the other Party within thirty (30) Days of the Expert's determination having been notified to it, stating its intention to refer the matter in dispute to arbitration, provided that the notifying Party implements fully the decision of the Expert before commencing the procedure to refer the Dispute to arbitration and commences the procedure to refer the Dispute to arbitration within a further forty-five (45) Day period after serving such notice.
- (o) Except in the case of Disputes arising out of or under Article [VIII](#), Article XV, Section [2.5\(b\)\(v\)](#), and Section [9.6](#) (which may be required by either Party to be referred to an Expert), either Party may require arbitration of a Dispute pursuant to Section 18.3 without reference to an Expert under this Section 18.2.

Section 18.3 Arbitration

- (a) Any Dispute arising out of or in connection with this Agreement that has not been resolved following the procedures set forth in Section 18.1 and Section 18.2 or has been required by a Party to be referred to arbitration without reference to an

Expert and is not the kind of Dispute identified in Section 18.2(m), shall be settled by arbitration in accordance with the rules of the London Court of International Arbitration, as in effect on the date of this Agreement (the “Rules”), by one (1) arbitrator appointed in accordance with the Rules. The arbitration proceedings shall be conducted, and the award shall be rendered, in the English language.

- (b) If for any reason the Dispute cannot be settled pursuant to the Rules, such Dispute shall be finally settled by arbitration under the Rules of Arbitration of the United Nations Commission on International Trade Law (the “UNCITRAL Rules”) by one (1) arbitrator appointed in accordance with the UNCITRAL Rules.
- (c) The arbitration shall be conducted in [Lahore], Pakistan; provided, however, that if the amount in Dispute is greater than five million Dollars (\$5,000,000) or the amount of such Dispute together with the amount of all previous Disputes submitted for arbitration pursuant to this Section 18.3 exceeds seven million Dollars (\$7,000,000) or an issue in Dispute is (i) the legality, validity or enforceability of this Agreement or any material provision hereof, or (ii) the termination of this Agreement, then either Party may, unless otherwise agreed by the Parties, require that the arbitration be conducted in London, in which case the arbitration shall be conducted in London. Except as awarded by the arbitrator and except as hereinafter provided, each Party shall be responsible for its own costs incurred by it in connection with an arbitration hereunder. Notwithstanding the foregoing, either Party may require that arbitration of any Dispute be conducted in London (or such other location outside Pakistan agreed to by the Parties), in which case the arbitration shall be conducted in London (or such other location outside Pakistan agreed by the Parties); provided, however, that if the Dispute is not of a type that could have been conducted in London (or such other location outside Pakistan agreed by the Parties) in accordance with the provisions of the foregoing sentence, the Party requiring that arbitration be conducted in London (or such other location outside Pakistan agreed by the Parties) shall pay all costs of arbitration as and when incurred by the other Party (including out of pocket costs but excluding any award made by the arbitrator) in excess of the costs that would have been otherwise incurred by such other Party had the arbitration been conducted in [Lahore], Pakistan; provided, further, that the Party requiring that arbitration be conducted in London (or such other location outside Pakistan agreed by the Parties) may seek a determination that the Dispute or the defence thereof is spurious and without any merit whatsoever, and upon such a final and binding determination, any amounts paid to the other Party to cover such excess costs shall be returned to the paying Party.
- (d) No arbitrator appointed pursuant to this Section 18.3 shall be a national of the jurisdiction of either Party or of the jurisdiction of any Investor that directly or beneficially owns five percent (5%) or more of the Ordinary Share Capital, nor shall any such arbitrator be an employee or agent or former employee or agent of the Purchaser, the Seller, the Lenders or any Investor that directly or beneficially owns five percent (5%) or more of the Ordinary Share Capital.
- (e) In relation to the Parties, or any parties claiming through the Parties, the provisions of Sections 18.3(a) and 18.3(b) above shall override and have effect,

notwithstanding any arbitration clause or provision to the contrary or otherwise in any Bilateral Investment Treaty to which Pakistan is or may become a party.

Section 18.4 Related Disputes

If any Dispute has been referred to an Expert pursuant to Section 18.2 or to arbitration pursuant to Section 18.3 and such Dispute raises issues of fact or law that, in whole or in material part are, in the opinion of the arbitrators, substantially the same as issues of fact or law already pending in arbitration proceedings in connection with any Related Dispute, such issues shall, to the extent permitted under the Laws of Pakistan, be consolidated with such Related Dispute, unless such consolidation would, in the opinion of the arbitrators, produce manifest injustice, substantial hardship to the Purchaser or the Seller or cause significant delay in the determination of the Dispute between the Purchaser and the Seller or in the determination of any Related Dispute in which the Purchaser is involved.

Section 18.5 Sovereign Immunity; Jurisdiction

- (a) The Purchaser unconditionally and irrevocably:
- (i) agrees that should any proceedings be brought against it or its assets, other than the Grid System, electric generation assets and equipment, electric distribution assets or other assets necessary for the fulfillment by the Purchaser of its duties and responsibilities under Regulation, Transmission, and Distribution of Electric Power Act (XL) of 1997 (or the law creating any successor, assignee or permitted transferee of the Purchaser), and the transmission licence issued to it by NEPRA (collectively, "Protected Assets") in any jurisdiction where such assets or property of the Purchaser are located to enforce any award or decision of any arbitrator who was duly appointed under this Agreement to resolve a Dispute between the Parties, no claim of immunity from such proceedings shall be made by or on behalf of the Purchaser on behalf of itself or any of its assets (other than Protected Assets) that it now has or may in the future have in any such jurisdiction in connection with any such proceedings;
 - (ii) waives any right of immunity that it or any of its assets (other than Protected Assets) now has or may in the future have in any jurisdiction in connection with any such proceedings; and
 - (iii) consents generally to the jurisdiction of any court of competent jurisdiction for any action filed by the Seller to enforce any award or decision of any arbitrator who was duly appointed under this Agreement to resolve any Dispute between the Parties (including the making, enforcement or execution against or in respect of any of its assets whatsoever (other than the Protected Assets) regardless of its use or intended use) and specifically waives any objection that any such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same. The Purchaser agrees that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court.

- (b) The Seller hereby unconditionally and irrevocably consents generally to the jurisdiction, with respect to itself and any and all of its assets and property that it now has or may hereafter acquire, of any court of competent jurisdiction for any action filed by the Purchaser to enforce any arbitral award or decision made pursuant to arbitration conducted in accordance with Section 18.3. The Seller waives any objection that it may now or hereafter have to the venue of any action or proceeding brought as consented to in this Section 18.5(b) and specifically waives any objection that any such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same. The Seller agrees that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court. The Seller irrevocably waives any and all rights it may have to enforce any judgment or claim against the Protected Assets in the courts of any jurisdiction.
- (c) For the avoidance of doubt, any dispute or difference between the Parties as to whether either Party has complied with the affirmation set out in this Section 18.5 shall be referred to for determination under Section 18.3 and shall fall within the definition of Dispute.

ARTICLE XIX
MISCELLANEOUS PROVISIONS

Section 19.1 Notices

- (a) Except for any Despatch Instructions and communications between the Seller and Purchaser relating to Despatch of the Complex,, all notices and other communications required or permitted to be given by a Party shall be in writing and either delivered personally or by courier or sent by facsimile to the address or number of the other Party specified below:

- (i) If to the Purchaser:

Attention:
Facsimile:
with a copy to:

Attention:
Facsimile:

- (ii) If to the Seller:

Attention: [Chief Executive Officer]
Facsimile:
with a copy to:

provided that a Party may change the address to which notices are to be sent to it by giving not less than thirty (30) Days' prior written notice to the other Party in accordance with this Section 19.1(a).

- (b) No notice or other communication shall be effective until received or deemed received. Notices or other communications shall be deemed to have been received by the receiving Party:
- (i) when delivered if personally delivered;
- (ii) one (1) Business Day after sending, if sent by courier; or
- (iii) upon sending if sent by facsimile, subject to confirmation of an uninterrupted transmission report and provided that a hard copy is despatched not later than the following Business Day to the recipient by courier or personal delivery.
- (c) Despatch Instructions and communications between the Seller and Purchaser relating to Despatch of the Complex may be given by telephone communication or any other form of communication that the Parties agree to use. All such telephonic notices shall be made to the following telephone numbers:

- (i) If to the Purchaser: []
- (ii) If to the Seller: [];

provided, that a Party may change the telephone number, or any other details necessary for such communication, by giving not less than thirty (30) Days' prior written notice to the other Party in accordance with Section 19.1(a).

Section 19.2 Amendment

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

Section 19.3 Third Parties

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

Section 19.4 No Waiver

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

Section 19.5 Relationship of the Parties

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

Section 19.6 Language

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

Section 19.7 Governing Law

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

Section 19.8 Entirety

Upon the occurrence of the Effective Date, this Agreement shall be the full and final expression of the agreement between the Parties on the matters contained herein. Except

for the Letter of Support, which until Financial Closing will govern the Project and supersede all documents and agreements between the Parties in relation to the Project (save to the extent, if any, provided otherwise in the Letter of Support), all written or oral representations, understandings, offers or other communications of every kind between the Parties in relation to the Project prior to this Agreement are hereby abrogated and withdrawn. Until the occurrence of the Effective Date, to the extent of any inconsistency between the provisions of the Letter of Support and the provisions of this Agreement which are then effective, the Letter of Support shall be controlling as to the rights and obligations of the Parties in relation to the Project.

Section 19.9 Assignment

- (a) No assignment or transfer by a Party of this Agreement or such Party's rights or obligations hereunder shall be effective without the prior written consent of the other Party, except by the Seller as provided in Section 19.9(b).
- (b) Notwithstanding the provisions of Section 19.9(a), for the purpose of financing the Project, the Seller may, pursuant to the Financing Documents, assign to, or create a security interest in favour of the Lenders in the Seller's rights and interests under or pursuant to (i) this Agreement, (ii) any agreement included within or contemplated by the Project Agreements, (iii) the Complex, (iv) the Site, (v) the movable, immovable and intellectual property of the Seller, (vi) the revenues or any of the rights or assets of the Seller, and (vii) the Site Sub-Lease.
- (c) The Lenders shall have no rights (except as expressly provided herein) or obligations to the GOP under this Agreement until such time as the Lenders or their designees succeed to the Seller's interest under this Agreement, whether by exercise of their rights or remedies under the Financing Documents or otherwise, in which case the Lenders or their designees shall give notice of such succession ("the Succession Notice") to the GOP and shall assume liability for all of the Seller's obligations under this Agreement, including payment of any amounts due and owing to the GOP for breaches or defaults by the Seller and other liabilities arising under this Agreement prior to the Lenders' or such designees' succession to the Seller's interest in and under this Agreement; provided, however, that any liability of the Lenders or their designees shall be strictly limited to the interest of the Lenders in the Complex.
- (d) Upon notification by the Lenders or the Agent to the GOP, of the occurrence and continuance of an event of default under the Financing Documents, the Lenders shall have the right, amongst others, to (i) take possession of the Complex and prior to the Commercial Operations Date, complete construction of the Complex and operate and maintain the same and, after the Commercial Operations Date, operate and maintain the same, and (ii) cure any continuing Seller Event of Default as provided under Section [16.5](#) of this Agreement.
- (e) In the event the Lenders desire to sell, transfer or assign the Complex as a going concern with all assets (present and future) together with possession thereof (hereinafter the "Transfer of the Complex") for the purposes of enforcing their

rights under or pursuant to the Financing Documents, the following conditions shall apply:

- (i) Lenders shall obtain the consent of the Purchaser for the purposes of the Transfer of the Complex, which consent shall not be unreasonably withheld or delayed;
- (ii) The Transfer of the Complex shall only be in favour of a transferee (the “Transferee”) who shall have been approved by the GOP; and
- (iii) The Purchaser may impose such conditions (which will not be unreasonable) for granting its consent and approval as stated in sub-clause (i) and (ii) above, including the curing by the Transferee of any existing Seller Event of Default within the period remaining for such cure by the Seller and the Lenders and the payment of any amounts due and owing to the Purchaser by the Seller hereunder on or before the date of Transfer of the Complex.

Provided that the Lenders and the Transferee have complied with the requirements of this Section 19.9(e), the GOP agrees to execute such agreements and documents necessary or reasonably expedient to ensure that the Transferee has the benefit of all right, title and interest of the Seller under this Agreement and assumes in writing for the benefit of the GOP the obligations and liabilities of the Seller hereunder in place of the Seller.

- (f) Upon notice to the GOP of a default under the Financing Documents, the GOP shall, at the request and expense of the Lenders or the Agent, cooperate with the Lenders in the exercise of such rights by the Lenders under this Agreement and the Financing Documents.
- (g) At the request of the Seller, delivered to the GOP no less than thirty (30) Days in advance, the GOP shall execute and deliver, effective at the Financial Closing, acknowledgements to the Lenders with respect to any assignment granted to the Lenders pursuant to this Section 19.9 and the rights of such parties in and to this Agreement, as the Lenders may reasonably request in accordance with customary practices in transactions of this nature.
- (h) Notwithstanding the above, the Purchaser shall have the right to assign all or any part of this Agreement to any entity or entities assuming all or part of the Purchaser’s rights and obligations under this Agreement; provided, however, that the GOP without interruption guarantees the performance of the succeeding entity or entities on the same terms and conditions as the Guarantee or such other commercial security is provided for the obligations of the succeeding entity or entities that in the reasonable business judgment of the Seller provides an adequate alternative to the Guarantee and all or any part of the Purchaser’s rights and obligations under this Agreement are assigned pursuant to law to or contractually assumed, through a novation, by one or more entities, each of which has the appropriate legal capacity to carry out and perform such rights and obligations assigned to or assumed by it.

Section 19.10 Confidentiality

- (a) This Agreement and all information disclosed hereunder or in connection with this Agreement shall be treated as confidential and (except as provided in sub-Section (c) below) such information shall not be disclosed in whole or in part by either Party without the prior consent of the other Party.
- (b) This obligation does not apply to information that (when used or disclosed) has been made public other than through a breach of this Agreement or has been, or could have been, lawfully acquired by the Party.
- (c) Notwithstanding the provisions of sub-Section (a) above, neither Party shall be required to obtain the prior consent of the other in respect of disclosure of information:
 - (i) to directors and employees and Affiliates of such Party, provided that such Party shall use reasonable endeavours to ensure that such Affiliates keep the disclosed information confidential on the same terms as are provided in this Section 19.10;
 - (ii) to persons professionally engaged by or on behalf of such Party; provided that such Persons shall be required by such Party to undertake to keep such information confidential and that such Party shall use reasonable endeavours to secure compliance with such undertaking;
 - (iii) to any government department or any governmental or regulatory agency having jurisdiction over such Party but only to the extent that such Party is required by law to make such disclosure;
 - (iv) to:
 - (A) any lending or other financial institution in connection with the financing of such Party's operations; or
 - (B) any bona fide intended assignee or transferee of the whole or any part of the rights and interests of the disclosing Party under this Agreement; orbut (in either case) only to the extent required in connection with obtaining such finance or in respect of such proposed assignment and subject to such institution or intended assignee or transferee first agreeing with such Party to be bound by confidentiality provisions substantially the same as those contained in this Section 19.10;
 - (v) to any expert (including any Expert) or arbitrator appointed pursuant to and under the terms of this Agreement.
- (d) This Section 19.10 shall survive termination or expiry of this Agreement for a period of thirty six (36) months from the date of such termination or expiry.

Section 19.11 Successors and Assigns

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

Section 19.12 No Liability for Review

No review and approval by the Purchaser of any agreement, document, instrument, drawing, specifications, or design proposed by the Seller nor any inspection of the Construction Works or the Seller Interconnection Works carried out by the Purchaser pursuant to this Agreement shall relieve the Seller from any liability that it would otherwise have had for its negligence in the preparation of such agreement, document, instrument, drawing, specification, or design or the carrying out of such works or failure to comply with the applicable Laws of Pakistan with respect thereto, or to satisfy the Seller's obligations under this Agreement nor shall the Purchaser be liable to the Seller or any other Person by reason of its review or approval of an agreement, document, instrument, drawing, specification or design or such inspection.

Section 19.13 Affirmation

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

practices and further pay compensation to the Purchaser in an amount equivalent to ten (10) times the amount of any commission, gratification, bribe, finder's fee or kickback paid or given by the Seller (either directly or indirectly through any natural or juridical Person, including its Affiliates, employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders, sponsors or subsidiaries (and any of their employees, agents, associates, brokers, consultants, officers, directors, promoters, shareholders or sponsors)), as aforesaid for the purpose of obtaining or inducing the procurement of this Agreement or the Power Purchase Agreement or any contract, consent, approval, right, interest, privilege or other obligation or benefit related to this Agreement or the Project from the Purchaser or any Public Sector Entity.

Section 19.14 Counterparts

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

Section 19.15 Severability

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

Section 19.16 Double Jeopardy

A final, non-appealable order issued in a proceeding initiated by the GOP and based upon a claim of breach of the Implementation Agreement shall be with prejudice to any proceedings against the Seller based upon the same claim that the Purchaser could otherwise bring for breach by the Seller of its obligations under this Agreement. Nothing in this Section shall prevent the Purchaser and the GOP from separately initiating proceedings to terminate this Agreement and the Implementation Agreement, respectively, pursuant to Sections 16.3 and 16.4 of this Agreement and Sections 14.1 and 14.3 of the Implementation Agreement.

Section 19.17 Partial Invalidity

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

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement in [Lahore], Pakistan as of the date first above written.

[NAME OF PURCHASER]

By: _____

Title: _____

[NAME OF SELLER]

By: _____

Title: [Chief Executive Officer]

Witness: _____

Name: _____

Witness: _____

Name: _____

SAMPLE

SCHEDULES

Schedule 1 Tariff, Indexation and Adjustment

[Separately Provided]

SAMPLE

Schedule 2 Description of the Complex

A. INTRODUCTION

The Complex consists of _____ (---) Wind Turbine Generator (“WTGG”) Units with the following design parameters:

WTGG Make / Model _____

Name Plate Capacity of each WTGG _____ MW

Name-Plate Capacity of the Complex _____ MW

Wake Losses _____ MW

Auxiliary Consumption _____ MW

Capacity (Net) _____ MW

B. SITE EVALUATION

Land and Topography.

C. SYSTEM SPECIFICATIONS.

Rotor.

1. Diameter
2. Swept Area
3. Number of Blades
4. Blades Length
5. Airfoil
6. Blade Material
7. Rotor Speed
8. Aerodynamic Brake
9. Direction of Rotation

Blade

Hub

Gearbox

Yaw system

Nacelle

Tower

Generator

Power Electronics

Controller

D. Complex Control

E. Maintenance Building

F. ENVIRONMENTAL STANDARDS

G. WINDSPEED OPERATING PARAMETERS:

1 Start-up Wind Speed

2 Cut-out Wind Speed

Site Condition:

Noise Level:

Earthquakes:

Survival Wind Speed:

H. WINDPLANT ELECTRICAL SYSTEM

Generation Voltage

Low Voltage System

Medium Voltage System

High Voltage System

Grounding System

I. COMMUNICATION SYSTEM

K. TOWER FOUNDATIONS

L. METEOROLOGICAL TOWERS

M. ROADS AND GATES

N. ANEMOMETRY SYSTEM (COMPLIANT WITH IEC STANDARDS)

(a) Description

(b) Calibration

(b) Operational Characteristics

(c) Mounting

O. COMPLEX MONITORING SYSTEM

Number of phases _____
 Number of poles _____
 Frequency _____ Hz
 Rated speed _____ rpm
 Terminal voltage _____ kV
 Short circuit ratio at rated MVA _____ [not < 0.6]
 Cooling system _____

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

Unsaturated direct axis synchronous reactance _____ %

Saturated direct axis sub-transient reactance _____ %

Saturated direct axis transient reactance _____ %

Negative phases sequence reactance _____ %

Zero phase sequence reactance _____ %

(c) Generator Time Constants

Direct axis open circuit time constant _____ seconds

Director axis open circuit sub-transient time constant _____ seconds

Director axis short circuit transient time constant _____ seconds

Direct axis short circuit sub-transient time constant _____ seconds

(d) Inertia constant

Generator plus turbine _____ sec./MVA

(e) [Generator Losses and Efficiencies]

(f) Generator Impedances in per unit _____

Note: The above design values will have tolerances as specified in the relevant International Electrotechnical Commission (IEC) standards.

2.2 Voltage Regulation

Automatic voltage regulation and manual voltage regulation. Generator terminal voltage is held within \pm _____ % from no load to full load at rated frequency.

2.3 Generator Power Curves

2.4 The AVR droop setting is \pm ___% of rated voltage.

2.5 Generator Transformers

Rating _____ kVA

Rated voltage _____ kV

Maximum and minimum operating voltages _____ kV(rms)

_____ kV (rms)

Connection of winding _____

On-load Tap Changer

(Required) Yes/No

Taps of Winding _____

Positive and zero sequence reactances

(% on rated kV & MVA base) _____

Copper loss at rated power and
voltage at principal tap _____ kW

No load loss at rated voltage and frequency _____ kW

Auxiliary Transformers and Equipments

2.6 Substation

(a) Power Transformers

MVA rating _____ MVA

Rated Voltage _____ kV

Maximum and minimum _____ kV(rms)

Operating voltage _____ kV(rms)

Vector group _____

On-load Tap-Changer Yes/No

(Required)

Taps of Winding _____

Positive and zero sequence reactances _____

Copper loss at rated power and
voltage at principal tap _____ kW

No load loss at rated voltage and frequency _____ kW

(b) Circuit Breakers

Rated voltage _____ kV

Rated normal current _____ kA

3-3

Rated Symmetrical breaking current _____ KA

Rated as Symmetrical breaking current _____ KA

Rated peak breaking current _____ KA

Rated short-circuit making current _____ KA

Rated duration of short circuit _____ sec

Rated Operating sequence _____

Total interruption time _____ m.sec
Opening time _____ m.sec

(c) Current Transformers

Rated voltage _____ kV
Rated normal primary current _____ KA
Rated secondary current _____ A

Accuracy Class:

- Measuring core
(Required = 0.2) _____

- Protection Core _____

Rated transformation ratio _____

Continuous thermal rating _____ A

Short time current rating _____ KA

Maximum Thermal burden _____ VA

Impulse withstand voltage _____ kV peak

Power frequency withstand voltage
of primary winding _____ kV

Power frequency withstand
voltage of secondary winding _____ kV

(d) Voltage Transformers

Rated primary voltage
phase to neutral _____ kV

Rated secondary voltage
phase to neutral _____ kV

Rated Secondary output for:

- measuring core _____ VA

- Protection Core _____ VA

Thermal limit burden _____ VA

Accuracy Class for:

- measuring core
(required = 0.2) _____

- Protection core _____

Impulse withstand voltage _____ kV peak

Power frequency withstand voltage
of primary winding _____ kV

Power frequency withstand voltage of
secondary winding _____ kV

Seller Interconnection Works

Purchaser Interconnection Facilities (Design Data)

Purchaser Interconnection Works

Interconnection Works Schedule

Testing of Interconnection Facilities

SAMPLE

Schedule 4 Form of Construction Reports; Project Progress Reporting

Monthly progress reports shall be prepared consistent with the following general format and delivered to the Purchaser in accordance with the requirements of the Energy Purchase Agreement.

1. Narrative

1.1 Engineering

1.2 Civil / Structural

- (a) Mechanical
- (b) Electrical/Control
- (c) Substation

(For each item above, identify when started, if continuing and when completed).

1.3 Construction

- (a) Civil / Building
- (b) Mechanical
- (c) Equipment Erection
- (d) Electrical
- (e) Site Services

(for each item above, identify when started, if continuing and when completed.)

2. Schedules

- (a) Monthly Completion vs. Targeted:
- (b) Project Schedule Update:
- (c) Engineering:
- (d) Construction:
- (e) Start-Up:

3. Information

4. Consents

Consents Applied for:

Consents Received:

Consents Outstanding:

Schedule 5 Technical Limits; Minimum Functional Requirements [and Acceptance Tests]

1. Design Limits

1.1 Wind Turbine Operating Limits

- (a) Cut-in Wind Speed _____ m/s
- (b) Cut-out Wind Speed _____ m/s
- (c) Output at variable speed (As per the Benchmark Energy Table).

1.2 Start-up of the Complex

WTGGs will start whenever cut in speed is available and energised Grid is available for excitation load.

1.3 Complex Loading

- (a) The Complex loading will follow the manufacturer's power curve at varying wind speeds.
- (b) The Complex can withstand a full load rejection and remain in a safe condition. Provided the Complex auxiliaries are operated continuously, the Complex can be re-synchronized within • provided that the reason for the load rejection has been removed.

1.4 Frequency, Power Factor, Voltage Limits and Droop Settings

- (a) [If operated at 100% load, the Complex is designed to operate with power factor in the range ___ lagging to ___ leading which range shall not be exceeded. At 0% load, the Complex has a Reactive Power capability of ___ MVAR either lagging or leading.]
- (b) The Complex can operate within the range \pm ___% on the ___ kV high voltage system which range shall not be exceeded.
- (c) The Complex can operate within the frequency range ___ Hertz to ___ Hertz which range shall not be exceeded.
- (d) The Complex will be subject to tripping if frequency and / or voltage fluctuations outside the ranges stated in 1.4 (b) and 1.4(c) occur.
- (e) [The automatic voltage regulator droop setting is adjustable in the range \pm ___% of the rated voltage.]

1.5 General

The Seller shall advise the Purchaser of any temporary operating constraints and limits which may from time to time apply to the Complex.

2. Design Maintenance Limits

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

TABLE 3

<u>Approximate 4 Month Period</u>	<u>Manufacturer's Recommendation</u>	<u>Nature of Inspection</u>
---------------------------------------	--	---------------------------------

Schedule Outages thereafter continue on a ___ year cycle which must be maintained.

2. Anemometry System Tests and Functional Requirements

3. Complex Monitoring System Tests and Functional Requirements

4. SCADA (Integrity System Checks, Data Processing, Data Parameters)

5. Weather Station

6. Minimum Functional Requirements

General

The Complex shall be of proven design, new, unused, latest model, build to appropriate internationally recognized standards, and shall comply with all the applicable codes and regulations. It shall be capable of operating in parallel with the other generators connected within the Grid System / Distribution System and achieve the levels of availability and reliability normally expected of a modern power plant of the same technology. The Complex shall be capable of operating within the temperature range of (-) 20°C to (+) 48°C. The on-line regulation of the plant components shall be fully automated.

Wind Turbine Generators

Wind Turbine Generators shall be designed and manufactured in accordance with the IEC and / or equivalent International Standards. They shall have variable speed control and independent blade pitch system. The variable speed control shall continually adjust the rotor rpm level for optimum thrust at each wind speed. [The tubular steel towers shall consist of sections and have hub-height of more than ___ meters]. Towers shall be equipped with service platforms. Each tower section shall have interior ladder. Preferably, the Cut-in-Wind speed shall not be more than 4 m/s while the Cut-Out Wind speed shall not be less than 25 m/s. The Wind Turbine Generator Units shall be appropriately sited in order to capture the maximum amount of the energy from the Wind in the area.

The Wind Turbine Generator units would be started, synchronized, loaded and shutdown fully automatically from the control desk in the central control room of the Complex as well as from the local control panel using state-of-the-art distributed control system, with all operational commands and status being logged in the Complex Monitoring System. Automatic Cut-In and Cut-Out sequence based on the prevalent wind speed will include starting the Wind Turbine and starting of all auxiliary drives or connections required for proper functioning of the system.

Generators

Generators shall be rated to match the maximum output of the wind turbine and shall be designed and manufactured in accordance with the IEC and / or equivalent International standards. Winding insulation shall be non-hygroscopic and of class F. The generators shall be capable of supplying rated output within $\pm 5\%$ of rated frequency i.e. 50 Hz and $\pm 10\%$ of nominal rated voltage within the power factor range of 0.0 lagging and 0.90 leading (measured at the high-voltage busbar of the substation). Short-circuit ratio shall not be less than 0.5.

Generator Step-up Transformers

A main transformer for each generator, together with all protection, bus-bars, and disconnectors as required, shall be provided. Transformers shall be rated to the full continuous output of the generator within the range of local ambient temperatures and equipped with on-load tap changer. The secondary voltage shall be between 11 kV and 36 kV. They shall be capable of operation at 110% of the rated voltage.

Substation

A complete substation with new and un-used equipment and materials shall be constructed at suitable location to facilitate cost-effective transmission of power to the Grid System. It shall comprise [132] kV switchgear with adequate number of line bays for interconnecting Purchaser's Grid System for complete dispersal of the plant output under normal and single contingency conditions. Through a properly designed collector system, the energy generated by each Wind Turbine Generator unit will be taken to the Substation and transformed to the high voltage conforming to that of the Grid System intended to be connected with. The power transformers shall be equipped with on-load tap changers. It shall be ensured that the

power is delivered at standard, consistent voltage and frequency levels. All the substation equipment shall be capable of operation within the range between $\pm 10\%$ of the rated voltage under normal conditions.

Reactive Power Compensation

Since the Wind Turbine Generator units consume reactive power, the Seller shall be equipped with Reactive Power Compensation System to avoid any adverse effect on the Purchaser's Grid System.

Control, Protection and Supervision

A state-of-the-art control and monitoring system ("Complex Monitoring System") shall be provided for monitoring operation of the Complex and providing telecommunication, tele-metering and tele-control etc to the Control Centre. Synchronizing facilities shall be provided at the substation. A complete and comprehensive protection system for the Complex and inter-tripping provisions between Seller's substation and the connected Grid Station shall be provided by the Seller.

Metering System

Metering System on the high voltage side of the Power Transformer(s) at the substation shall be provided for export and import metering. Independent current transformers and voltage transformers of accuracy class 0.2% shall be provided at the Substation for providing input to the Energy Meters. The Metering System shall have an overall measuring error within $\pm 0.2\%$. A separate air-conditioned room in the Complex's Substation shall be provided. All cabling between the Meters and associated Current Transformers and Voltage Transformers shall be laid in surface mounted steel conduits.

Environmental Requirements

The Complex shall comply with the environmental requirements of the Pakistan Environmental Protection Agency (PEPA) and any other Provincial or local environmental agencies. For those aspects where PEPA has no particular requirements, the requirements of the most recent World Bank Guidelines will apply. It shall be particularly ensured that the noise generated by the Wind Turbine Generator System is within the limits of the state-of-the-art technology.

7. Acceptance Tests

- (a) Operation, Monitoring System and Control Check of Wind Turbine Generators
As per IEC or an equivalent international standard subject to approval by the Purchaser.

[(b) Automatic Voltage Regulator (AVR) Setting and Adjusting in Standstill Condition With the Generator Running at No Load.]

(c) Open Circuit Test on the Generators.]

Note: To be negotiated with the Manufacturer

(d) Substation Testing

Functional Testing and Timing of High Voltage Switchgear in the Substation of the Complex shall be carried out.

(e) Protection Level Settings

The Seller and Purchaser shall verify that the protection level settings for the following are as agreed by the Operating Committee:

- (i) stator earth fault
- (iv) negative phase sequence
- (v) generator transformer over-current and earth fault, and
- (iv) high voltage bus-bar protection

(f) Intertripping

(g) Acoustic Noise Measurement

(h) Lightning Protection and Safety Requirement Test

(i) Full scale structural testing of rotor blades

(j) Mechanical Load Measurement

(k) Voltage phasing checks will be carried out between the sub-station of the Complex and the Grid System

Schedule 6 Metering; Environmental Standards;

1. Provision of Metering

The metering points to record the MWh and MVARh exchange between the Complex and the Purchaser's Grid System shall be as shown in an appropriate diagram to be provided by the Seller. The current and voltage transformers will measure current and voltage on the outgoing busbar of the ___ kV substation of the Complex. The meters owned by the Purchaser will be located within the substation in a separate room as per Schedule 3. Any photographic facilities will be provided by the Seller as part of the verification process for monthly meter readings.

The Metering System shall be to a mutually agreed international standard providing a measured accuracy of $\pm 0.2\%$.

2. Testing

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

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

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

3. Anemometry System

The Seller shall be responsible for the testing and calibration of the anemometers installed in the Complex in accordance with the Operating Procedures established under Section 5.10. On the completion of such tests/calibrations, the Seller shall provide the Purchaser with all the certificates of the tests/calibrations performed, which shall be endorsed by the Engineer.

Schedule 7 Commissioning Tests

(state the minimum performance criteria)

(a) Wind Turbine Functional Tests

(b) Automatic Voltage Regulator (AVR) Droop

The AVR will be demonstrated to control the generator voltage over the range of ± 5 percent of rated voltage with a droop characteristic of ± 0.5 percent.

(c) Reactive Capability and Compensation System

(d) Load Rejection

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

(e) Harmonic Control

The Seller shall perform harmonic testing to confirm compliance of the requirements and recommendations contained in [IEEE Standard 519-1991].

(f) Power Performance Test

(g) Power Quality Characteristic Test

(h) Turbine Governor Operation

(i) Minimum Load Capability

(j) Test for Response of Complex to Step Load Changes

Schedule 8 Insurance

PART I: CONSTRUCTION PERIOD

1. Marine and Air Cargo

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

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

Deductible: US\$ 30,000 each loss.

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

2. Loss of Revenue Profits (following Marine incident)

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

Sum insured: An amount equal to the estimated Energy Purchase Price which will be received following the Commissioning date of the Complex.

Indemnity Period: 12 Months.

Deductible: 30 Days.

Insured: The Seller and the Lenders.

3. Contractors' All Risks

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

Sum insured: The Contract Price.

Deductibles: In relation to Contract Works, Materials etc.

(a) arising during the Construction and Testing period:

(i) from Storm, Tempest, US\$ 30,000
Flood, Water Damage,
Earthquake, Tsunami,
Subsidence and Collapse

(ii) from any other cause US\$ 30,000
[other than in (a)(i) above]

(b) arising out of operational testing or Commissioning:

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

(ii) of Complex other than US\$ 50,000
turbine generators

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

Insured: The Seller, the Contractors and all suppliers and consultants, GOP, Purchaser and the Lenders.

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

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

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

Sum insured: An amount equal to the estimated Energy Purchase Price which will be received following the Commissioning date of the Complex.

Indemnity Period: 12 Months.

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

Deductible: 30 Days.

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

5. Public Liability

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

Sum insured: For any one claim:

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

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

Insured: The Seller, Contractors, all suppliers and consultants, GOP and Purchaser.

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

6. Miscellaneous

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

PART II: OPERATING PERIOD

1. All Risks Insurance - Fixed Assets

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

Sum insured: Full replacement value of the Complex. **(Required)**
Deductible: Not to exceed US\$ 50,000 each loss. **(Required)**
Insured: The Seller, the O&M Contractor, GOP, Purchaser and the Lenders.

2. Consequential Loss Following All Risks

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

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

Indemnity Period: 12 Months.
Deductible: First 30 Days of any interruption.
Insured: The Seller, the O&M Contractor and the Lenders.

3. Machinery Breakdown

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

Sum insured: Full replacement value of all machinery, Complex etc.
Deductible: US\$ 50,000 each loss.
Insured: The Seller, the Lenders, Purchaser and the O&M Contractor.

4. Consequential Loss following Machinery Breakdown

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

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

Indemnity Period: 12 Months.

Deductible: First 30 Days of any interruption.

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

5. Public Liability:

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

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

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

Insured: The Seller, the O&M Contractor, the Lenders, GOP and Purchaser.

6. Miscellaneous

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

7. Indexing of Limits

The coverage provided under Section 5 in Part I and Part II will be indexed in accordance with Schedule 1

Schedule 9 Form of Seller Letter of Credit
[ISSUED ON ISSUING BANK LETTERHEAD
SHOWING FULL NAME AND ADDRESS]

Date and Place of Issue:

Applicant

Name The _____ Power Seller, Limited
Address _____, Pakistan

Advising and Negotiating Bank

[name and address]
_____, Pakistan

Beneficiary

Purchaser
[address]
_____, Pakistan

Attention:

We hereby issue our documentary credit as follows:

Type of Credit:
Irrevocable

Letter of Credit Number:

Date and Place of Expiry:

Date -
Place - [Advising and Negotiating Bank name and address]

Amount

[figures]
[words]

Credit available with: [Advising and Negotiating Bank], by negotiation against presentation of the documents detailed herein and of your draft(s) at sight drawn on Issuing Bank accompanied by a certificate signed on your behalf by a person describing himself therein as your duly authorized officer stating that:

"This drawing in the amount of [currency and amount] is being made pursuant to the Energy Purchase Agreement (Agreement) between The _____ Power Seller Limited ("Seller") and Purchaser as a result of Seller's failure to perform in accordance with Article ●●● of the Agreement."

Presentation of the above certificate and all communications in writing with respect to this Letter of Credit shall be addressed to us at [Issuing Bank name and address] referencing Letter of Credit No. _____, Attention: _____, or at [Advising and Negotiating Bank name and address] referencing Letter of Credit No. _____, Attention: _____.

This Letter of Credit sets forth in full the terms of our undertaking and this undertaking shall not in any way be modified, amended, limited, or amplified by reference to any document, instrument, or agreement referred to herein, except only the certificates and draft referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for such certificates.

This Letter of Credit is transferable. Transfer may be effected only by Issuing Bank upon our receipt of an acceptable application for transfer accompanied by the original Letter of Credit and payment of our transfer commission in effect at the time of transfer.

Partial drawings are allowed.

Tested telex reimbursement is allowed.

Drafts drawn under this Letter of Credit must bear the clause:

"Drawn under [Issuing Bank] Letter of Credit No. _____, dated ____
_____ 2005_."

It is a condition of this Letter of Credit that it shall be automatically extended for an additional period of one year from the present and each future expiration date, unless, thirty (30) days prior to the then-current expiration date, we notify you by registered mail that this Letter of Credit will not be renewed for an additional period.

We hereby engage with you that drafts drawn strictly in compliance with the terms of this credit and amendments shall meet with due honor upon presentation. This credit is subject to "Uniform Customs and Practice for Documentary Credits" (1983 Revision), **International Chamber of Commerce, Publication No. 400.**⁵

Authorised Signature

Authorised Signature

⁵ The latest revision is Publication No. 600. This LC format may accordingly be revised.

Annex 2 to Schedule 1
Benchmark Energy Table

PART I

Wind Speed Spectrum (m/s)	Complex Power Curve Energy ¹ (GWh)
3.5 ²	
.	
.	
6.1	
6.2	
6.3	
6.4	
6.5	
6.6	
6.7	
6.8	
6.9	
7.0	
“X” ³	ARTICLE XX

- 1 Based on the power curve of the Complex
- 2 WT cut-in speed (in case of WTs with different speeds, the lowest cut-in speed to be taken)
- 3 WT cut-out speed (in case of WTs with different cut-out speeds, the highest cut-out speed to be taken)

Part II

Month	Monthly Benchmark Wind Speed ⁴ (m/s)	Monthly Benchmark Energy (GWh)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
TOTAL		

- 4 - At hub height of WT, based on 3 year MET data