



**TAPAL
ENERGY**

TAPAL ENERGY (PRIVATE) LIMITED

Corporate Office: F-25 • Block 5 • Rojhan Street
Kehkashan • Clifton • Karachi - 75600 • Pakistan
Tel : +92-21-35876994 - 7
Fax : +92-21-35876991 & 35876993
Email : telcoff@tapalenergy.com.pk

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

Ref:TEL/NEPRA/006/18
May 22, 2018

Tapal Energy (Private) Limited ("Company") – Licensee Proposed Modification of the Generation License

The Company was granted Generation License No. IPGL/010/2003 on August 26, 2003 (the "**Generation License**") by NEPRA, under Section 15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997, for its thermal power generation facility at Deh Gondpass, Tapo Gabopat, Hub River Road, Taluka & District Karachi (West), Karachi (the "**Project**").

As stated in the Generation License, the Project was granted a Generation License for a term of fifteen (15) years. The Company has entered into a Power Purchase Agreement with KE dated September 26, 1995, ("**PPA**"), the term of which PPA is 22 years, such that the term of the PPA and Generation License are not aligned.

In order to discharge its contractual obligations under the PPA the Company is required to obtain and maintain a valid generation license granted by NEPRA. The grant of generation license is a critical regulatory consent without which the Company cannot perform its contractual obligations under the PPA and generate and sell electric power.

Given the fact that the term of the PPA is twenty-two years (from the COD) whereas, the term of Company's generation license no. IPGL/010/2003 is around ten months short of the Company's PPA term, the Company requires extension in the generation license in order to make it consistent with the term of the PPA.

The required modification would benefit K-Electric consumers as it would ensure that generation capacity continues to be available and maintained during the term of the PPA.

The Company, pursuant to Regulation 10(2) of the NEPRA Licensing (Application and Modification Procedure) Regulations, 1999 ("**Regulations**"), hereby seeks to apply for a modification of the Generation License granted to the Company to cater for extending the term of the Generation License to bring the same in line with the term of the PPA.

In relation hereto, we certify that the documents-in-support attached with this application are prepared and submitted in conformity with the provisions of Regulation 10(2) of the Regulations and we undertake to abide by the terms and provisions of the Regulations. We further undertake and confirm that the information provided in the attached documents-in-support is true and correct to the best of our knowledge and belief.



**TAPAL
ENERGY**

A Pay Order No. 00250381 dated May 16, 2018 amounting to Rs. 778,440/- (Pakistani Rupees Seven Hundred and Seventy-Eight Thousand Four Hundred and Forty only) drawn in favour of NEPRA, being the application fee for the present application, calculated in accordance with Schedule II to the Regulations, is also attached herewith.

In light of the submissions set out in this application and the information attached to the same, NEPRA is kindly requested to process the Licensee Proposed Modification of the Company's Generation License at the earliest, thereby enabling the Company to meet its obligations under the PPA



[Signature]
MUSTAFA LAKDAWALA
(Chief Financial Officer)

**LICENSEE PROPOSED MODIFICATION OF GENERATION LICENSE
OF TAPAL ENERGY (PRIVATE) LIMITED
TO
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY**

22nd May 2018

CONFIDENTIAL



TAPAL ENERGY (PRIVATE) LIMITED

REGISTERED OFFICE

155-A, STREET NO. 37, SECTOR F-10/1,
ISLAMABAD
PAKISTAN

TEL: +92-51-2344413

FAX: +92-51-2344411

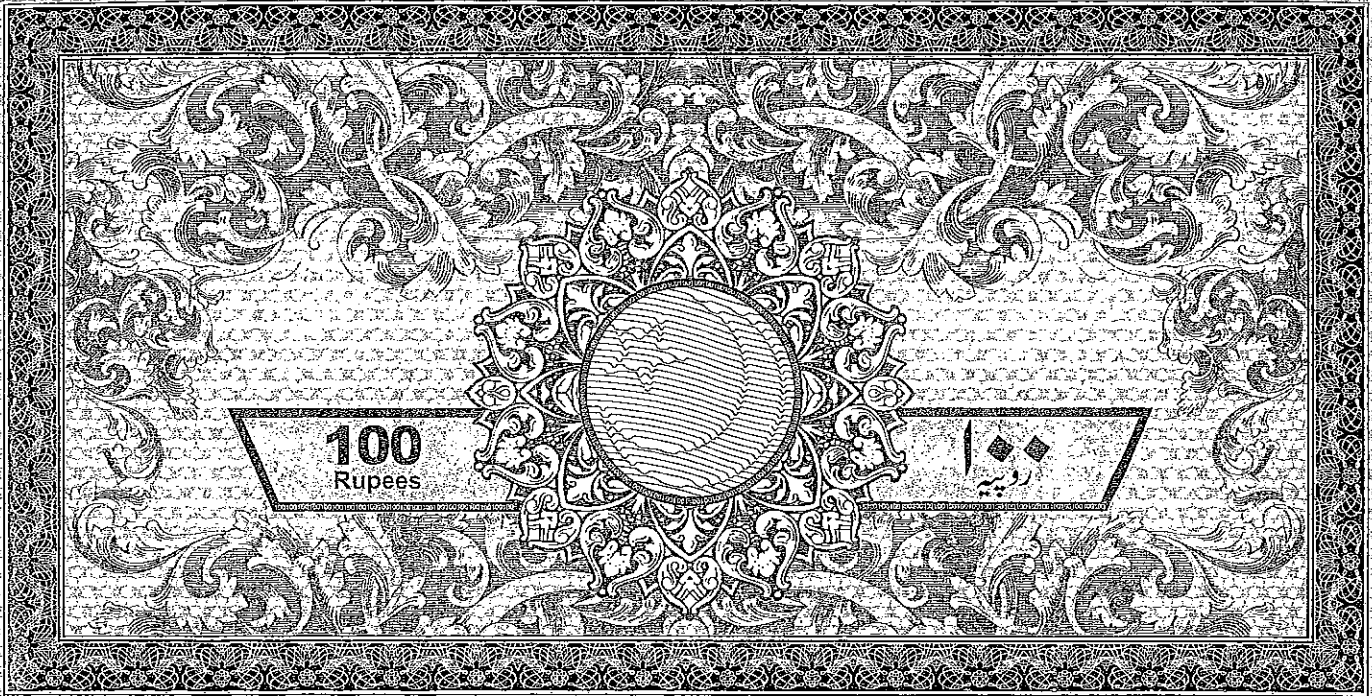
EMAIL: TELCOFF@TAPALENERGY.COM.PK



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AFFIDAVIT

BEFORE THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

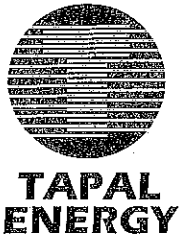
I, Mustafa Lakdawala S/o Abid Hussain Lakdawala, CNIC No. 42201-3140375-9, Chief Financial Officer, Tapal Energy (Private) Limited hereby solemnly affirm and declare on oath that the contents of the accompanying application for a Licensee Proposed Modification of the Generation License of Tapal Energy (Private) Limited, including all attached documents-in-support, are true and correct to the best of my knowledge and belief and that nothing has been concealed.

DEPONENT

Signature: _____

Name: Mustafa Lakdawala (Chief Financial Officer)

Dated: May 22, 2018



CERTIFIED TRUE COPY OF RESOLUTION
OF THE BOARD OF DIRECTORS OF
TAPAL ENERGY (PRIVATE) LIMITED
PASSED ON MAY 2, 2018

"It is hereby unanimously resolved that:

- a) Tapal Energy (Private) Limited ("Company") be and is hereby authorized to file a Licensee Proposed Modification of Generation License Application for submission to the National Electric Power Regulatory Authority for modification of the Company's Generation License and in relation thereto, enter into and execute all required documents, make all filings, attend all hearings, provide all required information and pay all applicable fees, in each case, of any nature whatsoever.
- b) In respect of the Licensee Proposed Modification of Generation License of the Company, Mr. Tabish Tapal, Chief Executive Officer of the Company having CNIC No 42301-2385059-9 and/or Mr. Mustafa Lakdawala, Chief Financial Officer of the Company having CNIC No 42201-3140375-9 be and are hereby authorized and empowered for and on behalf of the Company to:
 - (i) Review, execute, submit, and deliver the Licensee Proposed Modification of Generation License and any related documentation required by National Electric Power Regulatory Authority for the award of Modified Generation License including any contracts, documents, powers of attorney, affidavits, statements, letters, forms, applications, deeds, guarantees, undertakings, approvals, memorandum, amendments, letters, communications, notices, certificates, request statements and any other instruments of any nature whatsoever;
 - (ii) Represent the Company in all negotiations, representations, presentations, hearings, conferences and/or meetings of any nature whatsoever with any entity (including, but in no manner limited to National Electric Power Regulatory Authority, any private parties, companies, partnerships, individuals, governmental and/or semi-governmental authorities and agencies, ministries, boards, departments, regulatory authorities and/or any other entity of any nature whatsoever);
 - (iii) Sign and execute the necessary documentation, pay the necessary fees, appear before the National Electric Power Regulatory Authority, as needed, and do all acts necessary for completion and processing of the award of Modified Generation License of the Company from the National Electric Power Regulatory Authority;
 - (iv) Appoint or nominate any one or more officers of the Company or any other person or persons, singly or jointly, in their discretion to communicate with,





make presentations to and attend any hearings in connection with the Licensee Proposed Modification of the Company's Generation License;

- (v) Do all such acts, matters and things as may be necessary for carrying out the purposes aforesaid and give full effect to the above resolutions."


Mustafa Lakdawala
Company Secretary

A circular stamp with the words "TAPAL ENERGY" around the perimeter and a central emblem.

GOVERNMENT OF PAKISTAN



CERTIFICATE OF INCORPORATION

(Under section 32 of the Companies Ordinance, 1984 (XLVII of 1984))

Company Registration No. I-01646

I hereby certify that "TAPAL ENERGY LIMITED"

is this day incorporated under the Companies Ordinance, 1984 (XLVII of 1984) and that

the company is limited by shares

Given under my hand at Islamabad

this 1st day of March

one thousand nine hundred and ninety-five

Fee Rs. 78,500/- (Rupees Seventy eight thousand & five hundred only)



(NAZIR AHMED SHAHEEN)
DEPUTY REGISTRAR
OF COMPANIES
ISLAMABAD

CRO-1

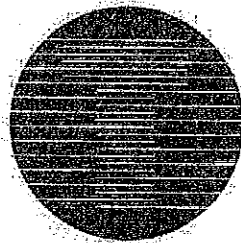
FCPPK-Litho/2108/93-94/DCS&F-3-2-94-12000 Loom.

115-DR/1872
dt. 1-3-95

CERTIFIED TO BE TRUE COPY

(Signature)
Assistant Registrar
Company Registration Office
Islamabad

32476
123-4-13



**TAPAL
ENERGY**

**THE COMPANIES ORDINANCE, 1984
(Company Limited by Shares)**

**MEMORANDUM
AND
ARTICLES OF ASSOCIATION**

OF

TAPAL ENERGY (PRIVATE) LIMITED

GOVERNMENT OF PAKISTAN



CERTIFICATE OF INCORPORATION

(Under section 32 of the Companies Ordinance, 1984 (XLVII of 1984))

Company Registration No. I-01646

I hereby certify that "TAPAL ENERGY LIMITED"

is this day incorporated under the Companies Ordinance, 1984 (XLVII of 1984) and that

the company is limited by shares

Given under my hand at Islamabad

this 1st day of March

ninety-five

one thousand nine hundred and

For Rs. 78,500/- (Rupees Seventy eight thousand & five hundred only)



Nazir Ahmed Shafeen
(NAZIR AHMED SHAFEEEN)
DEPUTY REGISTRAR
OF COMPANIES
ISLAMABAD

CRO-1

PCPPK-Litno/1108/93-94/DCSAF-3-1-94-1200010000

115-DR/1872
06-1-3-95

CERTIFIED TO BE TRUE COPY

Assistant Registrar
Company Registration Office
Islamabad

32476
123-4-13

GOVERNMENT OF PAKISTAN



CERTIFICATE FOR COMMENCEMENT OF BUSINESS

[Under section 146 (2) of the Companies Ordinance, 1984 (XLVII of 1984)]

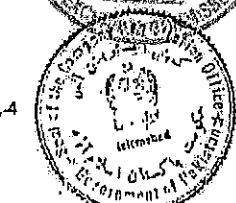
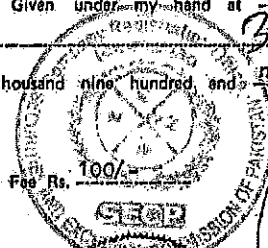
COMPANY REGISTRATION NO. I-01646

I hereby certify that the Tapal Energy Limited
which was incorporated under the
Companies Ordinance, 1984 (XLVII of 1984), on the 1st
day of March 1995 and which has filed a duly verified
declaration in the prescribed form that the conditions of clauses (a) to (e) of sub-section
(1) of section 146 of the said Ordinance have been complied with, is entitled to
commence business.

Given under my hand at Islamabad

this 31st day of May
one thousand nine hundred and ninety-five

Fee Rs. 100/-



C.R.O.-4

(NAZIR AHMED SHAHEEN)
DEPUTY REGISTRAR
OF
COMPANIES
ISLAMABAD

PCFFK-L180/2044/91-92/DCB&P-8-2-92-2,000 100M.

NO. DR/2080

CERTIFIED TO BE TRUE COPY

Assistant Registrar
Company Registration Office
Islamabad

No. JRI _____
Dated _____

GOVERNMENT OF PAKISTAN
COMPANY REGISTRATION OFFICE ISLAMABAD



ACKNOWLEDGEMENT OF FILING
[Pre-regulation-8 (2)]

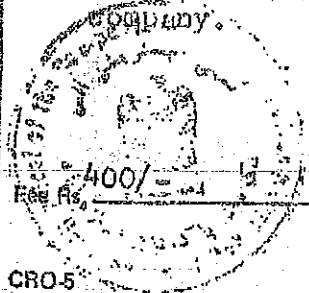
No. DE-I/6224-22.

Dated: 3-11-99

In the name of TAPAL ENERGY (PRIVATE) LIMITED
No.3, First Floor, Malik Complex, CO-Keel, Blue Area,
Islamabad

The receipt of the undermentioned document (s) filed/registered/recorded,
pursuant to the provision of the Companies Ordinance, 1984 (XLVII of 1984) is hereby
acknowledged.

1. Form 26 dated 10-4-1999-Copy of Special Resolution
passed on 10-4-1999 regarding conversion of the
company into private company and substitution of
Articles of Association.
2. Certified copy of the order dated 16-6-1999 passed
by the Securities & Exchange Commission of Pakistan
about the conversion of the company into private
company.



Bismillah
(BISMILLAH)
DEPUTY REGISTRAR OF COMPANIES.

CRO-5



THE COMPANIES ORDINANCE, 1984
(A Company Limited by Shares)
MEMORANDUM OF ASSOCIATION
OF
TAPAL ENERGY (PRIVATE) LIMITED¹

- i) The name of the company is TAPAL ENERGY (PRIVATE) LIMITED.
- ii) The Registered office of the company will be situated in Islamabad, Capital Territory.
- iii) The main and exclusive object for which the company is established is to set up an industrial undertaking in power sector to carry on the business of electric power generation, accumulation, transmission and distribution thereof in all its branches and aspects by the use of such forms of energy and in such manner as may be deemed feasible for that purpose.

To achieve the main and exclusive object the Company shall be authorised:-

1. To import, purchase and acquire by some other means all kinds of raw and other material, and market, sell, transmit and deliver the electricity thus generated any where in Pakistan.
2. To purchase, or acquire by some other means, any land or lands and build, erect, construct, furnish, equip, maintain or improve any building, structure, edifice or for sale and hire, and to carry on construction thereof.
3. To acquire by purchase, exchange, hire, assignment or otherwise, tenements, buildings, easements, rights, advantages, moveable and immoveable property of any kind whatsoever, machinery, trade marks, patents or inventions, licenses to use patents or other properties, plants and stock-in-trade and to employ, resell, sell, exchange, mortgage, get on lease, license to use or otherwise and to pay for the properties, rights or privileges acquired by the Company.

¹Converted from a public limited company to a private limited company by a Special Resolution passed at an Extraordinary General Meeting held on 19.4.1999.

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4. To arrange for buying all kinds of raw material, plant and machinery, equipments and tools whether local or imported, on cash, loan, deferred credit, pay-as-earn or non-repatriable investment basis.
5. To arrange electricity, water, gas, sewerage and other utilities required for efficient running of the project.
6. To appoint agents, sub-agents, attorneys, consultants, brokers and contractors in connection with the business of the Company but not to act as managing agents.
7. To adopt such means of making known the products of the Company as may seem expedient, and in particular by advertising in the press and electronic media, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals, and by prizes, rewards, stipends and donations.
8. To carry on any other business or trade which can, in the opinion of the Company, be advantageously or conveniently carried on by the Company in connection with the main and exclusive object, if calculated directly or indirectly, to develop any branch(es) of the Company's business or to increase the value any of the Company's property, assets or rights.
9. To enter into any arrangement with any governments or authorities (Federal, Provincial, Municipal, local or otherwise), or any corporations, companies, firms, or persons that may seem conducive to the Company's exclusive object, and to obtain from any such government, authority, corporation, company or person any charters, contracts, decrees, rights, privileges and concessions which the Company may think desirable, and to carry out, exercise and comply with any such charters, contracts, decrees, rights, privileges and concessions.
10. To sell or otherwise dispose off all goods, materials, articles and things belonging to the Company either on cash or on credit and either for immediate or future delivery and to send the same for sale or export to any place that may be deemed necessary or expedient in the event of winding up of the Company.
11. To get insured against losses, damages, risks, accidents and liabilities of all kinds which may affect the company whether in respect of its contracts, agreements, advances or securities or in respect of servants or employees of the company, or in respect of property belonging to or leased to or hired by the company, either by setting apart funds of the company or by effecting such insurance and in later case to pay the premium thereon.
12. To open, close and operate bank accounts with scheduled banks or financial institutions and to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, cheques, bills of lading, warrants, debentures and other negotiable or transferable instruments, concerning the business of this Company.
13. To invest the surplus moneys of the Company not immediately required in and subscribe for, take, acquire and hold shares, debentures, securities of any other company of corporation whatsoever, and to invest moneys of the Company in any other manner, including the purchase of any book or any other debts without doing the business of an investment company within the meaning of the law.
14. To borrow or procure on mark-up, profit or return in any form money or finances, in local or any foreign currency from any bank or financial institution and to receive money on mark-up and/or interest by issuing debentures, and on security of any such money so borrowed or received to



mortgage, pledge, charge or hypothecate whole or any part of property, assets or revenue of the Company (both present and future) including its capital by special assignment or otherwise, to transfer or convey the same conditionally, absolutely or in trust and to give, tender power to sell and other powers as may seem expedient, and to purchase or redeem such securities and pay for such borrowing and loans.

15. To procure or arrange finances from scheduled banks and financial institutions under any mode of Islamic financing scheme like, redeemable capital including modaraba and musharaka and to procure, raise or to secure the money in such manner as the company may deem fit and particularly by mortgage of its property in full or in part on both the present and future assets in accordance with Islamic Laws and/or by the issue of shares, bonds, debentures, participation term certificates, Term Finance Certificates, or redeemable capital or any other securities charged or based upon the undertaking of the company, on any part of its property, both present and in future and generally to borrow money for the purposes of the business of the company in such manner as the company shall deem fit. To issue debentures or participation term certificates, term finance certificates, redeemable capital, either permanent or redeemable or repayable or convertible into shares and to secure any securities of the company by a trust or other assurances.
16. To pay commission or otherwise remunerate any company or firm or firms or person or persons (whether an officer of this Company or not) for services rendered in placing or assisting to place any of the shares of the Company's capital or any debentures or other securities of the Company, or for negotiating any of the purchases or sales by the Company, or for rendering any service of any kind whatsoever to the Company.
17. To procure the registration or other recognition of the Company in any country, state or place and to establish and regulate agencies and open branches in any part of the world for the purposes of the Company's business.
18. To pay the costs, charges and expenses preliminary and incidental to the formation, establishment and registration of the Company, and to remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any of the shares in the Company's capital, or any debentures or other securities of the Company, or in or about the conduct of its business.
19. To grant pensions, allowances and bonuses to officers, ex-officers, employees or ex-employees of the company or its predecessors in business or the dependents or connections of such persons and establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees and ex-employees and officers and ex-officers (including Directors and ex-directors) of the Company, or the dependents or connections of such persons, and to pay gratuities or grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition, or for any public, general or useful object.
20. To distribute any of the property of the Company amongst the members in specie or kind and in particular any shares, debentures or securities of other companies belonging to this Company, or of which this Company may have the power of disposing in the event winding up of the Company.
21. To create any depreciation fund, provident fund, reserve fund, sinking fund, insurance fund, or any other special fund conducive to the interest of the company.



22. To capitalise such portion of the profits of the Company as are not distributed amongst shareholders of the Company in the form of dividend and as the Directors of the Company may think fit and to issue bonus shares as fully paid-up in favour of the shareholders of the Company.
23. To issue any shares of the Company as fully paid-up at par or at a premium or at a discount as provided by law.
24. To remunerate Directors, officials, servants of the Company or any other person or firm or company rendering services to this company, out of, or in proportion to the returns or profits of the company or otherwise as the Company may think proper, either by cash payment or by the allotment to him or them shares or securities of the Company credited as paid-up in full as may be thought expedient.
25. To appoint such persons or firms as may be seem expedient to be general managers, secretaries, managers, branch managers, or district representatives of the Company upon such terms as the Company may determine.
26. To establish and maintain branches, receiving offices and distributing centers and to enter into contracts or agency agreements (other than managing agency) with any other persons or firms or companies or for the distributing centers for the efficient carrying on of the business of the Company.
27. To undertake and execute any trusts which the company may think fit and expedient to undertake.
28. To apply for, purchase or other wise acquire, and protect and renew any patents, patent rights, brevets d'invention (trade marks, designs, etc.), licenses, concessions and the like, conferring any exclusive or non-exclusive or limited right to their use.
29. To establish, improve, manage laboratories, research and development centers to perform such research and development as the Company may deem advisable or feasible, and to expend money on experimenting upon testing and improving or securing any process or protecting any invention (s) which the Company may acquire or propose to acquire or deal with.
30. To develop and/or transfer technology and to acquire or pass on technical know-how.
31. To train personnel and workers, in Pakistan and/or abroad, to obtain technical proficiency in various specialities connected with the business of the Company.
32. It is hereby declared that:-
- (a) the word "company" in the above clauses except where used in reference to this Company shall be deemed to include any body of persons incorporated in Pakistan or elsewhere;
 - (b) the main and exclusive object for which the company is set up are indicated in Clause III. The Company shall have full authority, power and competence to do any and all other things and acts to further the purposes specified in Sub-clauses 1 to 31 in support of and in relation, whether directly or indirectly, to the said exclusive object of the Company.
 - (c) notwithstanding anything contained in the foregoing object clause of this Memorandum of Association, nothing herein shall be construed as empowering the Company to undertake or indulge in the business of banking, finance, leasing, investment or insurance, directly or

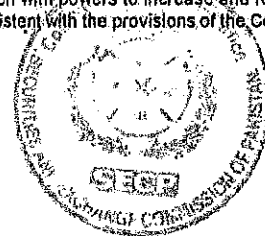


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indirectly, as restricted under law or in any unlawful operation and that nothing in the objects clause shall be construed to entitle it to engage in such business.

IV. The liability of the members is limited.

V. The authorised capital of the Company is Rs. 1,500,000,000 (Rupees Fifteen Hundred Million) divided into 150,000,000 ordinary shares of Rs. 10 each with powers to increase and reduce the capital of the Company in such manner as may be consistent with the provisions of the Companies Ordinance, 1984.



We, the several persons whose names and addresses are subscribed below are desirous of being formed into a Company in pursuance of the Memorandum of Association, and we respectively agree to take the number of shares in the Capital of the Company set opposite our respective names:-

Names and Surname (Present and former in full in block letters)	Father's/Husband's Name in full	Nationality with any former nationality	Occupation	Residential Address	Number of shares taken by each subscriber	Signature
MR. MOIZ S. TAPAL	LATE MR. SADIQ ALI	PAKISTANI	BUSINESS (TRADING)	6-A, 1ST GIZRI LANE, D.H.A., KARACHI	6,250	
MR. DAANISH A. TAPAL	MR. ANWAR ALI S. TAPAL	PAKISTANI	BUSINESS (TRADING)	R98, CLIFTON, KARACHI	6,250	
MR. TABISH M. TAPAL	MR. MOIZ S. TAPAL	PAKISTANI	BUSINESS (TRADING)	6-A, 1ST GIZRI LANE, D.H.A., KARACHI	6,250	
MR. SHAKIL A. TAPAL	MR. AMR ALI S. TAPAL	PAKISTANI	BUSINESS (TRADING)	K.P.T. 39/B, M. T. KHAN ROAD, LALAZAR, KARACHI	6,250	
MR. IAN CHRISTOPHER COPELAND	MR. LAWRENCE G. COPELAND	AMERICAN	ENGINEER/ BUSINESS	27-D, SEABIRD LAND DISCOVERY BAY, LANTAU ISLAND HONG KONG	1	
ALEXANDER ARMAND KARSNER	MR. DAVID WILFRED KARSNER	AMERICAN	BUSINESS	6-C, GREENBELT COURT DISCOVERY BAY, LANTAU ISLAND, HONG KONG	1	
KAJ TORE BJORKMAN	MR. EVALD BJORKMAN	FINLAND	MARKETING MANAGER	65920 N. VALLGRUND VASA, FINLAND	1	
MRS. KINGPIN INVESTMENT LIMITED THROUGH MR. IAN C. COPELAND	NONE	HONG KONG	FOREIGN COMPANY	14TH FLOOR, LUK KWOK CENTRE, 72 GLoucester ROAD, WANCHAI, HONG KONG	24,900	
TOTAL					50,000	

CERTIFIED TO BE TRUE COPY

ASSISTANT REGISTRAR
Companies Registration Office
Islamabad

Dated the _____ Day of _____ 1995

Witness to the above signatures

Full Name, Father's/Husband's Name

Signature

Occupation

Full Address

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THE COMPANIES ORDINANCE, 1984
(Company Limited by Shares)
ARTICLES OF ASSOCIATION¹
OF
TAPAL ENERGY (PRIVATE) LIMITED²

PRELIMINARY

1. Table A not to apply

The regulations contained in the Table 'A' in the First Schedule to the Ordinance 1984, shall not apply to the Company except so far as the same are repeated, contained or expressly made applicable in these Articles or by the Ordinance.

2. The marginal notes hereto shall not affect the construction hereof and in these presents, unless there is something in the subject of context for the time being in force:

- i) "Affiliate" shall mean, with respect to a Member, any Person directly or indirectly Controlling, Controlled by or under common Control with such Member;
- ii) "Agreement" means the Amended and Restated Shareholders Agreement between the Company, Sithe, Marubeni, Kingpin and the Tapal Shareholders dated 21 October 1997 as amended and/or restated from time to time;
- iii) "Agreed Equity" means the maximum total ordinary equity share capital of the Company being US\$ 33,774,131 (as the same may be increased in accordance with the terms of the Agreement);
- iv) "Articles" means these Articles of Association as altered by Special Resolution from time to time;
- v) "Board" means the Board of Directors for the time being at a meeting duly constituted, called and convened;

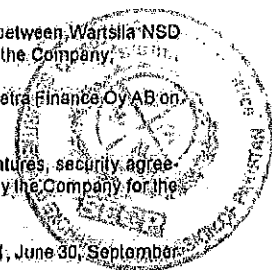
¹ Substituted by Special Resolution passed at an Extraordinary General Meeting held on 19.4.1999

² Converted from a public limited company to a private limited company by a Special Resolution passed at an Extraordinary General Meeting held on 19.4.1999.

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- vi) "Chief Executive" means the Chief Executive for the time being of the Company, by whatever name called, appointed pursuant to Section 198 of the Ordinance;
- vii) "Company" means Tapal Energy (Private) Limited;
- viii) "Complex" means the approximately 126 MW, (gross ISO) power station utilising residual fuel oil, to be owned and constructed by the Company off Hub River Road, in the District of Karachi West, Province of Sindh, Pakistan whether completed or at any stage of its construction, including without limitation or regard to level of development, land, engineering and design documents, all energy producing equipment and its auxiliary equipment, fuel storage and handling facilities and equipment, a switchyard, interconnection facilities (other than the Metering System, the Interconnection Facilities and the Transmission Facilities, all as defined in the Power Purchase Agreement) necessary for delivery of electricity to the Karachi Electric Supply Corporation Limited at the Interconnection Point (as defined in the Power Purchase Agreement);
- ix) "Contractors" means each of Power Construction Company, B.V. and Wartsila NSD Nederland B.V. (formerly known as Stork-Wartsila Diesel B.V.);
- x) "Construction Contract" means the Engineering and Construction Contract dated as of 21 December 1995 between the Company and Power Construction Company, B.V.;
- xi) "Control" shall mean the power of a Person (the "Controlling Person") to direct the management and policies of another Person whether through the ownership of voting securities, by contract or otherwise, and shall include the power to control material management and policy decisions of any Person by virtue of a contractual, corporate or partnership provision requiring the affirmative vote or approval of the Controlling Person, and "Controlling" and "Controlled" shall be construed accordingly;
- xii) "Dividend" includes bonus;
- xiii) "Directors" means the Directors including an alternate director for the time being of the Company;
- xiv) "Equipment Supply Contract" means the Equipment Supply Contract dated as of 12 October 1996 between the Company and Wartsila NSD Nederland B.V. (formerly known as Stork-Wartsila Diesel B.V.);
- xv) "EPC Guaranty" means the agreement dated 20 December 1995 between Wartsila NSD Nederland B.V. (formerly known as Stork-Wartsila Diesel B.V.) and the Company;
- xvi) "Existing Loan" means the existing loan facility made available by Metra Finance Oy AB on 14 December 1995 to the Company;
- xvii) "Financing Documents" means any loan agreements, notes, indentures, security agreements and other documents, evidencing or securing debt incurred by the Company for the financing or refinancing of the Project;
- xviii) "Fiscal Quarter" means each three Month period ending on March 31, June 30, September 30 and December 31 of each Fiscal Year;





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- xix) "Fiscal Year" means the year ending June 30;
- xx) "Fuel Supply Agreement" means the Fuel Supply Agreement made between Pakistan State Oil Company Limited and the Company as of 7 March 1998;
- xxi) "Guarantee" means the Guarantee made between the President of the Islamic Republic of Pakistan for and on behalf of the Islamic Republic of Pakistan and the Company dated 18 April 1998;
- xxii) "Group" means any of Sithe, Marubeni, Kingpin and collectively the Tapal Shareholders;
- xxiii) "Implementation Agreement" means the agreement made between the President of the Islamic Republic of Pakistan for and on behalf of the Islamic Republic of Pakistan and the Company dated 8 August 1995 as amended by Amendment No 1 made between the President of the Islamic Republic of Pakistan for and on behalf of the Islamic Republic of Pakistan and the Company dated 18 April 1998;
- xxiv) "Kingpin" means Kingpin Investments Limited, a corporation organised under the laws of Hong Kong and such successors and assigns of it as may be permitted from time to time;
- xxv) "Lien" means any mortgage, pledge, lien, claim, security interest, charge or encumbrance or any obligation to create a lien, charge, pledge, security interest, encumbrance or mortgage;
- xxvi) "Long Term Maintenance Agreement" means the Long Term Maintenance Agreement entered or to be entered into between the Sithe Operator and Wartsila Pakistan or an Affiliate of Wartsila Pakistan reasonably acceptable to the Sithe Operator;
- xxvii) "Member" means a member of the Company in accordance with the provisions of Section 2(1)(21) of the Ordinance;
- xxviii) "Marubeni" means Marubeni Corporation, a corporation organised under the laws of Japan and such successors and assigns of it as may be permitted from time to time;
- xxix) "Month" means calendar month;
- xxx) "Net Cash Flow" means, for any period of the Fiscal Year, including a Fiscal Quarter, all of the Company's cash receipts, including the proceeds of borrowing and any other income from any source, and reduced by the following cash disbursements, which shall be paid by the Company in the following order of priority:
 - (i) first, payment of any expenses, including: (1) payroll and employee benefits, including payroll taxes; (2) taxes and assessments, and fees and expenses incurred in connection with the preparation of the Company's tax returns; (3) insurance premiums; (4) without limitation, all other expenditures, including capital expenditures, required or deemed advisable to be made by the Board; and (5) operating expenses; and
 - (ii) secondly, payment when due and payable of interest, fees and principal of loans or other obligations of the Company;



- xxx(i) "New Capital" means any funding in addition to the Agreed Equity;
- xxx(ii) "Office" means the Registered Office for the time being of the Company;
- xxx(iii) "Operating and Maintenance Agreement" means the Operating and Maintenance Agreement made on 1 December 1995 between the Company and the Operator as amended and/or restated from time to time;
- xxx(iv) "Operator" means Wartsila Pakistan or, following the relinquishment by Wartsila Pakistan of its rights and the assumptions by the Silhe Operator of Wartsila Pakistan's obligations arising from and after the date of such assumption under the Operating and Maintenance Agreement, the Silhe Operator;
- xxx(v) "Ordinary Resolution" means a resolution passed at a general meeting of the Company when the votes cast (whether on a show of hands or in poll) in favour of a resolution by Members who being entitled to vote, in person or by proxy, do so vote, exceed the number of votes of any cast against the resolution by Members so entitled and voting;
- xxx(vi) "Ordinance" means the Companies Ordinance, 1984 or any statutory modification or re-enactment thereof for the time being in force;
- xxx(vii) "Overruns and Shortfalls" means all amounts that increases the Agreed Equity and each Member's proportionate share thereof on account of the following factors:
- (i) if due to constraints on availability of debt financing in the form of Working Capital and refinancing of the Existing Loan, the Members agree pursuant to Article 57 that the amount of equity financing required is higher than the amount of the Agreed Equity; or
 - (ii) any call or drawing in any guarantees, letters of credit or other financial support provided by the Members pursuant to the Agreement;
- xxx(viii) "Person" means an individual, partnership, corporation, company, joint venture, association, trust, incorporated organisation, or a government;
- xxx(ix) "Project" means the development, design, engineering, manufacture, financing, procurement of the Site, construction, permitting, installation, completion, testing, commissioning, insurance, ownership, operation and maintenance of the Complex and all activities incidental thereto;
- xl) "Project Costs" means the total cost of the Project approximately US\$ 141,727,131;
- xli) "Project Documents" means the Implementation Agreement, the Guarantee, the Fuel Supply Agreement, the Power Purchase Agreement, the Construction Contract, the Equipment Supply Contract, the EPC Guaranty, the Operating and Maintenance Agreement, the Long Term Maintenance Agreement, the Memorandum and Articles of Association of the Company and any land purchase or title documents pertaining to the Site for the location of the Project and each other material agreement and document relating to the Project, excluding the Financing Documents, entered into by the Company after 21 October 1997 (including land purchase documents for the Islamabad property);



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- xlii) "Power Purchase Agreement" means the Power Purchase Agreement made between the Karachi Electric Supply Corporation Limited and the Company dated 26 September 1995 as amended by Amendment No.1 made between the Karachi Electric Supply Corporation Limited and the Company dated 9 May 1996;
- xliii) "Proxy" includes an attorney duly constituted under a power of attorney;
- xliv) "Register" means the Register of Members to be kept pursuant to Section 147 of the Ordinance;
- xlv) "Seal" in relation to a Company means the Common Seal of the Company;
- xlvii) "Secretary" means the Secretary for the time being of the Company;
- xlviii) "Shareholder Loan" means a loan from a Member (or an Affiliate of a Member) to the Company to fund Agreed Equity, New Capital, Working Capital or Overruns and Shortfalls;
- xlx) "Site" means the land, spaces, waterways, road, wells and any rights acquired or to be acquired by the Company for the purposes of the Complex on, through, above or below the ground on which the complex or any part thereof is to be built (including, without limitation, any working areas required by the Company and the Contractors, villages, township, and camps for the accommodation of the employees of the Company and the Contractors and any subcontractors; and, all rights of way and access from public highways, railways, and seaward access, if applicable);
- i) "Sithe" means Sithe Mauritius Limited, a limited liability company organised under the laws of Mauritius and such successors and assigns of it as may be permitted from time to time;
- ii) "Sithe Operator" means one or more Affiliates of Sithe that are reasonably acceptable to the Company;
- iii) "Special Resolution" has the meaning assigned thereto by Section 2(1)(36) of the Ordinance;
- iiii) "Tapal Shareholders" means Moiz S. Tapal, Dannish A. Tapal, Tabish M. Tapal, Shakil A. Tapal, Tajwar M. Tapal, Mustafa A. Tapal, Amir S. Tapal, Zafar A. Tapal and the permitted transferees of such shareholders as provided under the Agreement;
- iv) "Term Sheet" means collectively (i) Summary of Key Terms and Conditions dated 23 December 1996 initiated by the Company, ING Bank N.V. and Merita Bank Limited, (ii) Summary of Terms and Conditions for the FMO Term Loan Facility dated 13 January 1997 between the Company and Nederlandse Financierings-Maatschappij Voor Ontwikkelingslanden N.V. and, (iii) Draft Term Sheet, Finnfund Loan Facility for Tapal Energy Limited dated 13 March 1997 from Finnish Fund for Industrial Cooperation Ltd. and accepted on behalf of the Company on 18 March 1997;
- iv) "Wartsila Pakistan" means Wartsila NSD Pakistan (Pvt) Limited formerly known as Wartsila Diesel Pakistan (Pvt) Limited, a private limited company organised and existing under the laws of Pakistan;



- iv) "Working Capital" means short term loans in the amount of US \$10,500,000 and a short term loan in the amount of US\$ 453,000 supported or provided by Kingpin to finance part of the Project Costs.
 - lv) Words importing the singular number shall include the plural number and vice versa;
 - lvii) Words importing the masculine gender shall include the feminine gender.
 - lix) Expression referring to writing shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.
3. Unless the context otherwise requires words or expressions contained in these Articles shall bear the same meaning as in the Ordinance.

PRIVATE COMPANY

4. The Company is a private limited company and accordingly:
- (a) the right to transfer shares of the Company is restricted in the manner hereinafter provided;
 - (b) the number of Members for the time being of the Company (not including persons who are for the time being in the employment of the Company) shall be limited to fifty (50); Provided that, for the purpose of this provision where two or more persons hold one or more shares in the Company jointly, they shall be treated as a single number; and
 - (c) an invitation to the public to subscribe for any shares or debentures of the Company is hereby prohibited.

CAPITAL

5. The authorised share capital of the Company is Rs. 1,500,000,000 (Rupees fifteen hundred million) divided into 150,000,000 ordinary shares of Rs. 10 (Rupees Ten) each with powers to increase and reduce the capital of the Company in such manner as may be consistent with the provision of the Ordinance.

SHARES

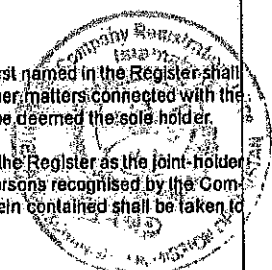
6. The Company shall not issue partly paid shares.
7. Except to the extent and in the manner allowed by Section 95 of the Ordinance no part of the funds of the Company shall be employed in the purchase of, or in loans upon the security of, the Company's shares.
8. The Directors may with the sanction of an Ordinary Resolution of the Company in general meeting, increase the authorised share capital by such sum as they think fit, to be divided into shares of such amount as the resolution may prescribe, subject, nevertheless, to the provisions of Section 92 of the Ordinance.
9. Subject to compliance with the requirements of Articles 57 and 98 and Section 86 of the Ordinance where the Directors decide to increase the capital of the Company by the issue of further shares,



YAPAL ENERGY

either at a premium or at par, such shares shall be offered on such terms and conditions and for such consideration, and at such times as the Directors deem fit, to the Members strictly in proportion to the existing shares held by each Member. Such offer shall be made by notice specifying the number of shares to which the Member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time or on receipt of an intimation from the Member to whom such notice is given that such Member declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

10. The Company may at any time pay commission to any person for subscribing or agreeing to subscribe (whether absolutely or conditionally) for any shares, debentures or debenture stock of the Company, or procuring or agreeing to procure subscriptions (whether absolutely or conditionally), for any shares, debentures, debenture stock of the Company, but if the commission in respect of shares shall be paid or payable out of capital, the conditions and requirements laid down in Section 82 of the Ordinance shall be observed. The amount or rate of commission shall not exceed any statutory limit thereon. The commission may be paid or satisfied in cash or in shares, debentures or debenture stock of the Company.
11. Except so far as otherwise provided by the conditions of issue or by these presents, any capital raised by the creation of new shares, shall be considered part of the original capital and shall be subject to the provisions herein contained with reference to the payment, transfer and transmission, surrender, voting and otherwise.
12. The Company may from time to time by Special Resolution reduce its share capital in any way and in particular (without prejudice to the generality of the power) by paying off capital or cancelling capital which has been lost or is unrepresented by available assets or reducing the liability on the share or otherwise as may seem expedient and capital may be paid off which is in excess of the needs of the Company or otherwise, and paid up capital may be cancelled as aforesaid without reducing the nominal amount of the shares by the like amount to the extent that the unpaid and callable capital shall be increased by the like amount.
13. Save as herein otherwise provided, the Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not, except as ordered by a court of competent jurisdiction, be bound to recognise any equitable, contingent or partial interest in or any other right in respect of such share on the part of any other person.
14. Shares may be registered in the name of any limited company or other body corporate but not in the name of a minor or a firm. Not more than four persons shall be registered as joint holders of any shares.
15. If any share stands in the name of two or more persons, the person first named in the Register shall, as regards receipt of dividend or service of notice and all or any other matters connected with the Company except voting at the meeting and the transfer of shares, be deemed the sole holder.
16. In the case of the death of any one or more of the persons named in the Register as the joint holder of any share, the survivor or survivors shall be the only person or persons recognised by the Company as having any title to or interest in such share, but nothing herein contained shall be taken to release the estate of a joint holder from any liability.





17. Every Member shall name to the Company a place in or out of Pakistan to be registered as his address and such address shall for all purposes be deemed to be his place of residence.
18. Subject to the provisions of Section 92 of the Ordinance the Company may by Ordinary Resolution:
 - a) consolidate and divide the whole or any part of its share capital into shares of larger amount than its existing shares;
 - b) sub-divide its shares or any of them into shares of smaller amount than is fixed by the Memorandum of Association;
 - c) cancel any shares which at the date of passing of the resolution have not been taken or agreed to be taken by any person.

The resolution by which any share is sub-divided or consolidated may determine that as between holders of shares resulting from sub-division or consolidation, rights of profits, votes and other benefit attaching to them will be proportionate to their paid up value and where shares issued as sub-divided or consolidated shares are of same class as those previously issued that rights attaching to them, subject as aforesaid, shall be the same as those attaching to the shares previously held.

19. Subject to the provisions of the Ordinance and these Articles, the Directors may allot and issue shares in the capital of the Company as payment or part payment of any property, sold or transferred, or in discharge of any indebtedness or obligations of the Company, or for goods or machinery supplied or for services rendered to the Company in or about the formation or promotion of the Company or the conduct of its business, and any shares which may be sold or allotted may be issued as fully paid-up shares, and, if so issued, shall be deemed to be fully paid-up shares.

CERTIFICATE

20. Every person whose name is entered as a Member in the Register shall without payment be entitled to receive, after allotment or registration of transfer, one certificate for all his shares or several certificates each for one or more of his shares; and upon payment of such charges, if any, as the Directors may determine for every certificate after the first.
21. The certificates of title of shares and duplicates thereof when necessary shall be issued under the Seal and shall specify the share or shares held by a Member and the amount paid thereon including in particular and without limitation such legends as the Company shall be obligated to affix to certain of the certificates by law or as the Company shall have agreed to affix pursuant to any contractual arrangements entered into by the Company in this respect.
22. The Company shall not be bound to issue more than one share certificate in respect of a share or shares held jointly by two or more persons, and delivery of a certificate for a share to any one of joint holders shall be sufficient delivery to all.
23. The Company shall, within ninety days, after the allotment of any of its shares, and within 45 days after the date on which the instrument of transfer has been lodged, complete and have ready for delivery the certificates of all shares, allotted or transferred, unless the conditions of issue of the shares otherwise provide.



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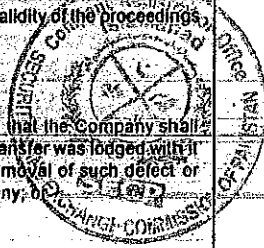
24. If any certificate be worn out, defaced, destroyed or lost or if there is no further space on the back thereof for endorsement of transfer, it may be renewed or replaced on payment of such sum, not exceeding five rupees, as the Directors may from time to time prescribe; provided, however, that such new certificate shall not be granted except upon delivery of the worn out or defaced or used up certificate for the purpose of cancellation or upon proof of destruction or loss to the satisfaction of the Directors and on such indemnity as the Directors may deem adequate in case of certificate having been lost or destroyed. Any renewed certificates shall be marked as such.

COMPLIANCE WITH THE AGREEMENT

25. The Members, the Company, the Chief Executive of the Company and the Directors of the Company shall at all times comply and ensure compliance with the terms and conditions of the Agreement.

TRANSFER AND TRANSMISSION OF SHARES

26. No share or any interest in or to a share (including the granting of any warrants or options with respect thereto) in the Company shall be sold or transferred by a Member or other person entitled to sell or transfer unless and until the rights of first refusal conferred by the Agreement on Members by Article IV of the Agreement shall have been exhausted.
27. In the event of sale or transfer of shares as provided in Article 26 the transferee of shares shall, if not already a party become a party to the Agreement and shall be bound by the terms of the Agreement in the same manner and to the same extent as the transferor of shares. Until the transferee becomes a party to the Agreement the transferor shall be deemed to continue to own such shares and shall be and remain fully liable for any liabilities in respect of such shares and for the acts, omissions or defaults of the transferee with respect to such shares and the provisions of the Agreement as if the transferor were still a party thereto. No transfer shall relieve the transferor of responsibility for its own acts, omissions or defaults under or pursuant to the Agreement.
28. Notwithstanding anything contained in these Articles a Member may assign or transfer its shares or any portion thereof to an Affiliate without compliance with the terms of Article 26 provided that such Member complies with the terms of the Agreement in this regard. For the purposes of this Article the term "Affiliate" shall be deemed to include the spouses and lineal ascendant, descendant and cognate relatives (and their respective spouses) of the Tapal Shareholders.
29. If in any case the proposing transferor after having become bound as aforesaid makes default in transferring the shares, the Company may receive the purchase money and shall thereupon cause the name of the purchaser to be entered in the Register as the holder of the shares, and shall hold the purchase money in trust for the proposing transferor. The receipt of the purchase consideration by the Company shall be a good discharge to the purchasing member, and after his name has been entered in the Register in purporting exercise of the aforesaid power, the validity of the proceedings shall not be questioned by any person.
30. The Directors shall not refuse to transfer any fully paid shares unless:
- (a) the transfer deed is for any reason defective or invalid provided that the Company shall within thirty (30) days from the date on which the instrument of transfer was lodged with it notify the defect or invalidity to the transferee who shall after removal of such defect or invalidity be entitled to re-lodge the transfer deed with the Company;





- (b) the transfer is in breach of the Agreement or any other contractual arrangements entered into by the Company; or
- (c) the transfer is in violation of these Articles.
31. If the Company refuses to register the transfer of any shares, owing to any attachment or prohibitory order of a competent authority or otherwise, the Company shall within forty five (45) days after the date on which the instrument of transfer was lodged with it, send notice to the transferee notice of the refusal indicating reasons for such refusal. No transfer of shares in any case shall be made to a minor or an insolvent or person of unsound mind.
32. The transfer of shares shall be effected by an instrument in writing in the usual common form modified so as to suit the circumstances of the parties and shall be executed both by the transferor and the transferee and duly stamped according to law, and execution be attested by at least two male witnesses, who shall add their address and occupation, and the transferor shall be deemed to remain the holder of such shares until the name of transferee shall have been entered in the Register of Members in respect hereof.
33. Every instrument of transfer shall be left at the office for registration, duly stamped and shall be accompanied by the certificate of the shares to be transferred and such other evidence as the Company may require to prove the title of the transferor or his right to transfer the shares. All instruments of transfer which will be registered shall be retained by the Company, but any instrument of transfer which the Directors decline to register shall, on demand, be returned to the person depositing the same.
34. Where it is proved to the satisfaction of the Directors that an instrument of transfer signed by the transferor and the transferee has been lost, the Company may, if the Directors shall think fit, by an application in writing made by the transferee and bearing the stamp required by an instrument of transfer, register the transfer on such terms as to indemnity or otherwise as the Directors may think fit.
35. Nothing contained in these Articles shall prejudice any power of the Company to register as Member any person to whom the right to any shares of the Company has been transmitted by operation of law.
36. No fee will be charged for registering transfer of shares.
37. The transfer books and Register of Members may be closed for any time or times not exceeding in the whole forty five days in each year, but not exceeding thirty days at a time, in accordance with the manner specified in Section 151 of the Ordinance.
38. The nominees of a deceased Member as specified in Section 80 of the Ordinance, or executors or administrators of a deceased Member shall be the only persons recognised by the Company as having title to his share except in case of joint holders in which case the surviving holders or the executors or administrators of the last surviving holder shall be the only persons entitled to be so recognised; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share jointly held by him. The Company shall not be bound to recognise a nominee of a deceased Member or executor or administrator unless he shall have obtained probate or letters of administration, succession certificates or other legal representation, as the case may be, from a court of competent jurisdiction. Provided nevertheless that where the Directors



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in their absolute discretion think fit it shall be lawful for the Directors to dispense with the production of probate or letters of administration, succession certificates or such other legal representation upon such terms as to indemnity or otherwise as the Directors in their absolute discretion may consider necessary.

39. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.
40. Neither the Company nor its Directors shall incur any liability or responsibility whatsoever in consequence of their registering or giving effect to any transfer of shares made or purporting to be made by an apparent legal owner thereof to the prejudice of persons having or claiming any equitable right, title or interest to or in the same, notwithstanding that the Company may have had notice of such equitable right, title or interest, or notice prohibiting registration of such transfer, and may have entered such notice or referred thereto in any book of the Company and shall not be bound or required to attend or give effect to any notice which may be given to them of any equitable right, title or interest or be under any liability whatsoever for refusing or neglecting so to do, though it may have been entered or referred to in some book of the Company; but the Company shall nevertheless be at liberty to regard and attend to any such notice and give effect thereto if the Directors shall so think fit.

GENERAL MEETINGS

41. A general meeting, to be called Annual General Meeting, shall be held within eighteen Months from the date of incorporation and thereafter once at least in each calendar year within a period of six Months following the close of its financial year at such time and place as the Directors may determine, provided, however, that no greater interval than fifteen Months shall be allowed to elapse between two Annual General Meetings. All general meetings of the Company other than the Statutory Meeting and the Annual General Meeting, shall be called Extraordinary General Meetings.
42. The Directors may, whenever they think fit, call an Extraordinary General Meeting and Extraordinary General Meeting shall also be called on the requisition of the holders of not less than 10% of the issued and paid up share capital of the Company. On the date of deposit of requisition, the Directors shall forthwith proceed to convene an Extraordinary General Meeting of the Company and in case of such requisition, the provisions of Section 159 of the Ordinance shall apply.
43. If at any time there are not within Pakistan sufficient Directors capable of acting to form a quorum, the Directors may convene an Extraordinary General Meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

NOTICE OF MEETING

44. Subject to the provisions of Sections 158 and 159 of the Ordinance twenty-one days' notice at least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business the general nature of that business, shall be given in the manner provided by the Ordinance for the general meeting, to such persons as are under the Ordinance or the regulations of the Company, entitled to receive such notice from the Company. With the consent in writing of all



the Members entitled to receive notice of some particular meeting (other than the Annual General Meeting) at which a special resolution is to be passed that meeting may be convened by such shorter notice and in such manner as the Members may deem fit.

45. The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any Member or person entitled to receive notice shall not invalidate the proceedings at any general meeting.

PROCEEDINGS AT GENERAL MEETINGS

46. The ordinary business of the Company at an Annual General Meeting shall be to receive and consider the balance sheet and profit and loss account, the reports of the Directors and of the auditors, to elect Directors, to declare dividends and to appoint auditors, and fix their remuneration. All other business transacted at an Annual General Meeting and all business transacted at Extraordinary General Meetings, shall be deemed special.
47. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Subject to the provisions of the Ordinance, three Members present personally who represent not less than twenty-five percent of the total voting power, either of their own account or as proxies, shall be a quorum.
48. If within half an hour from the time appointed for a general meeting, a quorum is not present, the meeting if called upon the requisition of Members shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, and, at such adjourned meeting if a quorum is not present within half an hour from the time appointed for such meeting the Members present being not less than three shall constitute a quorum and may transact the business for which the meeting was called.
49. The Chairman, if any, of the Board shall preside as Chairman at every general meeting of the Company, but if there is no such Chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Members present shall elect one of the Directors present to be Chairman of the meeting, or if no Directors be present or if Directors present decline to take the chair, the Members present shall choose one of their member to be Chairman of the meeting. Every Director of the Company shall have the right to attend any general meeting of the Company and also to take part in the discussion thereat.
50. The Chairman may with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of adjourned meeting shall be given as in the case of original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
51. At a general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the show of hands) demanded in accordance with provisions of Section 167 of the Ordinance:
- a) by the Chairman of the meeting of his own motion; or

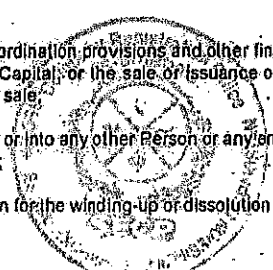


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- b) by one Member having the right to vote on the resolution and present in person or by proxy if not more than seven such Members are personally present, and by two such Members present in person or by proxy if more than seven such Members are personally present; or
- c) by any Member or Members present in person or by proxy and having not less than one-tenth of the total voting power in respect of the resolution; or
- d) by any Member or Members present in person or by proxy and holding shares in the Company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid-up which is not less than one-tenth of the total paid-up on all shares conferring that right.

Unless a poll is so demanded, a declaration by the Chairman of the meeting that a resolution has on a show of hands been carried or carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

- 52. All decisions required to be taken by the Members under the Articles or applicable law shall be taken at a meeting and shall require the affirmative vote of Members holding a majority of the issued and paid-up share capital of the Company, except in the case of a decision requiring a greater percentage affirmative vote as set out in Article 57.
- 53. Any poll duly demanded on the election of a Chairman of a meeting or on any question of adjournment shall be taken at the meeting and without adjournment.
- 54. If a poll is duly demanded, it shall be taken in accordance with the manner laid down in Section 168 of the Ordinance and the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 55. The demand of a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded. The demand for a poll may be withdrawn at any time by the person or persons who made the demand.
- 56. The Chairman of any meeting shall be the sole judge of the validity of every vote tendered at such meetings. The Chairman present at the time of taking of a poll shall be the sole judge of the validity of every vote tendered at such poll.
- 57. Notwithstanding anything contained in these Articles the affirmative vote of the Members holding at least eighty-five percent (85%) of all issued and paid up shares shall be required with respect to a decision regarding any of the following matters:
 - (i) the issuance of, and the interest rate, terms, subordination provisions and other financial provisions relating to the issuance of, any New Capital; or the sale or issuance of New Capital to any Person not a Member prior to such sale;
 - (ii) any merger or consolidation of the Company with or into any other Person or any entry by the Company into a joint venture with any Person;
 - (iii) the filing by the Company of any voluntary petition for the winding-up or dissolution of the Company;





- (iv) any amendment to the Memorandum and Articles of Association;
- (v) the incurring of indebtedness on the part of the Company or the provision of guarantees by the Company in an aggregate outstanding amount at any time of US\$500,000 or more (excluding the Existing Loan and any refinancing thereof as contemplated by the Term Sheet and Working Capital;
- (vi) the approval of all material agreements (including any amendments thereto) entered or to be entered into by the Company after the date of the Agreement, including any Financing Document, any other agreement with respect to the financing arrangements for the Project and any additional Project Document other than any document entered or to be entered into by the Company for the refinancing of the Existing Loan as contemplated by the Term Sheet;
- (vii) any change in the number of Directors comprising the Board;
- (viii) any change in the status of the Company or other reorganisation of the Company or its assets;
- (ix) approval of any plan of refinancing the Existing Loan other than the refinancing contemplated by the Term Sheet;
- (x) the requirement for any support from the Shareholders, other than for Working Capital and the refinancing of the Existing Loan as contemplated by the Term Sheet; and
- (xi) the transaction of any business by the Company with a Member or any Affiliate of a Member, or the causing of the Company to enter into any contract or other agreement with a Member, an Affiliate of a Member or any employee, officer or director of a Member.

VOTES OF MEMBERS

58. On a show of hands every Member who, being an individual, is present in person or by proxy or being a body corporate, is present by a representative duly appointed pursuant to Article 69 shall have one vote except in the case of an election of Directors in which case the provisions of Section 178 of the Ordinance shall apply. On a poll every Member shall have voting rights as laid down in Section 180 of the Ordinance. Nothing contained in these Articles shall prevent a Member from binding in the case of an individual, himself, and in the case of a body corporate itself by contract with any other Member or Members to vote his or its shares or other voting securities in any particular manner, subject to the terms and conditions of the Agreement, at an election of Directors or for the removal of Directors or for the removal of the Chief Executive or otherwise at any general meeting of the Company.
59. In the case of joint holders the vote of the senior Member present whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which their names stand in the Register.
60. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian and any such committee or guardian may, on a poll, vote by proxy.

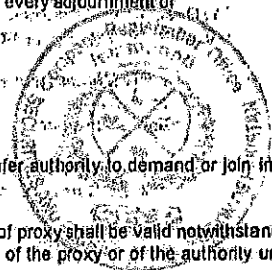


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61. No Member shall be entitled to vote at any general meeting unless all sums presently payable by him in respect of shares in the Company have been paid.
62. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
63. On a poll, votes may be given either personally or by proxy, or, in the case of a body corporate by a representative duly authorised in accordance with Article 69.
64. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing, or if the appointer is a body corporate, under its common seal or the hand of an officer or attorney duly authorized by it and in default the instrument of proxy shall not be duly authorized. A proxy need not be a Member. A proxy who is appointed for a specified meeting only shall be called a Special Proxy. Any other proxy shall be called a General Proxy. A Special Proxy shall be valid only for the meeting to which it relates and it may not be used for more than one meeting.
65. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority, shall be deposited at the Office not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy or the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority shall not be treated as valid.
66. An instrument appointing a proxy may be in the following form, or in any other form which the Directors shall approve:-

I, the undersigned of being a member of TAPAL ENERGY (PRIVATE) LIMITED hereby appoint Mr./Mrs./Miss of or failing him/her of as my proxy to vote for me and on my behalf at the Annual or Extraordinary (as the case may be) General Meeting of the Company to be held on the day of and at every adjournment thereof (or at every general meeting of the Company to be held before the day of and at every adjournment of any such meeting).

Signed this day of



67. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
68. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under

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which the proxy was executed, or the transfer of the shares in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

69. Subject to the provisions of Section 162 of the Ordinance, a body corporate which is a Member may, by resolution of its directors or in such manner as may be permitted or required by its constitution, authorise in writing any person to act as its representative at any meeting of the Company and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member of the Company present in person. A body corporate attending a meeting through such representative shall be deemed for all purposes of these Articles to be a Member present in person at the meeting.

DIRECTORS

70. The number of Directors to be elected shall be fixed, pursuant to the provisions of Section 178 of the Ordinance.

71. Article 71 deleted and replaced with this Article 71 reproduced at the bottom of this page.

72. The first Directors of the Company shall be appointed by the Subscribers.

73. Save as provided in Section 187 of the Ordinance no person shall be appointed as a Director unless he is a Member.

74. The first Directors shall stand retired at the first annual general meeting, and directors shall be elected in their place in accordance with Article 77 hereof.

75. Any person who seeks to contest an election to the office of Director shall, whether he is a retiring Director or otherwise, file with the Company, not later than fourteen days before the date of the meeting at which elections are to be held, a notice of his intention to offer himself for election as a Director. Provided that any such person may, at any time, before the holding of elections withdraw such notice.

76. Retiring Directors shall be eligible for re-election.

77. The Directors shall be elected in accordance with the provisions of the Ordinance by the Members in General Meeting from amongst the candidates eligible for election in the following manner:

- a) every Member present in person or by proxy or by representative shall have such number of votes as is equal to the product of the number of voting shares held by him and the number of Directors to be elected;
- b) the number of votes calculated in accordance with the preceding clause (a) may be given to a single candidate or may be divided between any two or more candidates in such manner as the person voting may choose; and

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71. Unless otherwise determined by the Company in General Meeting in accordance with the provisions of Article 98(b), the Board shall consist:
- (i) ten (10) elected directors including a Chief Executive, if the Chief Executive is nominated from one of the elected directors; or
 - (ii) ten (10) elected directors plus a Chief Executive, if the Chief Executive is not nominated from one of the elected directors.



- c) the candidate who gets the highest number of votes shall be declared elected as Director and then the candidate who gets the next highest number of votes shall be so declared and so on until the total number of Directors to be elected has been so elected.
78. The Company may at any time, by a resolution in general meeting remove a director, appointed under Section 176 or Section 180 or elected in the manner provided for in Section 178 of the Ordinance:
- Provided that a resolution for removing a director shall not be deemed to have been passed unless the number of votes cast in favour of such a resolution is not less than:-
- the minimum number of votes that were cast for the election of a director in the manner provided in subsection (5) of Section 178 of the Ordinance; or
 - the total number of votes for the time being computed in the manner laid down in sub-Section (5) of Section 178 of the Ordinance divided by the number of directors for the time being, if the resolution relates to removal of director appointed under Sections 176 or 180 of the Ordinance.
79. Retiring Directors shall continue to perform their functions until their successors are elected.
80. A Director elected by the Members in general meeting shall hold office for a period of three years following the date from which his election is effective unless he earlier resigns, becomes disqualified from being a Director or otherwise ceases to hold office.
81. In the event a vacancy occurs on the Board by reason of the death, resignation or removal of a director, such vacancy shall be filled by the vote of the remaining Directors if still constituting a quorum, or if no quorum exists, by the Members at a general meeting called for that purpose. A director elected or appointed to fill a vacancy caused by the death, resignation or removal of a director shall be elected or appointed only for the unexpired term of such director's predecessor in office.
82. When any Director intends to be, or is absent for a period of not less than three (3) Months from Pakistan, he may with the approval of the Directors appoint any person to be his alternate director, and such alternate director during the absence of the appointer from Pakistan, shall be entitled to receive notice of and to attend and vote at meeting of Directors and shall be subject to and entitled to the benefit of the provisions contained in these Articles with reference to directors and may exercise and perform all such powers, directions and duties as his appointer could have exercised or performed including the power of appointing another alternate director. An alternate director so appointed shall not be entitled to receive any remuneration from the Company nor be required to hold any qualification. Such appointment shall be recorded in the Directors minute book. A Director may at any time by notice in writing to the Company remove an alternate director appointed by him, upon the return of the appointer to Pakistan, or the death of, or the retirement or resignation as Director of the appointer, the alternate director shall cease to be such provided that if any Director retires but is re-elected at the meeting at which such retirement took effect any appointment made by him pursuant to this Article which was in force immediately prior to his retirement and re-election and which has not otherwise ceased to be effective shall continue to operate after his re-election as if he had not so retired. An alternate director shall not be deemed to be the agent of the Director appointing him but shall be reckoned as one with his appointer. All appointments and removals of alternate directors shall be effected by writing under the hand of the Director making or revoking

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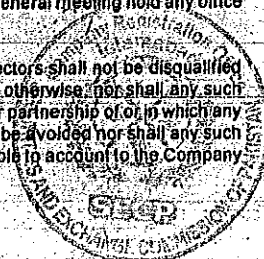
such appointment and left at the office. For the purpose of assessing a quorum in accordance with the provisions of Article 97 hereof an alternate director shall be deemed to be Director. Any Director may act as

Alternate director for any one or more Directors, as well as being able to act as a Director in his own right. An alternate director may resign as such upon giving thirty (30) days prior notice to the Board to this effect. An alternate director need not be a Member.

83. The Directors shall be paid such travelling and hotel expenses as may be fixed by the Directors from time to time or if a Director has to come to attend the Board meeting from outstation.
84. The Directors shall elect one of their member as the Chairman of the Board and the Chairman shall not have a second or casting vote.
85. The Directors may from time to time delegate any of their powers to a committee or committees consisting of two (2) or more members of their body as they think fit. A committee's duties and powers shall be restricted to the purpose for which it is formed. Any committee so formed shall conform to any regulations that may be imposed upon it by the Directors and shall be governed, in the exercise of the powers so delegated, by the provisions herein contained for regulating meetings and proceedings applicable to the Directors.

POWERS AND DUTIES OF DIRECTORS

86. The business of the Company shall be managed by the Directors, who may pay all expenses incurred in setting up and registering the Company, and may exercise all such powers of the Company as are not by the Ordinance or by these Articles, required to be exercised by the Company in general meeting provided that no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.
87. Subject to the provisions of Articles 57 and 58 the Directors may exercise all the powers of the Company to borrow money and to mortgage its undertaking, property and capital or any part thereof, and to issue securities and debentures, participation or term finance certificates or any other instrument, whether as security for any debt, liability or obligation of the Company or of any third party or otherwise.
88. The Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) for such period subject to such conditions, if any, as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney to delegate all or any of the powers, authorities, and discretion vested in him.
89. A Director of the Company or a firm of which such Director is a partner or private company of which such Director is a director may with the consent of the Company in general meeting hold any office of profit in the Company.
90. Subject to the provisions of Section 195 of the Ordinance, the Directors shall not be disqualified from contracting with the Company either as vendor, purchaser, or otherwise nor shall any such contract or agreement entered into by or on behalf of the company or partnership of or in which any Director of the Company shall be a member or otherwise interested be avoided nor shall any such Director so contracting or being such member or so interested be liable to account to the Company.



for any profit realized by any such contract or arrangement by reason of such Director holding the office or of the fiduciary relation thereby established, but the nature of his interest must be disclosed by him at the meeting of the Directors at which the contract or arrangement is determined on, if the interest then exists, or in any other case at the first meeting of the Directors after the acquisition of the interest. A general notice that any Director of the Company is a director or a member of any other company or is a member of any named firm and is to be regarded as interested in any subsequent transaction with such company or firm shall, as regards any such transaction, be sufficient disclosure under this Article and after any such general notice it shall not be necessary to give any special notice relating to any particular transaction with such firm or company. In the case of a Director being directly or indirectly interested or concerned in a contract for the appointment of a chief executive, managing agent, whole time director, or secretary of the Company, the provisions of Section 218 of the Ordinance shall be observed and performed.

91. In accordance with the provisions of Section 219 of the Ordinance a Register shall be kept by the Directors in which shall be entered particulars of all contracts or arrangements and which shall be open to inspection by any Member at the Office during business hours.
92. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
93. The Directors shall duly comply with the provisions of the Ordinance and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the Company or created by it, and to keep a Register of the Directors and managers, and to send to the Registrar an annual list of Members and a summary of particulars relating thereto and notice of any consolidation or increase of share capital and copies of special resolutions and a copy of the Register of the Directors and notification of any changes therein.
94. The Directors shall cause minutes to be made in books provided for the purpose:
- a) of all appointments of officers made by the Directors;
 - b) of the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
 - c) of all resolutions and proceedings of all meetings of the Company, and of the Directors and of committee of Directors; and every Director present at any meeting of Directors or committee of Directors shall sign his name in a book to be kept for the purpose and any such minute of such a meeting if purporting to be signed by the Chairman thereof, or by the Chairman of the next succeeding meeting of the same body, shall be sufficient evidence without any further proof of the facts therein stated.

VACATION OF OFFICE OF DIRECTORS

95. A Director shall ipso facto cease to hold office if:

- a) he is found to be of unsound mind by a court of competent jurisdiction, or
- b) he is adjudged an insolvent, or

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- c) he ceases to be a Member of the Company save as provided in Section 187(h) of the Ordinance, or
- d) he or any firm of which he is a partner or any private company of which he is a director without the sanction of the company in general meeting accepts or holds any office of profit under the Company other than that of Chief Executive or a legal or technical advisor or banker, or
- e) he absents himself from three consecutive meetings of the Directors or from all meetings of the Directors for a continuous period of three Months whichever is the longer without leave of absence from the Board, or
- f) he acts in contravention of Section 195 of the Ordinance, or
- g) he resigns his office by notice in writing to the Company, or
- h) he suffers from any of the disabilities or disqualifications mentioned in Section 187 of the Ordinance, or
- i) he has been convicted by a court of competent jurisdiction for an offence involving moral turpitude, or
- j) he has betrayed lack of fiduciary behaviour and a declaration to this effect has been made by the Court under Section 217 of the Ordinance.

PROCEEDINGS OF DIRECTORS

- 96. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. The Board of Directors shall meet at least four times in every year to conduct the business of the Company. A Director may, and the Secretary on the requisition of Director shall, at any time, summon a meeting of Directors. No meeting of the Board of Directors may be held unless not less than seven (7) days' notice has been given to each Director on the Board of Directors; provided however that such meeting may be held upon shorter notice if such notice is waived in writing by all of the Directors. If and to the extent permitted by law, meetings of the Board of Directors may be held by video conference call, provided a quorum of Directors is present on such call and such directors can hear and see each other and are able to satisfy themselves that the directors present at such meetings remain present for the duration thereof.
- 97. The quorum necessary for the transaction of the business of the Directors shall be five Directors actually present in person or by an alternate director, and at least one of whom shall have been nominated by each Group entitled to nominate a director pursuant to the Agreement. For the purposes of this Article, an alternate director appointed by a Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.
- 98. (a) Except as set forth in Article 98(b) decisions and resolutions of the Board shall be taken by not less than two-thirds of the Directors present at a meeting at which there is a quorum.
(b) No resolution concerning any matter listed below when put to vote, shall be deemed to be carried except when voted in favour of such resolution by at least seven Directors on the Board.



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- (i) the issuance of, and the interest rate, terms, subordination provisions and other financial provisions relating to the issuance of, any New Capital, or the sale or issuance of New Capital to any Person not a Member prior to such sale, including any decision that New Capital shall be contributed as equity rather than Shareholder Loans;
- (ii) any decision regarding the declaration or payment of distributions to the Shareholders (and the amount thereof) whether in the form of dividends (including interim dividends) or return of capital, including determination of Net Cash Flow;
- (iii) any decision to sell, pledge, lease, assign, mortgage or create a Lien on or a security interest in any material asset of the Company other than for purposes of the refinancing of the Existing Loan as contemplated by the Term Sheet;
- (iv) any decision to lend Company funds to or invest Company funds in any other company, partnership, joint venture or other Person (other than funds maintained and invested by the Company under and in accordance with the Financing Documents);
- (v) to the extent not otherwise determined by the Agreement or applicable law, any decision which could reasonably be expected to have the effect of a material change in (A) any of the Company's depreciation or accounting methods, tax policies or tax elections, or (B) the tax status of the Company or any Member;
- (vi) any change in the Company's Fiscal Year;
- (vii) any termination of, any material amendment or modification to or any waiver or election of any right under any Project Document, any Financing Document or any other agreement to which the Company is a party if the same could reasonably be expected to have a material adverse effect on the Company or would require the Company to make payments as a result thereof in an aggregate amount in excess of US\$500,000;
- (viii) any decision to cause the Company to enter into or conduct any business other than the Project and activities reasonably related thereto;
- (ix) any increase in or voluntary prepayment, modification or extension of any indebtedness of the Company (other than for Working Capital and the refinancing of the Existing Loan as contemplated by the Term Sheet) in an aggregate amount outstanding at any time in excess of US\$500,000;
- (x) the initiation, release, settlement or compromise by the Company of any arbitration, litigation or other legal or administrative proceeding, or the settlement or compromise by the Company of any threatened claim, that in either case could have a material adverse effect on the Company or that could require as part of such settlement or litigation, payments by the Company (other than payments covered by insurance) in an amount in excess of US\$500,000;
- (xi) the transaction of any business by the Company with a Member or any Affiliate of a Member, or the causing of the Company to enter into any contract or other agreement with a Member, an Affiliate of a Member or any employee, officer or director of a Member;
- (xii) the approval of each annual budget for the Company and any changes thereto in excess of 15% of the budgeted amount contained in the relevant approved annual budget.

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(xiii) the approval of all material agreements (including any amendments thereto) entered or to be entered into by the Company after the date of the Agreement including any Financing Document, any other agreement with respect to the financing or refinancing arrangements for the Project, any additional Project Document and any amendment or modification to a Project Document or a Financing Document other than any document entered or to be entered into by the Company for the purposes of the refinancing of the Existing Loan as contemplated by the Term Sheet;

(xiv) the approval of any expenditure not contained in an approved budget in excess of US\$500,000;

(xv) any change in the number of Directors comprising the Board;

(xvi) the appointment of the Chief Executive;

(xvii) the approval of a protocol with respect to the place, time and procedures for meetings of the Board of Directors (and any replacement or amendment of such protocol); and

(xviii) the requirement for any support from the Shareholders, other than for Working Capital and the refinancing of the Existing Loan as contemplated by the Term Sheet.

99. The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the Company as the necessary quorum of Directors, the continuing Directors may act for the purpose of filling vacancies in their body or summoning a General Meeting of the Company, but for no other purpose.

100. All acts done at any meeting of the Directors or by any person acting as a Director shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment or continuance in office of any such Director or person acting as aforesaid, or that they or any of them were disqualified or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed or had duly continued in office and qualified and had continued to be a Director and had been entitled to be a Director.

101. Except as otherwise provided in the Ordinance, any action which may be taken at a meeting of the Board shall be validly taken without such meeting if a resolution in writing approving such action is executed by the Directors that would otherwise comprise a quorum under Article 97 or, if Article 98(b) is applicable, the number of Directors required to take such action pursuant to Article 98(b). For this purpose, it shall be permissible to circulate the text of the proposed resolution duly signed by the Chairman, if any, of the Board or the Chief Executive and obtain the signatures of all the other Directors thereon separately by fax (the signed original whereof shall be sent in due course by mail or courier by the Company for its record) and such resolution shall be effective as soon as the text of the resolution signed by each of the other Directors shall have been faxed to and received by the Company.

102. If at any meeting the Chairman is absent, the Directors present may elect any one of their number to act as the Chairman for the meeting.

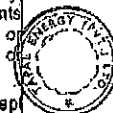
CHIEF EXECUTIVE

103. The Board shall within fourteen days after the constitution of the Board or from the date of election of Directors or the office of the Chief Executive falling vacant as the case may be, appoint, subject



to the provisions of Section 198 of the Ordinance, a person to be the Chief Executive of the Company. The period for which a Chief Executive shall be appointed shall not exceed three years from the date of appointment unless he earlier resigns or his services as Chief Executive have been terminated by the Board in accordance with and in the manner, as the case may be, the provisions of the Ordinance and the Agreement. On the expiry of his term of office, a Chief Executive shall be eligible for reappointment if nominated in the manner provided in this Article. The terms and conditions of appointment of a Chief Executive including his powers and remuneration shall be determined by the Directors, subject to the provisions of the Ordinance.

104. The Chief Executive shall, if not already a Director, be deemed to be a member of the Board and shall be entitled to all the rights and privileges (including the right to vote at meetings of the Board and other proceedings and for resolution by circular) and subject to all of the liabilities of a Director of the Company; Provided, however, that if an elected director is appointed as the Chief Executive he shall not have an additional vote while he holds office as Chief Executive. The Chief Executive shall be entitled to such remuneration, benefits, and allowances as the Board may specify. Subject to supervision of the Board, the Chief Executive shall be responsible, and hold the powers and authorities, for the implementation of policies, decisions, guidelines, and directives of the Board for achievement of the objectives of the Company and shall have, subject to Article 98, full powers to execute the same, including powers for conducting day to day management and business of the Company, appointment and termination of personnel (except in the case of General Manager and/or Executive Directors who would be appointed and their terms and conditions determined subject to prior approval of the Board); The Chief Executive shall inform the Board subsequently and at the earliest possible opportunity; and the Board may review it if it considers necessary powers to carry out sale, production and distribution, import, export and operation of bank accounts and to make payment and powers to appoint distributors, authorized sub-contractors, dealers or agents. The Chief Executive may further delegate any of his powers to any other person(s) or committee(s) as he may think fit subject to the approval of the Board.
105. The Chief Executive shall devote his time exclusively to the management of the Company except that he may, with the prior consent of the Board, devote lesser time to the Company or become a director of such company or companies as are not engaged in any business in direct competition with that of the Company.



SECRETARY

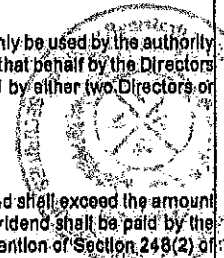
106. The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit, and any Secretary so appointed may be removed by them.

THE SEAL

107. The Directors shall provide for the safe custody of the Seal which shall only be used by the authority of a resolution of the Board or by a committee of Directors authorised in that behalf by the Directors and every instrument to which the Seal shall be affixed shall be signed by either two Directors or one Director and the Secretary.

DIVIDENDS AND RESERVES

108. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors in accordance with Article 98(b). No dividend shall be paid by the company otherwise than out of the profits of the company or in contravention of Section 248(2) of the Ordinance.





109. The Directors may from time to time pay to the Members such Interim dividend as appear to the Directors to be justified by the profits of the Company.
110. The Directors may, before recommending any dividends, set aside out of the profits of the Company, such sums as they think proper as a reserve or reserves, which shall, at the discretion of the Directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit.
111. When any shareholder is indebted to the Company, all dividends payable to him, or a sufficient part thereof, may be retained and applied by the Directors in or towards satisfaction of the debt.
112. Any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post direct to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the Register or to such persons and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any of two or more joint holders may give effectual receipts for any dividends, bonuses, or other moneys payable in respect of the shares held by them as joint holders. The dividend shall be paid within the period laid down in the Ordinance.
113. Unpaid dividends shall not bear interest as against the Company.

CAPITALIZATION OF PROFITS

114. The Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalize any part of the amount for the time being standing at the credit of any of the Company's reserve accounts or to the credit of the profit and loss accounts or otherwise available for distribution and accordingly that such sum be set free for distribution amongst the Members who would be entitled thereto if distributed by way of dividend and in the same proportion on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such Members respectively or paying up in full un-issued shares of the Company to be allotted and distributed/credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the other, and the Directors shall give effect to such resolution.

ACCOUNTS

115. The Directors shall cause the Company to keep proper books of account as required under Section 230 of the Ordinance and in accordance with sound and generally accepted accounting principles and corporate practices.
116. The books of account shall be kept at the Office of the Company or at such other place as the Directors shall think fit and shall be open to inspection by the Directors during business hours.
117. The Directors shall from time to time determine whether and to what extent and at what time and places and under what conditions or on regulations that accounts and books or papers of the Company or any of them shall be open to the inspection of Members not being Directors; and no Member (not being a Director) shall have any right of inspecting any account and book or papers of



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the Company except as conferred by law or authorised by the Directors or by the Company in general meeting or under this Article 117. Notwithstanding the aforesaid any Member (or, in the case of the Tapal Shareholders, any group of them acting collectively) who holds shares sufficient to elect at least one director shall have the right to inspect, in person or through its authorised representatives, the books and records of the Company at all reasonable times. The Company shall upon request provide each such Member with copies of all tax returns promptly after the filing of such tax returns with the appropriate governmental authorities and copies of proof of payment submitted in connection with such tax returns. The Members shall cause the Board to adopt appropriate resolutions permitting the Members access to the books, records and other documents as they may reasonably request.

118. The Directors shall as required by Sections 233 and 236 of the Ordinance cause to be prepared and to be laid before the Company in general meeting such profit and loss account and balance sheets duly audited and reports as are referred to in those sections.
119. The balance sheet, profit and loss account, and other reports referred to in Article 118 shall be made out in every year and laid before the Company in annual general meeting made up to a date not more than six months before such meeting. The balance sheet and profit and loss account shall be accompanied by a report of the auditors of the Company and the report of Directors.
120. A copy of balance sheet and profit and loss account and reports of Directors and auditors shall, at least twenty one days preceding the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.
121. The Directors shall in all respect comply with the provisions of Section 230 to 236 of the Ordinance.

AUDIT

122. Auditors shall be appointed and their duties regulated in accordance with Sections 252 to 255 of the Ordinance. The Company's annual financial statements shall be prepared in accordance with generally accepted accounting principles of Pakistan.

NOTICES

123. (a) A notice may be given by the Company to any Member either personally or by sending it by post to him to his registered address or (if he has no registered address in Pakistan) to the address, if any, within or outside Pakistan supplied by him to the Company for the giving of notices to him.
(b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.
124. A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder named first in the Register in respect of the share and a notice so given shall be sufficient notice to all the holders of such shares.
125. A notice may be given by the Company to the persons entitled to a share in consequence of the death or insolvency of a Member through the post in a prepaid letter addressed to them by name or



by the title or representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in or out of Pakistan supplied for the purpose by the persons claiming to be entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

126. Notice of every general meeting shall be given in the manner hereinafter authorised to (a) every Member of the Company, except those Members who having no registered address within Pakistan have not supplied to the Company an address within or outside Pakistan for the giving of notice to them; (b) every person entitled to a share in consequence of the death or insolvency of a Member, who but for his death or insolvency would be entitled to receive notice of the meeting; (c) the auditors of the Company for the time being; and (d) the Directors.

WINDING UP

127. (a) If the Company is wound up, the liquidator may, with the sanction of Special Resolution of the Company and other sanctions required by the Ordinance, divide amongst the Members, in specie or kind the whole or any part of the assets of the Company, whether they consist of property of the same kind or not.
- (b) For the purpose aforesaid, the liquidator must set a value as he deems in good faith fair upon any property having due regard for the property's fair market value to be divided as aforesaid.
- (c) The liquidator shall distribute the cash and non-cash proceeds from the sale of the Company's assets, and any asset not sold, except as may be otherwise provided by applicable law, in the following order of priority:
- (i) All of the Company's debts and liabilities shall be paid and discharged in the order of priority provided by applicable law; and
- (ii) The balance shall be distributed to the Members pro rata in accordance with the ratio which the number of shares held by each Member bears to the total number of issued and paid up shares of the Company.
- (d) The liquidator may, with the like sanction, vest the whole or any part of such assets for the benefit of the contributories as the liquidator, with the like sanction, thinks fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.
- (e) Upon completion of distribution pursuant to this Article the liquidator shall take such actions, including executing any documents or agreements as may be necessary to dissolve the Company under applicable law.

SECRECY

128. (a) Subject to Article 128(b) and (c) no Member nor its Affiliates or nominees shall reveal to any third party, without the prior consent of the other Members any information concerning the organisation, business, manufacturing processes, finances, transactions or affairs of the Company, the other Members or any of the other Members' Affiliates or nominees, or any information related to the Agreement (the "Confidential Information") and shall not use



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any such Confidential Information in any manner which may directly or indirectly injure the Company, any other Member or any of the other Members' Affiliates or nominees, except that such Confidential Information may be disclosed if, and only to the extent, required by law, or to any lender or prospective lender or other parties providing financing to the Company, provided that such lender, prospective lender or party providing financing has supplied an undertaking, which shall be acceptable (i) in the case of information pertaining to a Member, to that Member and (ii) in the case of information pertaining to the Company, to the Board in its sole discretion, to keep such Confidential Information confidential on substantially the same terms as are contained in this Article. The provisions of this Article shall not apply (i) in respect of information which is or has become publicly available through no act or omission of a Member, its Affiliates, agents or nominees, (ii) to the extent such information was in the possession of the Member, its Affiliates, agents or nominees prior to its earliest receipt from any other Member or the Company, or (iii) as may be required in any report, statement or testimony required to be submitted to any municipal, state or national regulatory body, any court or any arbitration tribunal having or claiming to have jurisdiction over it, or as may be otherwise required by law, regulation, court order or other governmental authority, or as may be required in response to any summons or subpoena or in connection with any litigation or arbitration under the Agreement.

- (b) In the course of an offer to a third party to sell, transfer, assign, dispose of, pledge, charge or hypothecate any shares, a Member shall be entitled to disclose Confidential Information to such third party, provided that:
 - (i) the Member promptly informs the other Members of the substance of all Confidential Information disclosed; and
 - (ii) no information shall be disclosed to the third party unless the third party has first supplied to the other Members an undertaking in writing on substantially the same terms as Article 120(a).
- (c) The Board shall exclusively control all public disclosures and communications with the press regarding the Company.

INDEMNITY

129. Every Director or officer of the Company and every person employed by the Company as auditor shall be indemnified out of the funds of the Company against all liability incurred by him as such Director, officer or auditor in defending any proceeding, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, or in connection with any application under Section 488 of the Ordinance in which relief is granted to him by the court.

RECONSTRUCTION

130. On any sale of the undertaking of the Company, the Directors or the liquidator on a winding-up may, if authorised by Special Resolution, accept fully paid or partly paid-up shares, debentures or securities of any other company, whether incorporated in Pakistan or not either then existing or to be formed for the purchase in whole or in part of the property of the Company, and the Directors (if the profits of the Company permit) or the liquidator (in a winding-up) may distribute such shares, or any other property of the Company amongst the Members without realization, or vest the same in trustees for them, and any Special Resolution may provide for the distribution or appropriation of the

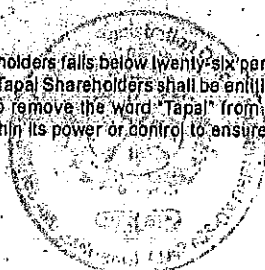
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cash, shares, or other securities, benefits or property, otherwise than in accordance with the strict legal rights of the Members or contributories of the Company, and for the valuation of any such securities or property at such price and in such manner as the meeting may approve, and all holders of shares shall be bound by any valuation or distribution so authorized, and waive all rights in relation thereto, save only in case the Company is proposed to be or is in the course of being wound up, such statutory rights if any, under Section 367 of the Ordinance as are incapable of being varied or excluded by these Articles.

CHANGE OF NAME

131. If at any time the aggregate shareholding of the Tapal Shareholders falls below twenty-six per cent (26%) of the issued and paid-up shares of the Company, the Tapal Shareholders shall be entitled to require that the name of the Company be changed so as to remove the word "Tapal" from such name and each Member shall take all such steps as lies within its power or control to ensure that the Company effects such change.



We, the several persons whose names and addresses are subscribed below are desirous of being formed into a Company in pursuance of the Articles of Association, and we respectively agree to take the number of shares in the Capital of the Company set opposite our respective names:-

Names and Surname (Present and former in full in block letters)	Father's/Husband's Name in full	Nationality with any former nationality	Occupation	Residential Address	Number of shares taken by each subscriber	Signature
MR. MOIZ S. TAPAL	LATE MR. SADIQ ALI	PAKISTANI	BUSINESS (TRADING)	6-A, 1ST GIZRI LANE, D.H.A., KARACHI	6,250	
MR. DAANISH A. TAPAL	MR. ANWAR ALI S. TAPAL	PAKISTANI	BUSINESS (TRADING)	P98, CLIFTON, KARACHI	6,250	
MR. TABISH M. TAPAL	MR. MOIZ S. TAPAL	PAKISTANI	BUSINESS (TRADING)	6-A, 1ST GIZRI LANE, D.H.A., KARACHI	6,250	
MR. SHAKIL A. TAPAL	MR. AMIR ALI S. TAPAL	PAKISTANI	BUSINESS (TRADING)	K.E.T. 39/B, M. T. KHAN ROAD, LALAZAR, KARACHI	6,250	
MR. IAN CHRISTOPHER COPELAND	MR. LAWRENCE G. COPELAND	AMERICAN	ENGINEER/ BUSINESS	27.D, SEABIRD LAND DISCOVERY BAY, LANTAU ISLAND HONG KONG.	1	
ALEXANDER ARMAND KARSNER	MR. DAVID WILFRED KARSNER	AMERICAN	BUSINESS	5.C. GREENBELT COURT DISCOVERY BAY, LANTAU ISLAND, HONG KONG		
KAU TORE BJORKMAN	MR. EVALD BJORKMAN	FINLAND	MARKETING MANAGER	65070 N. VALLGRUND VASA, FINLAND		
M/S. KINGPIN INVESTMENT LIMITED THROUGH MR. IAN C. COPELAND	NONE	HONG KONG	FOREIGN COMPANY	14TH FLOOR, LUK KWOK CENTRE, 72 GLOUCESTER ROAD, WANCHAI, HONG KONG		
TOTAL					50,000	

CONTINUED TO BE TRUE COPY

Assistant Registrar
Company Registration Office
24882madad

Dated the Day of 1995

Witness to the above signatures

Full Name, Father's/Husband's Name

Signature

Occupation

Full Address

No. JFI

Date

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6.0 Text of the Proposed Modification

Tapal Energy (Private) Limited (“**Company**”) is a [126] MW thermal power project located at Deh Gondpass, Tapo Gabopat, Hub River Road, Taluka & District Karachi (West), Karachi, Sindh, Pakistan. (“**Project**”).

As such, the Company, through the present Licensee Proposed Modification, desires to modify its Generation License by extending its term up to the expiry of their Power Purchase Agreement dated September 26, 1995, entered into with KE, (“**PPA**”) i.e. June 19, 2019, pursuant to the Regulations read with Rule 5 of the Generation Rules, which provides that, upon expiry of the term of the generation license, NEPRA may renew the generation license *“for such further term as it may deem appropriate in the manner provided for in the generation license..”*

In relation to the above, the modification required in Article 4 of the Generation License of the Company is as follows:

“(1) Pursuant to Rule 5 of the Rules, this License is granted until June 19, 2019.”



7.0 A Statement of the reasons in support of the modification;

The Company is a private limited company registered under the Companies Ordinance, 1984.

The Company has developed a 126 MW power project in the province of Sindh. The Project is developed pursuant to the Power Policy of 1994 for the purposes of generation and sale of electric power to KE. In January 1997, the Company initially obtained license under the Electricity Act, 1910. After the establishment of NEPRA, the Company obtained the Generation License in accordance with the prevailing regulatory regime.

On August 26, 2003, NEPRA issued Generation License no. IPGL/010/2003 to the Company, under Section 15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("**NEPRA Act**") for a term of fifteen (15) years, the expiration date being 25th August 2018 which is around 10 months short of the expiry date of the Company's existing PPA term. The Regulations provides for the modification of a generation license including modification to extend the term of its generation license while the Generation Rules also provides for renewal of a generation license.

On 20th June 1997, the Project successfully achieved its commercial operation date and has been performing its contractual obligations, inter alia, under the Power Purchase Agreement (PPA) signed between the Company and KE. The term of the PPA between the Company and the KE is valid upto 19th June 2019 requiring the Company to perform its obligations and deliver electric power to KE. (Copy of the PPA is attached as Annexure A.

In order to discharge its contractual obligations under the PPA the Company is required to obtain and maintain a generation license from NEPRA for the term of the PPA. It is emphasized that the maintenance of a valid generation license is a critical regulatory consent without which the Company cannot perform its contractual obligations under the PPA

The required modification would benefit K-Electric consumers as it ensures generation continues from the generation facility for the entire term of the PPA. Moreover, there is no adverse impact on the quality of service and performance of the Licensee from approval of this Application.

The request by the Company does not seek any change in the existing generation license except for the modification in the expiry date of the license therefore the details and schedules attached with the existing generation license also remain valid for this Application.

We hope NEPRA will consider our request and provide us the Modified Generation License based on information/explanation provided herein as well as reasons stated in Section 8 below.



8.0 A Statement of the impact on the tariff, quality of service and the performance by the licensee of its obligations under the license

Impact on Tariff

As the tariff given in the PPA is for the term of the 22 years therefore there is no change required in the tariff thereby the requested modification in the generation license do not have any additional financial implications.

Impact on Quality of Service & Performance

The Company confirms that the quality of service and the performance under the Generation License shall not be affected during the proposed extended period. The Company has been fully diligent and dedicated in the performance of its services according to the provisions of the PPA and shall continue to assist in reducing the demand supply gap in KE network.

Impact on the Obligations of the Company under the License

The proposed modification would facilitate the Company in fulfilling its obligations under the License and its obligations under the PPA.



9.0 Glossary of Terms

“NEPRA Act”	Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997
“Regulations”	NEPRA Licensing (Application and Modification Procedure) Regulations, 1999
“Generation Rules”	NEPRA Licensing (Generation) Rules, 2000
“PPA” with KE	Power Purchase Agreement dated September 26, 1995 entered
“KE”	Karachi Electric Limited
“NEPRA”	National Electric Power Regulatory Authority
“NTDC”	National Transmission & Despatch Company
“O&M”	Operations & Maintenance



10.0 Attachments:

Annexure A - Power Purchase Agreement dated September 26, 1995



THE KARACHI ELECTRIC SUPPLY CORPORATION LIMITED

- and -

TAPAL ENERGY LIMITED

POWER PURCHASE AGREEMENT

- RELATING TO -

A POWER GENERATION COMPLEX AT

HUB RIVER ROAD, IN THE DISTRICT OF KARACHI WEST,
PROVINCE OF SINDH, PAKISTAN

MADE AT KARACHI
ISLAMIC REPUBLIC OF PAKISTAN

DATED 26TH SEPTEMBER, 1995

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 SCHEDULE 7 CONSTRUCTION REPORTS
 SCHEDULE 8 INSURANCE
 SCHEDULE 9 FORM OF LETTER OF CREDIT
 SCHEDULE 10 TESTING SCHEDULE

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THIS POWER PURCHASE AGREEMENT is made at Karachi, dated September 26, 1995 between **THE KARACHI ELECTRIC SUPPLY CORPORATION**, a public limited company with its principal office located in Karachi, Pakistan ("KESC") and **TAPAL ENERGY LIMITED**, a public limited company incorporated under the laws of Pakistan, with its principal office located at Campbell Street, P.O. Box No. 51, Karachi 74200, Pakistan (the "Company"). Both the Company and KESC are herein referred to individually as a "Party" and collectively as the "Parties."

WHEREAS:

- (1) The Company plans to build, own and operate a power generation facility with capacity of approximately 126 MW gross ISO (the "Complex") in Sindh Province, Pakistan, using residual fuel oil purchased from the Pakistan State Oil Company Limited (the "Fuel Supplier"), pursuant to the terms and provisions of the Fuel Supply Agreement;
- (2) The Company wishes to sell to KESC, and KESC wishes to purchase from the Company, the Dependable Capacity of the Complex and all of the Net Electrical Output (as hereinafter defined) pursuant to the terms and conditions set forth herein; and
- (3) The Company has entered into the Implementation Agreement with the Government of Pakistan and will enter into the Fuel Supply Agreement with the Fuel Supplier;

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

Handwritten initials: JLB and AL

ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions.

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

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

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

1.3 "AGC" - Automatic generation control equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.21 "Company" - Tapal Energy Limited, a public limited company incorporated under the laws of Pakistan, with its principal office located at Ameejee Chambers, Campbell Street, P.O. Box 51, Karachi 74200, Pakistan and its permitted successors and assigns.

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

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

1.24 "Complex" - The approximately 126 MW gross ISO, power station utilizing residual fuel oil to be owned and constructed by the Company at off Hub River Road, in the District of Karachi West, Province of Sindh, Pakistan whether completed or at any stage in its construction, including without limitation or regard to level of development, land, engineering and design documents, all energy producing equipment and its auxiliary equipment, fuel storage and handling facilities and equipment, a switchyard, interconnection facilities (other than the Metering System, the Interconnection Facilities and the Transmission Facilities) necessary for delivery of electricity to KESC at the Interconnection Point, together with a colony to house certain employees of the Company, the Contractors or any subcontractors.

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

1.26 "Construction Contract" - The agreements entered into between the Company and the Construction Contractor for the design, manufacture, engineering, procurement, construction, installation, completion, start-up, testing, and Commissioning of the Complex, as amended from time to time.

1.27 "Construction Contractor" - Stork-Wartsila Diesel B.V. and any successor or successors thereto appointed by the Company and not objected to by the GOP pursuant to Section 8.2(b) of the Implementation Agreement.

1.28 "Construction Financial Closing" means the execution and delivery of one or more loan agreements (following the resolution of any objections raised by the GOP to the term sheet or schedule in accordance with Section 15.3 of the Implementation Agreement that sets out a principal repayment schedule and the other principal terms of the transaction between the Company and the Lenders) and/or the receipt of commitments for equity by the Company, which debt and equity provide, in the aggregate, sufficient funding for the construction, testing and completion of the Complex; provided, however, that such equity commitments may not be less than required by the Letter of Support.

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

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

1.31 "Control Centre" - KESC's Control Centre located in Karachi, or such other control centre designated by KESC from time to time (but not more than one at any time) from which KESC shall Despatch the Complex.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.47 "Escrow Bank" - A scheduled Pakistani bank in Pakistan reasonably acceptable to the Company with which KESC establishes the Escrow Account.

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

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

1.50 "Federal Entity" - Any Public Sector Entity subject to the overall control or direction as to matters of policy, of the GOP or which is otherwise under or controlled by the GOP which includes,

without limitation, but only for so long as such entities are under the control of the GOP, KESC, the Pakistan State Oil Company Limited, the National Bank of Pakistan and the State Bank of Pakistan.

1.51 "Financial Closing" - (a)(i) The execution and delivery of one or more loan agreements, or (ii) the conversion or extension to term loans of the loan Agreements executed at the Construction Financial Closing, or (iii) any combination of (a)(i) and (a)(ii) above, that together evidence the financing for the construction, testing, and completion and/or the permanent financing of the Complex (and in each case, following the resolution of any objections raised by the GOP to a term sheet or schedule in accordance with Section 15.3 of the Implementation Agreement that sets out a principal repayment schedule and the other principal terms of the transaction between the Company and the Lenders or following the date on which the GOP shall be deemed to have not objected to such term sheet and principal repayment schedule pursuant to Section 15.3 of the Implementation Agreement) and (b) the receipt of commitments for such equity as is required by the Company to satisfy the requirements of the Lenders and the Letter of Support.

1.52 "Financing Documents" - The loan agreements, notes, indentures, security agreements, guarantees and other documents (including refinancings and revolving credit facilities) relating to the construction and/or permanent financing of the Company in relation to the Project, including, without limitation, shareholder loans and guarantees.

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

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

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

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

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

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

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

1.60 "Guarantee" The guaranty by the GOP of (i) the payment obligations of KESC under this Agreement (ii) the payment obligations of the Fuel Supplier under the Fuel Supply Agreement, and (iii) if the Company obtains Exchange Risk Insurance, the obligations of the National Bank of Pakistan

under the Exchange Risk Insurance (as such term is defined in the Implementation Agreement), substantially in the form set out in Schedule 3 to the Implementation Agreement, as may be amended from time to time by agreement of the parties thereto.

1.61 "Implementation Agreement" - The Implementation Agreement dated August 8, 1995, between GOP and the Company, as may be amended from time to time.

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

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

1.64 "Interconnection Point" - The physical points where the Complex and the Grid System are connected at the Site as specified in Section 1(a) of Schedule 3 at which the transfer of Net Electrical Output occurs between the Company and KESC.

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

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

1.67 "kW" - Kilowatt.

1.68 "kWh" - Kilowatt-hour.

1.69 "KESC" - The Karachi Electric Supply Corporation Limited and its successors and permitted assigns.

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

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

1.72 "Lapse of Consent" - Any Consent (a) ceasing to remain in full force and effect or (b) not being issued or renewed upon application having been properly and timely made and diligently pursued or (c) being made subject, subsequent to its grant, upon renewal or otherwise, to any terms or conditions that materially and adversely affect the Company's ability to perform its obligations under any document included within the Security Package, in each of the above instances despite the Company's compliance with the applicable procedural and substantive requirements as applied in a "non-discriminatory" manner, as explained in Section 16.4 of the Implementation Agreement.

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

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

1.75 "Letter of Support" - That certain Letter of Support issued by the Ministry of Water and Power dated 18 September 1994, as the same may have been amended or clarified prior to the date hereof.

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

1.77 "Maintenance Months" - The Months of November, December, January & February or any four Months in a Year, at least three of them consecutive Months, designated by KESC in accordance with Section 6.3.

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

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

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

1.81 "Minimum Indemnification Amount" - The amount, equal to one hundred thousand Dollars (\$100,000) that a Party's claims for indemnification pursuant to Article XII must exceed in the aggregate before that Party will be entitled to indemnification.

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

1.83 "MVAR" - Megavar.

1.84 "MW" - Megawatt.

1.85 "MWh" - Megawatt-hour.

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

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

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

1.89 "O&M Contractor" - Wartsila Diesel Pakistan (Private) Limited and any successor thereto appointed by Company and not objected to by the GOP in accordance with the Implementation Agreement.

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

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

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

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

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

1.95 "Partial Forced Outage" - A decrease, but not total interruption, in the Complex's generating capacity, including a shortfall as provided in Section 9.4(c), that is not the result of (i) a request by KESC in accordance with this Agreement; (ii) a Scheduled Outage or a Maintenance Outage; (iii) a Force Majeure Event; or (iv) a condition caused by KESC or the Grid System.

1.96 "Parties" - Both KESC and the Company.

- 1.97 "Party" - Either KESC or the Company.
- 1.98 "Pass-Through Items" - Certain costs or charges identified as Pass-Through Items in Schedule 6.
- 1.99 "Policies" - Such policies adopted by the GOP, any Federal Entity, the Provincial Government or, where applicable, any political subdivision thereof, as have been published in writing and made available to the public.
- 1.100 "Premium Date" - The meaning ascribed thereto in Section 9.3.
- 1.101 "Prescribed Fee" - With respect to any Consent, the charge or fee, if any, prescribed by the Laws of Pakistan.
- 1.102 "Prescribed Form" - With respect to any Consent, the form, if any, (including all information and details) prescribed by the Laws of Pakistan for the application for, or renewal of, such Consent.
- 1.103 "Project" - The development, design, engineering, manufacture, procurement, financing, construction, permitting, completion, testing, Commissioning, insurance, ownership, operation and maintenance of the Complex and all activities incidental thereto.
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- 1.104 "Provincial Government" - The government of the Province of Sindh.
- 1.105 "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 KESC's system, employees, agents, and customers from malfunctions occurring at the Complex and (ii) to protect the Complex and the Company's employees and agents at the Complex, from malfunctions occurring on the Grid System.
- 1.106 "Prudent Utility Practices" - The prudent utility practices followed from time to time by the electric utility industry in Pakistan, having regard to engineering and operational considerations, including manufacturers' recommendations. Prudent Utility Practices are not limited to optimum practices, methods or acts to the exclusion of all others, but rather are a spectrum of possible practices, methods and acts which could have been expected to accomplish the desired result at reasonable cost consistent with reliability and safety.
- 1.107 "Public Sector Entity" - The GOP and the Provincial Government, any subdivision of either, any local governmental authority with jurisdiction over the Company, the Project or any part thereof, courts and tribunals in Pakistan and any department, authority, instrumentality, agency, or judicial body of the GOP, the Provincial Government or any such local governmental authority, and including, without limitation, so long as they are Federal Entities, Pakistan Insurance Corporation, National Insurance Corporation, KESC, the Fuel Supplier, the National Bank of Pakistan and the State Bank of Pakistan, but excluding National Development Finance Corporation.

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

1.109 "Reference Conditions" - the reference conditions set forth in Schedule 1

1.110 "Required Commercial Operations Date" - The date sixteen (16) months after the date of the earlier to occur of either Construction Financial Closing or Financial Closing, which date may be extended in accordance with the terms of this Agreement as a result of Force Majeure Events and delays in testing pursuant to Section 10.1(b) or in the completion of the Interconnection Facilities and/or the Transmission Facilities pursuant to Section 3.6.

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

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

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

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

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

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

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

1.118 "Supplemental Charges" - Certain costs or charges identified as Supplemental Charges in Section 10 of Schedule 6, including the Pass-Through Items.

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

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

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

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

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

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

1.125 "Week" - Each period of seven (7) consecutive Days beginning at 12:00 midnight Pakistan time falling between a Friday and a Saturday.

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

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

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

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

1.2 Rules of Interpretation.

In this Agreement:

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

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

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

(d) Unless otherwise provided herein, whenever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed; and

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

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ARTICLE II
SALE AND PURCHASE OF ENERGY AND CAPACITY

2.1 Energy and Capacity.

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

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

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

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

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

2.2 Provisions for Despatch.

KESC shall have the right to Despatch the Complex, provided that (i) Despatch of the Complex must at all times be consistent with the Technical Limits and the operating procedures developed pursuant to Section 3.4; (ii) Despatch shall not exceed at any time the then-prevailing Declared Available Capacity and (iii) prior to the Commercial Operations Date, such right shall only be during an Emergency, subject to the provisions of Section 6.7. Except as provided in Sections 2.3 and 6.7, KESC shall Despatch the Complex in accordance with Economic Despatch.

2.3 Emergency Despatch of the Complex.

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

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

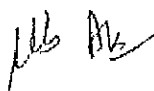
(ii) for so long as a disconnection or a reduction in energy deliveries is necessary to enable KESC to construct, install, maintain, repair, replace, remove, investigate,

inspect or test any part of the Interconnection Facilities, the Transmission Facilities or any affected part of the Grid System.

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

2.4 Observance of Technical Limits.

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



ARTICLE III
AGREEMENTS OF THE PARTIES

3.1 Permits, Licenses and Approvals.

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

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

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

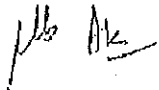
3.2 Feasibility Report

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

3.3 Submittal of Data.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) KESC shall provide to the Company (a) within thirty (30) Days after receipt of a written request from the Company, information on the Grid System and the design of the Interconnection Facilities, Transmission Facilities, and Metering Systems reasonably necessary for the Company to design, operate and maintain the Complex, (b) not later than sixty (60) Days prior to the Scheduled Commercial Operations Date, Dispatch and communications procedures currently in use by

KESC and (c) at least thirty (30) Days prior to their implementation, any planned changes to the Despatch and communication procedures then in effect.

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

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

3.4 Operating Procedures.

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

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

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

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

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

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

3.5 Delivery of Energy from KESC to the Complex.

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

3.6 Completion of Interconnection and Transmission Facilities

(a) In the event that for any reason other than the reasons specified in Section 7.4, KESC has not completed the Interconnection Facilities and the Transmission Facilities by the completion date specified in Section 7.4, or such later date as may be determined by the Parties in accordance with this Agreement, and such delay causes any programme of tests referred to in Article X to be delayed beyond the date (the "Certification Date") as of which the Interconnection Committee (as defined in Section 9.3) certifies that the Complex is ready for the commencement of Commissioning tests but such testing cannot commence due to the unavailability of the Interconnection Facilities or the Transmission Facilities and that the delay in the programme of tests would not have occurred but for KESC's failure to timely complete the Interconnection Facilities and the Transmission Facilities, then, from and after the Certification Date, KESC shall pay to the Company Monthly, in arrears, (and pro rated for any portion of a Month) an amount equal to the carrying cost on the debt related to the Complex incurred under the Financing Documents plus fifty percent (50%) of the escalable component of the Capacity Purchase Price. Such payments shall continue until the completion of the Interconnection Facilities and the Transmission Facilities. In addition, the Required Commercial Operations Date and the Premium Date shall be extended on a Day-for-Day basis by the number of Days in the period commencing on the Certification Date and ending on the date KESC completes the Interconnection Facilities and the Transmission Facilities in accordance with Section 7.4. Except as provided in Section 4.3(e), the Company shall be entitled to no other penalty or claim for damages as a result of delay by KESC in completing the Interconnection Facilities and the Transmission Facilities.

KESC shall have no obligation to make the payments provided in this Section 3.6 if and to the extent that the delay in the programme of tests would have nevertheless occurred regardless of KESC's failure to timely complete the Interconnection Facilities and the Transmission Facilities. If payments by KESC under this Section 3.6 shall have commenced or the obligation for such payments shall have accrued, the Complex shall be tested at the first available opportunity thereafter.

3.7 Appointment of Construction Contractor.

KESC acknowledges the Company's appointment of Stork-Wartsila Diesel B.V. as Construction Contractor; provided, however, that such acknowledgement shall not relieve the Company of any of its obligations or potential liability regarding the design, financing, insuring, acquisition, construction or completion of the Complex or any liability whatsoever resulting from a breach of any term or condition of this Agreement.

3.8 Operations and Maintenance of Complex.

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

3.9 KESC Observation Visits.

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

3.10 KESC Consent.

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

3.11 Failure to Submit Reports.

Any failure of either Party to timely submit any reports, information or certifications required by this Agreement, including, without limitation, the items required by Section 3.3, shall, in addition to any rights and remedies available to the receiving Party under law, give the receiving Party the right to

delay reciprocal action for which such information is provided, or the date or event in connection with which the information is provided, for a period equal to any such delay by the delivering Party.

MS

ME

[Signature]

ARTICLE IV
TERM AND TERMINATION

4.1 Term of Agreement.

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

(b) The Term shall automatically be extended by the aggregate of Days all Pakistan Political Force Majeure Events or Changes in Law declared by the Company were in existence, each such day multiplied by one (1) minus the FM Ratio in existence on each such Day. During each Month of such extension, the Company shall be paid the non-escalable portion of the Capacity Payment as in existence during such Pakistan Political Force Majeure Event, plus the escalable component of the Capacity Purchase Price applicable to the twenty-second (22nd) Agreement Year (as shall be further escalated pursuant to the provisions of Schedule 6) multiplied by the then-prevailing Dependable Capacity. The Term shall automatically be extended by the aggregate of all Days Force Majeure Events declared by KESC were in existence. During each Month of such extension, the Company shall be paid the escalable component of the Capacity Purchase Price applicable to the twenty-second (22nd) Agreement Year (as shall be further escalated pursuant to the provisions of Schedule 6) multiplied by the then-prevailing Dependable Capacity. During any such extensions, the Company shall also receive the Energy Purchase Price for each kWh of Net Electrical Output and any additional amounts payable, if any, due under the terms of this Agreement.

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

4.2 Company Events of Default - Termination by KESC.

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

(a) the failure of the Company to achieve the earlier to occur of either Construction Financial Closing or Financial Closing by the date twelve (12) months following the date of the Letter of Support, as such date may be extended pursuant to the terms of Section 19.6 of the Implementation Agreement;

(b) the failure of the Company (a) to achieve Construction Start and (b) to satisfy all conditions precedent to the initial availability of funds necessary to complete construction of the Complex (either under the Financing Documents or through equity commitments), each within ninety (90) Days after the earlier to occur of either Construction Financial Closing or Financial Closing;

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

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

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

(f) the incurrence of cumulative operating losses (determined in accordance with generally accepted accounting principles in Pakistan, consistently applied, without taking into account any depreciation) in an amount greater than or equal to the sum of (i) fifty-five percent (55%) of the amount of the equity funds committed at Financial Closing and (ii) any additional equity contributed by the shareholders of the Company after Financial Closing;

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

(h) except for the transfer of the Complex to the GOP pursuant to the terms of the Implementation Agreement and the assignments to and by the Lenders contemplated under Section 17.10 of this Agreement, (i) the assignment or transfer of the Company's rights or obligations in the assets identified in Section 17.10(b) without the prior consent of KESC; or (ii) the transfer, conveyance, loss or relinquishment to any person or entity of the Company's right to own and/or operate the Complex or any material part thereof or to occupy the Site to any person without the prior written approval of KESC;

(i) except for the purpose of amalgamation or reconstruction (provided, that such amalgamation or reconstruction does not affect the ability of the amalgamated or reconstructed

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

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

(k) The exercise by Lenders of their remedies under the Financing Documents with respect to either the Complex assets or the pledged Ordinary Share Capital (as defined in the Implementation Agreement) such that either the Company or its management are removed by the Lenders from control of the Complex or the Company and the failure by the Lenders to deliver an Election Notice (as defined in Section 4.5) or to transfer the Complex and the rights and obligations of the Company under the Implementation Agreement and this Agreement to a Transferee (as this term is defined in Section 17.10(d)) within two hundred and forty (240) Days thereafter.

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

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

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

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

4.3 KESC Events of Default - Termination by the Company.

Each of the following events shall be events of default by KESC (each a "KESC Event of Default"), which if not cured within the time period permitted (if any) to cure, shall give rise to the right on the part of the Company to terminate this Agreement pursuant to Section 4.4, provided, however, that no such event shall be a KESC Event of Default (i) if it results from a breach by the Company of

this Agreement or the Implementation Agreement or (ii) if it occurs as a result of or during a Force Majeure Event during the period provided pursuant to Section 13.4.

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

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

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

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

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

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

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

(h) any change in or change in the interpretation of any applicable Laws of Pakistan in either case that continues in effect for ninety (90) days or more (including the Constitution of Pakistan and any other Law of Pakistan that gives effect to the injunctions of Islam) making (A) unenforceable, invalid, or void any material undertaking of KESC under this Agreement or (B) it unlawful for the Company, its Lenders or the Investors to make or receive any payment, to perform any obligation or to enjoy or enforce any material right under this Agreement, or (C) any such payment, the performance of any such material obligation or the enjoyment or enforcement of any such material right unenforceable, invalid or void as a result of any such change in law.

4.4 Termination Notices; Termination.

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

(b) Following the giving of a Notice of Intent to Terminate, the Parties shall consult for a period of up to forty-five (45) Days in case of a failure by either Party to make payments or provide security when due, and up to ninety (90) Days with respect to any other Event of Default (or such longer period as the Parties mutually may agree), as to what steps shall be taken with a view to mitigating the consequences of the relevant event taking into account all prevailing circumstances. During the period following delivery of the Notice of Intent to Terminate, the Party in default may continue to undertake efforts to cure the default, and if the default is cured at any time prior to the delivery of a Termination Notice in accordance with Section 4.4(c), then the non-defaulting Party shall have no right to terminate this Agreement in respect of such cured default.

(c) Subject to the provisions of Section 4.5 or 4.9, as the case may be, upon expiration of the consultation period described in Section 4.4(b) and unless the Parties shall have otherwise agreed or unless the Event of Default giving rise to the Notice of Intent to Terminate shall have been remedied, the Party having given the Notice of Intent to Terminate may terminate this Agreement by delivering a Termination Notice to the other Party, whereupon this Agreement shall immediately terminate.

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

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4.5 Notice to Lender of Company's Default.

Anything in this Agreement notwithstanding, from and after the occurrence of the earlier to occur of either Construction Financial Closing or Financial Closing, KESC shall not seek to terminate this Agreement as the result of any default of the Company without first giving a copy of any notices required to be given to the Company under Sections 4.2 and 4.4 to the Lenders, such notice to be coupled with a request to the Lenders to cure any such default within the cure period specified in Section 4.4(b), and such cure period shall commence upon delivery of each such notice to the Lenders.

If there is more than one Lender, the Lenders will designate in writing to KESC an agent (the "Agent") and any notice required hereunder shall be delivered to such Agent, such notice to be effective upon delivery to the Agent as if delivered to each of the Lenders. Each such notice shall be in writing and shall be deemed to have been delivered (a) when presented personally to the Lender or the Agent, (b) when transmitted by facsimile to the number specified in accordance with the procedure set forth below, or (c) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the Lender at the address indicated at Construction Financial Closing and Financial Closing (or such other address or to the Agent at such address as the Lenders may have specified by written notice delivered in accordance herewith). Any notice given by facsimile under this Section 4.5 shall be confirmed in writing delivered personally or sent by prepaid post, but failure to so confirm shall not void or invalidate the original notice if it is in fact received by the Lender or the Agent. Notwithstanding the foregoing, if the address of the Lender or Agent is outside Pakistan, any notice delivered to the Lender or Agent pursuant to this Section 4.5 shall be sent by international courier or facsimile, and if sent by facsimile, confirmed by international courier. The address and facsimile number for Lender or Agent shall be provided to KESC by the Company at Construction Financial Closing and Financial Closing and thereafter may be changed by the Lender or the Agent by subsequent delivery of a notice to KESC at the address or facsimile number for KESC provided in Section 16.1 (or at such other address or facsimile number subsequently delivered to the Lender or the Agent in accordance with this Section 4.5) and otherwise in accordance with the requirements of Section 16.1.

No rescission or termination of this Agreement by KESC shall be valid or binding upon the Lenders without such notice, the expiration of such cure period, and the expiration of the Extended Cure Period (as defined below) provided in this Section 4.5. The Lenders may make, but shall be under no obligation to make, any payment or perform any act required to be made or performed by the Company, with the same effect as if made or performed by the Company. If the Lenders fail to cure or are unable or unwilling to cure any Company Event of Default within the cure period under Section 4.4(b) as provided to the Company in this Agreement, KESC shall have all its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that the Lenders, upon the termination of the cure period provided to the Company specified in Section 4.4(b), such cure period commencing on the delivery of such notice to the Lenders shall be offered a further period (the "Evaluation Period"), during which the Lenders shall evaluate such default, the condition of the Complex, and other matters relevant to the actions to be taken by the Lenders concerning such default, and which Evaluation Period shall end on the sooner to occur of (i) the Lenders' delivery to KESC of a notice that the Lenders have elected to pursue their remedies under the Financing Documents and assume the rights and obligations of the Company under this Agreement (an "Election Notice"), or (ii) thirty (30) Days following the end of the cure period. Upon the delivery of the Election Notice, the Lenders shall be granted an additional period of six (6) months to cure any Company Event of Default

(the "Extended Cure Period") if required pursuant to Section 17.10(c). If KESC has assumed the operation of the Complex and the Complex is being operated by KESC to its satisfaction, KESC shall extend the Extended Cure Period for an additional period of six (6) months to cure any Company Event of Default if required pursuant to Section 17.10(c). In the event that the Lenders fail to cure any Company Event of Default required to be cured pursuant to Section 17.10(c) on or before the expiration of the Extended Cure Period, as it may have been extended, KESC may exercise its rights and remedies with respect to such default set forth in this Agreement, KESC may immediately terminate this Agreement, and such termination shall be effective on delivery to the Lenders or the Agent of notice of such termination.

4.6 Obligations Upon Termination.

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

4.7 Reimbursement.

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

4.8 Other Remedies.

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

4.9 Notice to the GOP of KESC's Default.

Anything in this Agreement notwithstanding, the Company shall not seek to terminate this Agreement as a result of any default of KESC without first giving a copy of any notices required to be given to KESC under Sections 4.3 and 4.4 to the GOP, such notices to be coupled with a request to the GOP to cure any such default within the same cure period as provided to KESC hereunder and

such cure period to commence upon delivery of each such notice to the GOP. Each such notice shall be deemed to have been delivered (a) when presented personally to the GOP, (b) when transmitted by facsimile, or (c) five (5) Days after being deposited in a regularly maintained receptacle for the Postal Service in Pakistan, postage prepaid, registered or certified, return receipt requested, addressed to the GOP, at the address indicated in Section 23.1 of the Implementation Agreement (or such other address as the GOP may have specified by written notice delivered in accordance therewith). No rescission or termination of this Agreement by the Company shall be of any effect without such notice and expiration of such cure period. The GOP may make or perform, but shall be under no obligation to make any payment (other than is required under the Guarantee) or to perform any act required of KESC hereunder with the same effect as if the payment or act had been made or performed by KESC. If the GOP fails to cure or is unable or unwilling to cure a default of KESC within the cure periods provided to KESC under this Agreement, the Company shall have all of its rights and remedies with respect to such default as set forth in this Agreement; provided, however, that if the GOP is diligently attempting to cure such default, other than a payment default of KESC, and demonstrable progress toward affecting such cure is being made, the GOP shall be granted an additional period not exceeding ninety (90) Days to affect such cure before the Company may exercise its rights and remedies with respect to such default set forth in this Agreement.

4.10 Termination of the Implementation Agreement

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

[Handwritten signatures]

ARTICLE V
REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1 Representations, Warranties and Covenants of the Company.

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

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

(i) Design and Construction of the Complex. The Company shall design, engineer, finance, construct, complete and own the Complex in all material respects in accordance with (A) the Minimum Functional Specifications set forth in Schedule 1, (B) the plans and specifications and accompanying data submitted to KESC pursuant to this Agreement, (C) to the extent not inconsistent with the Laws of Pakistan, the Standards, (D) so far as it is material to KESC's rights and obligations hereunder, all applicable Laws of Pakistan and the Consents and (E) sound engineering and construction practices and Prudent Utility Practices and (F) such requirements as KESC may reasonably deem necessary in order for the Interconnection and Transmission Facilities to be designed and constructed in accordance with sound engineering practices, Prudent Electrical Practices and Prudent Utility Practices, and shall use all reasonable efforts to ensure that the Complex is Commissioned on or before the Required Commercial Operations Date. The Company covenants that the Complex will be designed, constructed and completed in a good and workmanlike manner, only with materials and equipment that are brand new and unused, utility grade and suitable for their intended use, and in such a manner as to provide that the useful life of the Complex, with proper operation and maintenance, will be at least equal to twenty-two (22) years and in accordance in all material respects with sound engineering practices and Prudent Utility Practices;

(ii) Operation and Maintenance of the Complex. The Company will operate and maintain the Complex in all material respects in accordance with (A) the operating procedures developed pursuant to Section 3.4, (B) the Technical Limits set forth in Schedule 2,

(C) if not inconsistent with the Laws of Pakistan, the Standards, (D), so far as it is material to KESC hereunder, all applicable Laws of Pakistan and the Consents, and (E) sound engineering practices and Prudent Utility Practices, including without limitation, synchronizing, voltage and reactive power control and (F) Prudent Electrical Practices.

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

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

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

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

(vii) Applicable Laws. The Company shall, (a) at all times, maintain its corporate existence in compliance with the Laws of Pakistan, (b) at all times, so far as it is material to KESC hereunder, comply with all Laws of Pakistan applicable to the Company and, to the extent not inconsistent therewith, the Standards, (c) use all reasonable efforts to procure and maintain all Consents necessary for its performance under this Agreement, give all required notices and allow all required inspections under all Consents obtained or applied for by it in connection with the Complex, and (d) pay all Prescribed Fees in connection with such Consents.

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

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

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

(A) Periodic Reports. As soon as available but in any event within sixty (60) Days of filing, furnish to KESC two (2) copies of all documents filed in compliance with the requirements of the Companies Ordinance, 1984, as amended or as may be superseded from time to time; and

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

(C) Examination. Without limiting the foregoing, the Company will permit KESC or its accountants to examine all relevant books, records, reports and other papers of the Company for the purpose of verifying (i) the determination of Supplemental Tariff Payments; (ii) the amount or calculation of the Capacity Purchase Price or the Energy Purchase Price (including indexed and Pass-Through Items) in accordance with Schedule 6; and (iii) upon the occurrence of a Company Event of Default, compliance with the Company's financial obligations under the Financing Documents. The Company shall keep such books, records, reports and other papers in sufficient detail to permit KESC to calculate and evaluate such matters. Any such examination by KESC shall be made during regular business hours and upon reasonable advance notice to the Company. In connection with such examination, the Company will permit KESC and KESC's accountants to make copies and extracts of such books, records reports and other papers and to discuss such matters with the Company's officers and employees. If after discussion of such matters with the Company's officers and employees, KESC wishes to review such matters with the Company's accountants, the Company shall direct its accountants (whose fees and expenses shall be for the account of the Company) to communicate directly with KESC concerning such matters. The Company shall not be required to pay or reimburse KESC for expenses which KESC or KESC's accountants may incur in connection with any such examination;

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

(xii) Protective Relays. The Company shall, in accordance with the Minimum Functional Specifications, install protective relays in the Complex having ratings and characteristics approved by KESC, and, subject to the Technical Limits, shall maintain the

settings of all such relays at the levels agreed by the Company and KESC and the Company shall not change such settings without the prior written consent of KESC.

5.2 Representations, Warranties and Covenants of KESC.

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

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

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

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

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

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

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

ARTICLE VI
CONTROL AND OPERATION OF THE COMPLEX, DESPATCH

6.1 Declared Available Capacity Declaration.

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

6.2 Scheduling and Despatch.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.3 Scheduled Outage Periods.

(a) Within forty-five (45) Days following receipt by the Company of the Year ahead notification to be provided by KESC pursuant to Section 6.2(a)(i), the Company shall submit to KESC its proposed schedule of Scheduled Outage periods for the Year to which such notification applies. Such Scheduled Outage periods shall, in the aggregate, not exceed thirty (30) Days in each Agreement Year (computed by multiplying thirty (30) Days by twenty-four (24) hours and by the then-prevailing Dependable Capacity, expressed in MWh), except that every fifth (5th) Agreement Year, an additional thirty (30) Scheduled Outage Days (computed by multiplying thirty (30) Days by twenty-four (24) hours and by the then-prevailing Dependable Capacity, expressed in MWh), may be scheduled. The Company shall only propose Scheduled Outage periods of the Complex during the Maintenance Months, subject, however, to the requirements of the Technical Limits relating to equipment maintenance; provided, however, that in no event shall any Scheduled Outage be scheduled during the Months of April, May, June, and October, except for the purpose of conducting

inspection, testing and preventive maintenance not exceeding seven (7) Days in the aggregate during such months (computed by multiplying seven (7) Days by twenty-four (24) hours and by the then-prevailing Dependable Capacity, expressed in Mwh); provided, further, that not more than one generating unit shall be subject to inspection, testing and preventive maintenance at a time during such period; provided, further, that KESC may, at the time of its Year ahead notification to the Company, designate any other three consecutive Months and up to four (4) Months total for the Year to which such notification applies as Months during which no such Scheduled Outage shall be allowed. The Company shall take into consideration the Demonstration Period designated by KESC in the Year ahead notification when establishing the proposed schedule of Scheduled Outage periods; provided, however, that if the requirements of the Technical Limits or the scheduling of Scheduled Outages during Maintenance Months would result in a Scheduled Outage during the designated Demonstration Period, then the Company shall propose an alternative Demonstration Period at the time of the submission by the Company of its proposed Scheduled Outage periods.

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

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

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

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

(f) For each MWh that the Company reduces the aggregate Scheduled Outage periods below seven-hundred and twenty (720) hours multiplied by the then-prevailing Dependable Capacity in each Agreement Year, the Ω (omega) provided in Section 9.4(b) shall, for purposes of computing liquidated damages payable by the Company, be increased by 0.5 MWh.

6.4 Operation in Accordance with Despatch.

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

6.5 Recording of Telephoned Communications.

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

6.6 Emergency Set-Up and Curtailment Plans.

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

6.7 Supply of Power in Emergency.

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

6.8 Employment of Qualified Personnel.

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

6.9 Operating Committee Membership and Duties.

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

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

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

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

(iii) the coordination of Scheduled Outages;

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

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

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

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

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

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

6.10 Maintenance of Operating Records.

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

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

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

(iii) any unusual conditions found during inspections; and

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

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

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

6.11 Cessation of Operation of the Complex

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

[Handwritten initials: "MB" and "MK" are visible below the text.]

ARTICLE VII
INTERCONNECTION

7.1 Interconnection and Transmission Facilities.

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

7.2 Data Necessary for Construction of Interconnection and Transmission Facilities.

KESC acknowledges that the Company has provided KESC with the information required in Item 2 of Schedule 3. Based upon this information, KESC has determined that the Interconnection Facilities and the Transmission Facilities can be designed and constructed within the time required by Section 7.4 of this Agreement. Within ten (10) Days of a request by KESC, the Company shall provide all additional information reasonably requested by KESC in connection with its completion of the Interconnection Facilities and Transmission Facilities. KESC shall utilize such supplemented information in its final design of the Interconnection Facilities and Transmission Facilities. The timely provision by the Company of such supplemental or additional information shall not modify the obligation of KESC to construct the Interconnection Facilities and the Transmission Facilities as required herein.

7.3 Granting of Easements and Rights of Way.

(a) The Company shall grant to KESC permanent easements and rights-of-way across the Site necessary to install, operate, maintain, replace and/or remove the Interconnection Facilities and the Transmission Facilities. The easements shall grant to KESC adequate and continuing rights for the purposes set forth in Section 7.1 to enter the Site subject only to KESC's giving prior notice to the Company. Upon request by KESC, the Company shall execute such easements, rights-of-way, licenses and other documents, each in recordable form, as KESC 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 KESC pursuant to this Section 7.3 shall include such reasonable further term, not to exceed ninety (90) Days beyond the Term, to allow KESC to remove the Interconnection Facilities and the Transmission Facilities. When on the Site, KESC shall comply with all reasonable instructions of the Company and its Contractors relating to the carrying out of any work on the Site and, notwithstanding any other provision in this Agreement to the contrary, shall indemnify and hold the Company and the Contractors harmless from any loss or damage sustained by virtue of KESC's negligence or willful misconduct in the exercise of rights pursuant to this Section 7.3, but only to the extent that such loss or damage is not covered by insurance.

(b) Except as provided in Section 7.3(a), KESC, at its expense, shall be responsible for obtaining all rights-of-way, easements and other real or personal property interests

necessary to construct, operate and maintain the Transmission Facilities and the Interconnection Facilities during the term of this Agreement.

7.4 Construction of Interconnection and Transmission Facilities.

The Company shall give KESC thirteen (13) months prior written notice of the Scheduled Commercial Operations Date then anticipated by the Company. Following the receipt of such notice, KESC shall commence the final design of the Interconnection Facilities and Transmission Facilities. Thereafter, KESC shall give the Company reports on the progress of the design and construction of the Interconnection Facilities and the Transmission Facilities as appropriate until the same are completed. KESC shall, at its sole expense except as provided in Section 7.3(a), construct and test the Interconnection Facilities and Transmission Facilities no later than ninety (90) Days prior to the Scheduled Commercial Operations Date provided to KESC pursuant to the first sentence of this paragraph; provided, however, that such completion date shall be extended on a Day-for-Day basis for any changes in the Scheduled Commercial Operations Date and to the extent necessary because of the occurrence of any of the following:

- (a) the failure by the Company to execute, in sufficient time for KESC to complete the Interconnection Facilities and the Transmission Facilities, such easements, rights-of-way, licenses and other documents, each in recordable form, as KESC may reasonably require to record the deeds, easements, rights-of-way and licenses granted pursuant to Section 7.3;
- (b) the failure by the Company to provide KESC, on a timely basis, with any technical data not included in Schedule 3 available to the Company and requested by KESC relating to the Complex reasonably necessary for KESC to undertake the design, construction, installation, commissioning, maintenance and operation of the Interconnection Facilities or the Transmission Facilities;
- (c) an Emergency;
- (d) a Force Majeure Event under Section 13.1(c)(i)(E); or
- (e) any other failure by the Company to perform in accordance with this Agreement that materially affects KESC's ability to perform its obligations in accordance with this Article VII;

provided, however, that no extension shall be granted to KESC to the extent that such failure or delay would have nevertheless been experienced by KESC. At any time after it has given KESC notice of the anticipated Scheduled Commercial Operations Date, the Company may request KESC in writing to accelerate the design and construction of the Interconnection Facilities and/or the Transmission Facilities at the Company's expense, and KESC shall comply with such a request if at all possible. Within fifteen (15) Days of receipt of such a request, the Parties shall meet and KESC shall advise the Company of whether such acceleration is possible and, if so, the number of Days to be gained, the incremental cost of such acceleration, any options that may be available, and KESC's suggested payment schedule therefor. Upon receiving the Company's commitment in writing to pay for a programme of acceleration identified at the meeting, KESC shall promptly undertake such programme.

7.5 Interconnection Equipment on Company's Side of Interconnection Point.

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

7.6 Protective Devices.

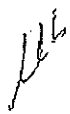
(a) Subject to giving the Company reasonable notice, KESC may require the Company to modify or expand the requirements for protective devices. Following approval by KESC of the costs of such modification or expansion, the Company shall perform such modification or expansion and, for costs incurred for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

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

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

7.7 Testing.

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



ARTICLE VIII
METERING & TELECOMMUNICATIONS

8.1 Metering System.

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

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

8.2 Installation of Metering Systems.

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

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

8.3 Testing of Metering System.

(a) KESC shall initially test the Metering System for accuracy in accordance with Schedule 5 by the later of fifteen (15) Days after it is installed by the Company or the date scheduled

for initial testing of the Complex to begin, and thereafter at intervals of not less than one hundred and eighty (180) Days after giving the Company no less than forty-eight (48) hours advance notice. The Company may have a representative present during any such testing, as well as during any inspection of the Metering System or adjustment thereof.

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

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

8.4 Reading of Meters.

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

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

(i) First, the readings of the Back-Up Metering System, if any, may be utilized to calculate the correct amount of Net Electrical Output, unless a test of such Back-Up

Metering System, as required by either Party, reveals that the Back-Up Metering System is inaccurate by more than one-half percent (0.5%) or is otherwise functioning improperly;

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

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

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

8.5 Sealing of Metering System.

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

8.6 Repair, Replacement or Recalibration of Metering System.

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

8.7 Telecommunications Circuit.

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

(a) Telecommunications system for (i) telecommunication and teleprotection facilities at KESC's grid stations at Baldia and Hub Chowki and the Complex control centre; and (ii) telemetering and data interface for KESC's Supervisory Control and Data Acquisition Systems (SCADA);

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

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

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

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ARTICLE IX
COMPENSATION, PAYMENT AND BILLING

9.1 Capacity Payments.

(a) From and after the Commercial Operations Date, KESC shall pay the Capacity Payment to the Company, in accordance with Section 9.7. For each Month, the Capacity Payment shall be equal to the product of the Capacity Purchase Price and the Dependable Capacity in effect for such Month; provided, that if the Commercial Operations Date occurs on a date which is not the first Day of a Month, the Capacity Payment, for the period from the Commercial Operations Date through the last Day of the Month in which the Commercial Operations Date occurs, shall be multiplied by a fraction the numerator of which is the number of Days remaining in the Month from and including the Day immediately following the Commercial Operations Date and the denominator of which is the number of Days in such Month.

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

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

(d) As soon as practicable after the date of this Agreement but in any event not later than the date of the earlier to occur of either Financial Closing or Commercial Operations Date, the Company shall notify KESC and the GOP in writing that it elects Exchange Risk Insurance (as

defined in the Implementation Agreement), subject to proper application therefor with the National Bank of Pakistan, or indexation of the foreign loan portion of the Non-Escalable Component of the Capacity Purchase Price for changes in the value of the Pakistan Rupee against the Dollar under the terms and conditions of Schedule 6. If the Company elects Exchange Risk Insurance it will notify KESC not later than the date of the earlier to occur of either Financial Closing or Commercial Operation Date whether it elects to pay the premium for the Exchange Risk Insurance or, after the Commercial Operations Date, to have the premium paid directly by KESC with a reduction in the Capacity Purchase Price equal to the Exchange Risk Insurance Component thereof.

9.2 Energy Payments.

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

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

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

9.3 Energy Purchase Price Premium.

In the event that the Commercial Operations Date occurs on or before December 31, 1997 (the "Premium Date"), in addition to the Energy Purchase Price, KESC shall pay to the Company a premium of Rupees equivalent to US Cent 0.25 per kWh of Net Electrical Output delivered to KESC from the Commercial Operations Date and continuing to the tenth (10th) anniversary of such date; provided, however, that the Dependable Capacity is maintained above 100 MW during such ten (10) year period. The failure to achieve at least 100 MW in a Dependable Capacity test carried out in accordance with Section 10.4 shall result in loss of the premium until the Dependable Capacity of the Complex is determined to be equal to or above 100 MW as demonstrated in a subsequent Dependable Capacity test. In no event shall the Premium Date or the period, if any, during which the premium shall be paid be extended by reason of a Force Majeure Event or for any other reason whatsoever; provided, however, that the Premium Date shall be extended on a Day-for-Day basis for (a) KESC's failure to complete the Interconnection and Transmission Facilities as required by Section 7.4 or (b) a delay caused by KESC of testing of the Complex by the Company pursuant to Section 10.1(b). The judgement as to whether, but for KESC's failure to complete the Interconnection and Transmission Facilities or to accommodate the Company's testing schedule, the Complex was or would have been ready for the scheduled programme of tests, as described more fully in Sections 3.6 and 10.1, respectively, shall be made by a committee (the "Interconnection" Committee) to be composed of two

(2) experts each from KESC and the Company and an independent expert acceptable to the experts of each Party. If either Party believes that it is reasonably likely that the Interconnection and Transmission Facilities will not be completed as required by Section 3.6 and 7.4, such Party may require the formation of the Interconnection Committee. If either Party requests the formation of the Interconnection Committee, the experts of each Party to serve on the Committee shall be named by the earlier of (i) one hundred fifty (150) Days prior to the Scheduled Commercial Operations Date or (ii) ninety (90) Days prior to the date KESC expects to complete the Interconnection and Transmission Facilities, as such date is conveyed by KESC to the Company. The independent expert shall be selected within thirty (30) Days thereafter. The Committee shall monitor; and keep itself fully informed of the progress on the construction of the Complex through periodic inspections.

9.4 Liquidated Damages and Penalties.

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

(b) Forced Outages and Partial Derating.

(i) In the event that the sum of (A) the Equivalent Weighted Forced Outage Energy (as hereinafter defined) for the Complex plus (B) the Weighted Complex Partial Derating (as hereinafter defined) expressed in MWh plus (C) the Weighted Complex Maintenance Outages (as hereinafter defined) expressed in MWh, shall exceed Ω MWh in any Agreement Year (where Ω equals the Average Dependable Capacity multiplied by 500 hours), then the Company shall pay to KESC, as liquidated damages, the Capacity Damages Amount multiplied by $((A+B+C) - \Omega)$ for any Agreement Year. In computing liquidated damages payable by the Company for the first Agreement Year, the sum of A+B+C in this equation shall be multiplied by 0.75. There shall be no adjustment in any subsequent Agreement Year.

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

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

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

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

Months	All Working Days Except Fridays		Fridays		24 Hours
	12 Peak Hours	12 Non-Peak Hours	12 Peak Hours	12 Non-Peak Hours	
January	0.5	0	-	-	0
February	0.5	0	-	-	0
March	1	0.5	-	-	0
April	2	1.25	-	-	1
May	2.6	1.5	2	1.5	-
June	2.6	1.5	2	1.5	-
July	2	1.5	-	-	1
August	1.5	1	-	-	1
September	1	0.5	-	-	0
October	2	1.09	-	-	1
November	0.5	0	-	-	0
December	0.5	0	-	-	0

where for these purposes peak hours shall be the hours of 11:00 am to 11:00 pm on each Day, provided, however, that KESC reserves the right to designate new periods, peak hours (which shall be periods of twelve (12) consecutive hours, but which may vary from month to month) and Weighting Factors for the purposes of this Section 9.4(b) by giving notice in writing to the Company at least twelve (12) Months prior to the first Day of any Agreement Year; provided, further, that the maximum value of any Weighting Factor shall be 2.6, the total weighted hours per Agreement Year shall be 8,760, the hours in any period shall be consecutive, there shall be no more than three (3) periods in any one Day, and on Fridays, except during any two of KESC's peak Months, there shall be one period only; provided, further, that KESC shall only make such redesignations in response to long term load and generation changes.

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

(d) Waiver of Defenses. The Parties agree that KESC may be substantially damaged in amounts that may be difficult or impossible to determine in the event that the Complex (i)

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

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

(f) Security.

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

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

(C) On the Commercial Operations Date, the Company shall provide to KESC the Company Letter of Credit, which shall have a term of twelve (12) months from the Commercial Operations Date, in an amount equal to an aggregate of two (2) Months of Capacity Payments (as adjusted in accordance with Schedule 6) computed on the basis of the AIDC or, with respect to any replacement Company Letter of Credit, on the basis of the then-prevailing Dependable Capacity (in each case without regard in any event to amounts being held in escrow pending the resolution of a Dispute concerning liquidated damages assessed against the Company). Not less than ten (10) Days prior to the expiration of the Company Letter of Credit and each replacement Company Letter of Credit, the Company shall provide a replacement Company Letter of Credit which shall have a term of twelve (12) months from the expiration of the immediately precedent Company Letter of Credit. The Letter of Credit provided pursuant to this Section 9.4(f)(i)(C) shall be maintained throughout the Term and shall be reinstated to the full required amount within thirty (30) days of any draw thereon by KESC.

(D) In the event that the Company shall be required to pay liquidated damages to KESC, and the Company fails to make any such payments of damages when due, then KESC shall be entitled to draw or collect such amounts, less any amounts disputed by the Company, from the Company Letters of Credit upon presentation of a certificate of an authorized officer of KESC stating that (1) amounts shown in the invoice accompanying the

certificate are due and payable by the Company to KESC under this Agreement and (2) an invoice for such amount has been delivered to the Company at least twenty-five (25) Days prior to the presentation of the certificate and either (aa) no amounts shown in such invoice have been disputed by the Company or (bb) a portion of the amount shown in the invoice has been disputed by the Company, identifying such disputed amount. The certificate shall be accompanied by the relevant invoice delivered to the Company and any Invoice Dispute Notice delivered to KESC by the Company.

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

(B) Notwithstanding the provisions of Section 9.4(f)(ii)(A) above, in lieu of delivering the KESC Letter of Credit or any replacement KESC Letter of Credit, KESC may in its sole discretion establish with the Escrow Bank an Escrow Account equal to the then-required amount of the KESC Letter of Credit from which only amounts due and payable by KESC to the Company under this Agreement may be withdrawn. The Escrow Agreement governing this account shall provide for withdrawals from the account upon presentation of a draft executed by the Company for any amount due and payable by KESC under this Agreement and shall be accompanied by (1) a certificate executed by an authorized officer of the Company stating that (aa) amounts due and payable by KESC to the Company under this Agreement have been invoiced to KESC in accordance with this Agreement at least twenty-five (25) Days prior to the presentation of the certificate and (bb) either (xx) no amount shown in such invoice has been disputed by KESC or (yy) a portion of the amount shown in the invoice has been disputed by KESC, identifying such disputed amount, (2) the relevant invoice delivered to KESC and (3) the Invoice Dispute Notice delivered to the Company by KESC, if

any. The Company shall not be entitled to draw any amounts shown in the invoice to KESC that have been disputed by KESC. If and for so long as KESC maintains the Escrow Account in lieu of the KESC Letter of Credit, the Escrow Account shall be reinstated to the full required amount (in addition to any amounts being held in a separate account in escrow pursuant to section 9.8 pending the resolution of a Dispute) within thirty (30) days of any draw thereon by the Company; provided, however, that if, after the draw by the Company, the amount remaining in the Escrow Account is less than the amount due to the Company under another invoice already delivered to KESC by the Company (the "Second Invoice"), then the Escrow Account shall be reinstated to the full required amount by the twenty-fifth (25th) Day following the delivery to KESC of the Second Invoice. For so long as KESC maintains the Escrow Account in lieu of the KESC Letter of Credit, the Company shall draw or collect all amounts due and payable by KESC under this Agreement directly from the Escrow Account established by KESC.

(C) To the extent that KESC is required by the provisions of this Article IX to pay Capacity Payments, Energy Payments, Supplemental Tariff Payments or Supplemental Charges, the Energy Purchase Price premium referred to in Section 9.3, or the amounts referred to in Section 9.6, the Company shall draw or collect such amounts directly from the KESC Letter of Credit or, if KESC has established the Escrow Account pursuant to Section 9.4(f)(ii)(B), the Escrow Account.

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

9.5 Payment of Liquidated Damages.

(a) Within fourteen (14) Days after the end of each Month and within thirty (30) Days of the end of each Agreement Year, subject to the Company's review, KESC shall compute and advise the Company in the Invoice for Liquidated Damages of the amount of liquidated damages due to KESC pursuant to this Agreement for the preceding Month or Agreement Year, as the case may be.

Disputes regarding payments of any amount specified in an Invoice for Liquidated Damages shall be resolved pursuant to the terms of Section 9.8.

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

9.6 Bonus.

In the event that the Net Electrical Output during any Agreement Year is in excess of 680,433,000 kWh, then KESC shall pay to the Company within sixty (60) days of the end of such Agreement Year, in addition to any other payments due to the Company pursuant to Section 9.2, an amount equal to Rs.0.08 for each kWh by which the Net Electrical Output of the Complex during the Agreement Year is greater than 680,433,000 kWh.

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

9.7 Billing.

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

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

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

Account for the amount shown in the invoice as due to Company (less any amount disputed by KESC) at any time after the twenty-fifth (25th) Day following the Day the invoice is delivered to KESC.

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

(e) Late payments shall bear interest at a rate per annum equal to the Base Rate plus two percent (2%) per annum compounded semi-annually and shall be computed for the actual number of Days on the basis of a three hundred sixty-five (365) Day Year.

9.8 Payment Disputes.

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

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

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

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

9.9 Proration Resulting From KESC's Operation or Termination.

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

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

9.10 Supplemental Tariff Payments

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

9.11 Retained Payments Fund

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

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

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

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

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

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

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

ARTICLE X
TESTING AND CAPACITY RATINGS

10.1 Testing of the Complex Prior to Commercial Operations Date.

(a) The Company will use its best efforts to provide KESC on an on-going basis with relevant information regarding its programme for testing the Complex. The Company's preliminary programme and schedule for testing the Complex and KESC's obligations (including the availability of the Interconnection Facilities and Transmission Facilities) are set forth in Schedule 10 hereto. Not less than thirty (30) Days prior to the commencement of such test programme, the Company will deliver to KESC in writing the final programme for testing the Complex, including the expected duration of the Company's start-up testing programme and a tentative schedule for conducting all tests required by Sections 10.2 and 10.3. The Company shall advise KESC in writing of any changes in its final schedule for the testing programme not less than seven (7) Days prior to the commencement of the tests required by Section 10.2. Such final schedule may not materially increase or advance the date of KESC's obligations as set forth in Section 7.4 without the prior written consent of KESC. If the schedule for any test required by Section 10.2 or 10.3 is adjusted after the Company has provided KESC with the final testing programme schedule, then the Company shall advise KESC not less than forty-eight (48) hours prior to the commencement of any such test. On each Day beginning with the Day on which testing commences, the Company shall provide KESC with a schedule of the tests to be conducted on the following Day or Days (if such test will continue for more than one (1) Day). All testing of the Complex shall satisfy the Commissioning and test criteria provided in Sections 10.2 and 10.3 and Schedule 4.

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

10.2 Tests Prior to Synchronization of the Complex.

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

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

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

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

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

- (i) initial Dependable Capacity test;
- (ii) reliability run test;
- (iii) automatic voltage regulator droop;
- (iv) engine governor operation;
- (v) reactive capability;

- (vi) minimum load capability;
- (vii) response of Complex to step load changes; and
- (viii) full load rejection;

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

(b) Reliability Run and Initial Dependable Capacity. Upon completion of the reliability run test prerequisites as included in Schedule 4, the Company shall declare to KESC the commencement of the reliability run test. During the period of the reliability run test, the initial Dependable Capacity of the Complex will be determined in the following manner:

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

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

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

(c) Additional Commercial Operations Tests.

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

(ii) If the results of a Commercial Operations Test satisfy the minimum performance criteria to achieve the Commercial Operations Date, but the Company is not satisfied with the results of such Commercial Operations Test, the Company may request two additional tests to establish the Commercial Operations Date with at least two (2) Days notice provided to KESC prior to a subsequent test; provided, however, that the Company will not be paid for capacity until it has notified KESC that the Company has designated the test as the Commercial Operations Test.

(iii) When the Company is satisfied with a test to establish the Commercial Operations Date, the Company shall notify KESC that the Company has designated such test as the Commercial Operations Test and shall set the Actual Initial

Dependable Capacity at any level up to the tested level; provided, however, such AIDC may not exceed one hundred and five percent (105%) of the Estimated Dependable Capacity.

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

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

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

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

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

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

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

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

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

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

10.5 Notice of and Compliance With Testing Procedures.

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

10.6 Copies of Test Results.

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

10.7 Testing Disputes.

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

10.8 Estimated Dependable Capacity.

The Company's Estimated Dependable Capacity of the Complex, at the Reference Conditions specified in Schedule 1, is 119.5 MW net.

Handwritten signatures: "JLB" and "AK" with a checkmark.

Handwritten signature.

ARTICLE XI
INSURANCE

11.1 Maintenance of Insurance Policies.

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

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

11.2 Maintenance of "Occurrence" Form Policies.

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

11.3 Policy Endorsements.

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

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(a) KESC, 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 KESC, 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 KESC, its officers, directors and employees; and

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

11.4 Endorsements to Fire and Perils and Machinery Breakdown Policies.

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

11.5 Certificates of Insurance.

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

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11.6 Insurance Reports.

The Company shall provide KESC with copies of any underwriters' reports or other reports received by the Company from any insurer; provided, that KESC 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 KESC and shall use and internally distribute such reports only as necessary in connection with the administration and enforcement of this Agreement.

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ARTICLE XII
LIABILITY AND INDEMNIFICATION

12.1 Limitation of Liability.

Except as required by Section 12.2, neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory for any indirect, consequential, incidental, punitive or exemplary damages. Neither Party shall have any liability to the other Party except pursuant to, or for breach of, this Agreement; provided, however, that this provision is not intended to constitute a waiver of any rights of one Party against the other with regard to matters unrelated to this Agreement or any activity not contemplated by this Agreement.

12.2 Indemnification.

(a) KESC. Except as specifically provided elsewhere in this Agreement, KESC shall indemnify and defend the Company its officers, directors and employees against, and hold the Company its officers, directors and employees harmless from, at all times after the date hereof, any and all Losses incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, the Company its officers, directors and employees, for personal injury or death to persons or damage to property arising out of any negligent or intentional act or omission by KESC in connection with this Agreement. Notwithstanding anything to the contrary contained in the preceding sentence, nothing in this Section 12.2(a) shall apply to any Loss in respect of which the Company receives indemnification in full pursuant to the terms of the Implementation Agreement.

(b) The Company. The Company shall indemnify and defend KESC its officers, directors and employees against, and hold KESC 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, KESC its officers, directors and employees, for personal injury or death to persons or damage to property arising out of any negligent or intentional act or omission by the Company in connection with this Agreement.

(c) Joint Negligence. In the event injury or damage results from the joint or concurrent negligent or intentional acts or omissions of the Parties, each Party shall be liable under this indemnification in proportion to its relative degree of fault.

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

12.3 Assertion of Claims to Exceed Minimum Indemnification Amount.

Each Party shall be solely liable, and shall not be entitled to assert any claim for indemnification under this Agreement, for any Loss that would otherwise be the subject of indemnification under this Agreement until all Losses of such Party, in the aggregate, during the then-current Year exceed the Minimum Indemnification Amount. For the purposes of this Section 12.3, a Loss (or claim for indemnification) shall be deemed to arise in the Year the event giving rise to such Loss (or claim for

indemnification) occurred, or if the event is continuing in more than one Year, in the Year such event ends.

12.4 Indemnification for Fines and Penalties.

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

12.5 Defense of Claims.

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

(b) Unless and until the indemnifying Party acknowledges in writing its obligation to indemnify the indemnified Party and assumes control of the defense of a claim, suit, action or proceeding in accordance with Section 12.5(a), the indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with counsel of its own selection, any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expense thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder.

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

(d) Neither Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other Party, provided, however, that after agreeing in writing to indemnify the indemnified Party, the indemnifying Party may settle or compromise any claim without the approval of the indemnified Party.

(e) Following the acknowledgement of the indemnification and the assumption of the defense by the indemnifying Party, the indemnified Party shall have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such indemnified Party, when and as incurred, unless (i) the employment of counsel by such indemnified Party has been authorized in writing by the indemnifying Party, (ii) the indemnified Party shall have reasonably concluded that there may be a conflict of interest between the indemnifying Party and the indemnified Party in the conduct of the defense of such action, (iii) the indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the indemnified Party to assume the defense of such action and shall have been so notified by the

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

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ARTICLE XIII
FORCE MAJEURE

13.1 Definition of Force Majeure.

A "Force Majeure Event" shall mean any event or circumstance or combination of events or circumstances that is beyond the reasonable control of a Party and that on or after the date of the earlier to occur of Construction Financial Closing or Financial Closing, materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement (including a Party's ability to deliver or receive energy from the Complex); provided, however, that any such event or circumstance or combination of events or circumstances shall not constitute a "Force Majeure Event" within the meaning of this Section 13.1 to the extent that such material and adverse effect could have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts and activities to protect the Complex from a casualty event, which are reasonable in light of the likelihood of such event, the probable effect of such event if it should occur and the likely efficacy of the protection measures. "Force Majeure Events" hereunder shall include each of the following events and circumstances, but only to the extent that each satisfies the above requirements:

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

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

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

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

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

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

(b) Changes in Law;

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

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

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

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

(C) epidemic or plague;

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

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

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

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

(B) radioactive contamination or ionizing radiation originating from a source outside Pakistan and not falling within Section 13.1(a)(iii); and

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

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

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

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

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

13.2 Notification Obligations.

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

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

(c) Failure by the affected Party to give written notice of a Force Majeure Event to the other Party within the forty-eight (48) hour period or six (6) hour period required by Section 13.2(a) shall not prevent the affected Party from giving such notice at a later time; provided, however, that in such case the affected Party shall not be excused pursuant to Section 13.4 for any failure or delay in complying with its obligations under or pursuant to this Agreement until such notice has been given. If said notice is given within the forty-eight (48) hour period or six hour period required by Section 13.2(a), the affected Party shall be excused for such failure or delay pursuant to Section 13.4 from the date of commencement of the relevant Force Majeure Event.

13.3 Duty to Mitigate.

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

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13.4 Delay Caused by Force Majeure.

So long as the affected Party has at all times since the occurrence of the Force Majeure Event complied with the obligations of Section 13.3 and continues to so comply, then (i) the affected Party shall not be liable for any failure or delay in performing its obligations (other than an obligation to make a payment) under or pursuant to this Agreement during the existence of a Force Majeure Event and (ii) any performance deadline that the affected Party is obligated to meet under this Agreement shall be extended; provided, however, that no relief, including the extension of performance deadlines, shall be granted to the affected Party pursuant to this Section 13.4 to the extent that such failure or delay would have nevertheless been experienced by the affected Party had the Force Majeure Event not occurred; provided, further, that, in the case of a Force Majeure Event which damages the Complex, in no event shall the obligations of the affected Party under this Agreement to meet performance deadlines be extended beyond the end of the Restoration Period (as defined in the Implementation Agreement) determined in accordance with Article XVII of the Implementation Agreement. Other than for breaches of this Agreement by the other Party, and without prejudice to the affected Party's right to indemnification pursuant to Article XII or for payment pursuant to Article IX, the other Party shall not bear any liability for any loss or expense suffered by the affected Party as a result of a Force Majeure Event.

13.5 Payments During Force Majeure Event.

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

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

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

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

(b) During the pendency of a Force Majeure Event, either Party may request that a Dependable Capacity or gross capacity test, as the case may be, be performed in order to determine the FM Ratio applicable in Section 13.5(a)(i), and thereafter such new FM Ratio shall be used to compute the payments to be made by KESC to the Company; provided, however, that no more than two (2) tests may be requested by a Party within any thirty (30) Day period during the pendency of the

Force Majeure Event. Except as provided in this Section 13.5, the Company shall not be entitled to any payments from KESC during any Force Majeure Event.

13.6 Supplemental Tariff for Pakistan Political Force Majeure Events.

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

13.7 Supplemental Tariff for Change in Law.

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

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ARTICLE XIV
TAXES

14.1 Taxes Applicable to the Company.

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

14.2 Taxes Applicable to KESC.

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

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ARTICLE XV
RESOLUTION OF DISPUTES

15.1 Resolution by Parties.

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

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

15.2 Mediation by Expert.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.3 Arbitration.

- (a) Any Dispute arising out of or in connection with this Agreement and not resolved following the procedures described in Sections 15.1 and 15.2 shall, except as hereinafter provided, be settled by arbitration in accordance with the Rules of Procedure for Arbitration Proceedings (the "ICSID Rules") of the International Centre for the Settlement of Investment Disputes (the "Centre") established by the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "Convention") and the Parties hereby consent to Arbitration thereunder. For the purposes of consenting to the jurisdiction of the Convention, the Parties agree that the Company is a foreign controlled entity unless the amount of the voting stock in the Company held by Foreign Investors should decrease to less than thirty-five percent (35%) of the outstanding voting stock of the Company other than due to the purchase of shares by any of the Federally Controlled Entities, or the Provincial Government or any entity controlled by or under the influence of the Provincial Government.
- (b) Notwithstanding the foregoing, unless and until the GOP has implemented the Convention by an Act or an Ordinance confirmed by an Act, or if for any reason the Dispute cannot be settled in accordance with the ICSID Rules, whether because the Company should not be agreed to be a foreign controlled entity, or the request for arbitration proceedings is not registered by the Centre, or the Centre fails or otherwise, such Dispute shall be finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") by one or more arbitrators appointed in accordance with the ICC Rules.
- (c) Any arbitration shall be conducted in Karachi, Pakistan, and unless otherwise agreed by the Parties, the number of arbitrators shall be one; provided, however, that if the Company desired that arbitration be conducted outside of Pakistan, the arbitration shall be conducted in Singapore and the Company shall pay all costs of the arbitration as and when incurred by KESC, including the out of pocket costs of the arbitration of both Parties (excluding any award made by the arbitrator) in excess of the costs that would have been otherwise incurred by KESC had the arbitration been conducted in Karachi, Pakistan. The arbitrator shall resolve any Disputes as to whether a cost would have been incurred in connection with the arbitration in Karachi, Pakistan (the "Base Costs") or was associated with the removal to Singapore (the "Incremental Costs"). The arbitrator may order that KESC bear its own Incremental Costs in part or in full if he finds that KESC's claim or defence in the Arbitration was spurious and without any

merit whatsoever, and KESC shall pay the amount ordered; provided, however, that if a matter in Dispute involves a sum of seven million Dollars (\$7,000,000) or more, or the validity or enforceability of this Agreement, or the termination of this Agreement, arbitration shall, unless otherwise agreed by the Parties, be conducted in Singapore, and, in such case, each Party shall pay its own costs of arbitration as and when incurred, unless such costs are ordered by the Arbitrator to be paid by one Party, in which case they shall be paid by such Party.

15.4 Commercial Acts; Sovereign Immunity.

KESC unconditionally and irrevocably agrees that the execution, delivery and performance by it of this Agreement and those agreements included in the Security Package to which it is a party constitute private and commercial acts. In furtherance of the foregoing, KESC hereby irrevocably and unconditionally agrees that: (i) should any proceedings be brought against KESC or its assets, other than the Grid System, electric generation assets and equipment, electric distribution assets, other assets necessary for the fulfilment of its duties and responsibilities under the Pakistan Water and Power Development Authority Act of 1958 and assets protected by the diplomatic and consular privileges under the 1978 Immunity Act of the United Kingdom or the 1976 Sovereign Immunities Act of the United States or any analogous legislation (collectively, the "Protected Assets") in any jurisdiction in connection with this Agreement or any of the transactions contemplated by this Agreement, no claim of immunity from such proceedings will be claimed by or on behalf of KESC on behalf of itself or any of its assets (other than the Protected Assets); (ii) it waives any right of immunity which it or any of its assets (other than the Protected Assets) now has or may in the future have in any jurisdiction in connection with any such proceedings; and (iii) consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including without limitation, the making, enforcement or execution against or in respect of any of its assets other than the Protected Assets). The Company irrevocably waives any and all rights it may have to enforce any judgement or claim against the Protected Assets.

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ARTICLE XVI
NOTICES

16.1 Addresses and Addressees.

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

If to the Company:

Attention: Chief Executive
Tapal Energy Limited
Amejee Chambers
Campbell Street
P.O. Box No. 51
Karachi 74200

Facsimile No.: (92-21) 262-7817

If to KESC:

Attention: General Manager
Karachi Electric Supply Corporation Ltd.,
7th Floor, State Life Building # 11
Abdullah Haroon Road
Karachi, Pakistan

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

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16.2 Changes of Address.

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

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ARTICLE XVII
MISCELLANEOUS PROVISIONS

17.1 Amendment.

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

17.2 Headings.

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

17.3 Third Parties.

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

17.4 No Waiver.

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

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

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

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

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

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17.5 Relationship of the Parties.

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

17.6 Survival.

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

17.7 Language.

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

17.8 Choice of Law.

This Agreement and the rights and obligations hereunder shall be interpreted, construed and governed by the laws of England (without regard to conflicts of law rules).

17.9 Entirety.

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

17.10 Assignment.

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

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



(c) The Lenders shall have no obligation to KESC under this Agreement until such time as the Lenders or their designees succeed to the Company's interest under this Agreement, whether by exercise of their rights or remedies under the Financing Documents or otherwise, in which case the Lenders or their designees shall assume liability for all of the Company's obligations under this Agreement, including payment of any amounts due and owing to KESC for payment defaults by the Company under this Agreement (other than, so long as the liability insurance required by Section 11.1 has been and is in effect, damages or penalties incurred by the Company under Section 12.2(b), arising during the period prior to the Lenders's or such designees' succession to the Company's interest in and under this Agreement; provided that any liability of the Lenders or their designees shall be strictly limited to the Lenders' interest in the Complex. Notwithstanding the foregoing, KESC shall not be prevented from terminating this Agreement in respect of any liability of the Company arising under Section 12.2(b) that is not assumed by the Lenders. Except as otherwise set forth in the immediately preceding sentence, none of the Lenders or their designees shall be liable for the performance or observance of any of the obligations or duties of the Company under this Agreement, nor shall the assignment by the Company of this Agreement to the Lenders give rise to any duties or obligations whatsoever on the part of any of the Lenders owing to KESC.

Upon notification by the Lenders or the Agent to KESC of the occurrence and continuance of an event of default under the Financing Documents and the succession of the Lenders to the Company's interests in and under this Agreement, the Lenders shall have the right, among others, to (i) take possession of the Complex and, prior to the Commercial Operations Date, complete construction of the Complex and operate the same and, after the Commercial Operations Date, operate the same, and (ii) cure any continuing Company Event of Default under this Agreement as provided in Section 4.5. Notwithstanding the foregoing, the Lenders shall have no obligation to cure any Company Event of Default that is not capable of being cured including, but not limited to, a default under Section 4.2 (f), (i), (j), (k) or (m) and no right will exist for KESC to terminate this Agreement based upon such Company Events of Default occurring prior to the delivery of the Lenders's notice. Without the requirement of obtaining any further consent from KESC, upon the exercise by the Lenders or their designees of any of the remedies set forth in the Financing Documents, the Lenders may assign their rights and interests and the rights of the Company under this Agreement to a Transferee acceptable to GOP (hereinafter defined) so long as such Transferee shall assume all of the obligations of the Company under this Agreement.

Upon such assignment and assumption, the Lenders shall be relieved of all obligations under this Agreement arising after such assignment and assumptions.

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

(e) At the request of the Company, delivered to KESC not less than thirty (30) Days in advance KESC shall execute and deliver at the Financial Closing, all such acknowledgements

to the Lenders or their designees of any security created in accordance with this Section 17.10 as are reasonably requested by the Company and the Lenders to give effect to the foregoing.

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

17.11 Confidentiality.

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

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

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

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

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

17.12 Successors and Assigns.

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

17.13 No Liability for Review.

No review and approval by KESC of any agreement, document, instrument, drawing, specifications or design proposed by the Company shall relieve the Company from any liability that it would otherwise have had for its negligence in the preparation of such agreement, document, instrument, drawing, specification or design or failure to comply with the applicable Laws of Pakistan with respect thereto, or to satisfy the Company's obligations under this Agreement, the Implementation Agreement and the other documents comprising the Security Package, nor shall KESC be liable to the Company or any other person by reason of its review and approval of an agreement, document, instrument, drawing, specification, or design.

17.14 No Third Party Beneficiaries.

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

17.15 Affirmation.

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

17.16 Approval Not to be Unreasonably Withheld or Delayed.

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

17.17 Double Jeopardy.

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

respectively, pursuant to Sections 4.2 and 4.4 of this Agreement and Sections 19.1 and 19.3 of the Implementation Agreement.

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

THE KARACHI ELECTRIC SUPPLY
CORPORATION LIMITED

By: _____

Name:

Title:

[Signature]
YACUB A. SPELANI
General Manager (G.E.S.C.)
K.E.S.C. Ltd. Karachi.

Ahmedgumrah
AKHLAGULLAH
CHIEF EXECUTIVE
OFFICER

TAPAL ENERGY LIMITED

By: _____

Name:

Title:

[Signature]
MOIZ TAPAL
Chief Executive



SCHEDULE 1

MINIMUM FUNCTIONAL SPECIFICATIONS

The Complex consists of one (1) land-based powerplant comprised of twelve (12) residual fuel oil ('RFO') fired diesel generating sets (each a 'Unit') with the following design ratings:

- | | | |
|----|---|---|
| 1. | Gross Capacity under ISO 3046 (Latest Version as of the date of this Agreement) | |
| a. | Diesel generating unit at alternator terminals | 10,500 kW _e per Unit |
| b. | Multiplied by twelve (12) Units | 126,000 kW _e for the Complex |
| 2. | Derating from ISO standard conditions to Reference Conditions | 2,500 kW _e for the Complex |
| 3. | Gross Capacity after derating | 123,500 kW _e for the Complex |
| 4. | Estimated auxiliary consumption for the Complex | 4,000 kW _e for the Complex |
| 5. | Estimated Dependably Capacity of the Complex at the 132kV busbar under Reference Conditions | 119,500 MW _e |

The Site is located off Hub River Road, South of Hub Chowki, in the District of Karachi West, Sindh Province.

The Site area is characterized as tropical. Average rainfall is 700 mm per year, but this amount falls in short durations. Reference Conditions at the Site are:

AMBIENT AIR TEMPERATURE $= T_m = 30 \text{ deg. C} = 303 \text{ K}$

CHARGE AIR COOLANT TEMPERATURE $= T_{ca} = 40 \text{ deg. C} = 313 \text{ K}$

TOTAL BAROMETRIC PRESSURE $= p_t = 1031.2 \text{ mbar}$

RELATIVE HUMIDITY $= 80 \%$

A maximum earthquake design factor of 0.1 g will be utilized for the design of the plant buildings and structures and the design wind speed will be 40m/sec.

The Site will be at elevation <65 m with respect to mean sea level (MSL). All structures will have a ground floor elevation of at least 20 m above MSL. Access to the Site will be provided by a road. The main power block consists of twelve (12) RFO fired diesel generating sets. Other plant buildings and structures outside of the main power block include, but are not limited to, the following:

SCHEDULE 1

Fuel Storage Area;
Combined Fuel Treatment / Boiler (for heating RFO only) / Water Treatment House;
Fire Fighting Basin;
Workshop / Stores;
Office Building;
Switchyard;
Guardhouse.

The Complex will use a simple cycle diesel generating sets with waste heat recovery to heat the RFO systems.

Cooling will be supplied via a radiator cooling system. The primary fuel will be RFO, with Light Fuel Oil ('LFO') being used for flushing the engines and for LFO fired boilers.

Each generator will be nominally rated at 13,125 kVA, 0.8 lagging and 0.9 leading power factor, 11,000 V, 3 phase, 50 cycle, not less than 0.55 short circuit ratio. Each generator will be air cooled..

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

The Complex will have three main step-up transformers, each rated not less than 58.6 MVA, 132/11kV, ONAF.

Interconnection with the KESC system will be via a 132 kV, switchyard located on the Complex.

A common control room is provided to monitor and control the Complex. Operator interfaces for control of the Complex will be via control panel and PC operating stations and each Unit will be capable of being started and stopped locally. The plant control systems include a data acquisition system.

Fuel supply to the Complex will be via road tanker delivery. The Site will have sufficient RFO storage capacity to support operation of the Complex for the equivalent of 100 % of full load for 30 Days.

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

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SCHEDULE 2
TECHNICAL LIMITS

1. Design Limits

1.1 Unit Starts

- (a) The notice required by the Company to start-up the Complex or Unit(s) and synchronize to the KESC Grid System will vary according to the length of time the Complex or Unit(s) has been shutdown. Table 1 below shows the length of notice required against various periods of shutdown.

Table 1

	<u>Length of Shutdown</u>	<u>Notice required to synchronize</u>
(i)	Not more than 2 hours	20 minutes
(ii)	More than 2 hours but not more than 8 hours	60 minutes
(iii)	More than 8 hours but not more than 32 hours	2 hours
(iv)	More than 32 hours but not more than 150 hours	4 hours
(v)	More than 150 hours	7 hours

- (b) For the purposes of this Schedule start up of the Complex or Unit(s) is classified as follows:

"Hot Start" - A start following a shutdown period as per (i), (ii), (iii) or (iv) above.

"Cold Start" - A start following a shutdown period as per (v) above.

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SCHEDULE 2

and the reference to starts, starting or started means the process of starting the Complex or Unit(s) and synchronizing it with the KESC Grid System.

- (c) The notice required to synchronize under item (i) above shall apply provided the previous shutdown was not the result of a trip.
- (d) Starting of the Complex shall be subject to the following limits for each Unit:

Table 2

<u>Type of Starts</u>	<u>Total aggregate maximum number of starts</u>	<u>Maximum number of starts per year</u>
Hot Starts	}	No technical limitations
Cold Starts		

1.2 Complex loading

- (a) The Complex load ramping rate is the steady rate at which the load can be raised. The maximum load ramping rates are shown below in Table 3A:

Table 3A

<u>Complex Load Range</u>	<u>Cold Start % per minute</u>	<u>Hot Start % per minute</u>
(i) $0 \leq 25$	5	6
(ii) $> 25 \leq 50$	5	6
(iii) $> 50 \leq 100$	4	5

Complex load percentages in this Table 3A refer to the sum of the load(s) at the generator terminals of the Units already synchronized to the KESC Grid System as a percentage of gross capacity of the Complex specified in Section 3 of Schedule 1.

SCHEDULE 2

- (b) The Unit load ramping rate is the steady rate at which the load can be raised. The maximum Unit load ramping rates are shown below in Table 3B:

Table 3B

Unit load range, %	<u>Cold Start (MW / min.)</u>	<u>Hot Start (MW / min.)</u>
(i) $0 \leq 25$	0.8	1
(ii) $> 25 \leq 50$	0.8	1
(iii) $> 50 \leq 100$	0.8	1

Unit load percentage in the Table 3B refers to the load at the generator terminals of the Unit as a percentage of the gross capacity of the Unit specified in Section 1.a. of Schedule 1.

- (c) Step changes in Despatched load of up to 20% are allowable provided that Complex load is greater than 30% of gross capacity of the Complex specified in Section 3 of Schedule 1. After such step change the new Complex load must be held constant for 5 minutes for stabilization purposes, or for a pro rata period for lesser step changes.
- (d) The Complex can withstand a full load rejection and remain in a safe condition. Provided the Complex auxiliaries are operated continuously, the Complex can be re-synchronized within one hour provided that the reason for the load rejection has been removed.
- (e) The Complex minimum continuous loading shall be 6% of the gross capacity of the Complex specified in Section 3 of Schedule 1.

1.3 Frequency, Power Factor, Voltage Limits and Droop Settings

- (a) The Complex will operate at 100% load with a power factor in the range 0.8 lagging to 0.9 leading which range shall not be exceeded. At 0% load the Complex has a Reactive Power capability of 144 MVAR lagging and 91.2 MVAR leading. At 100% load the Complex has a Reactive Power capability of 104.4 MVAR lagging and 72 MVAR leading.
- (b) The Complex can operate within the range $\pm 10\%$ on the 132 kV high voltage system which range shall not be exceeded.

SCHEDULE 2

- (c) The Complex can operate within the frequency range 47 Hertz to 53 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 1.3(b) and 1.3(c) above occur.
- (e) The Unit governor droop is adjustable in the range 0% to 10%. The automatic voltage regulator droop setting is adjustable in the range $\pm 10\%$ of rated voltage with a droop characteristic of $\pm 0.5\%$.

1.4 General

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

2. Design Maintenance Limits

The cycle of Scheduled Outages is set out in Table 4 below together with a manufacturer's recommended durations for such inspections.

TABLE 4

<u>Major items and nature of maintenance per 12 Month periods</u>	<u>Operating hours interval for each maintenance activity</u>	<u>Estimated duration of each activity per unit</u>
Change of Oil in TurboCharger	1000	2 hours
Change of Fuel Filters	1000	4 hours
Change Lube Oil Filters	1000	4 hours
Check of Valve Clearance	1000	5 hours
Check of Alarm and Stop/Safety Devices	1000	15 hours
Inspection of Injectors	1000	10 hours
Change Oil in Governor	2000	1 hour
Cleaning of Air Coolers	2000	10 hours
Inspection of Crankcase	4000	2 hours
Check of Crankshaft Alignment	4000	4 hours
Inspection of TurboCharger	4000	5 hours
Inspection of Pistons	8000	2 hours(per piston)
Inspection of Engine Driven Pumps	4000	10 hours

SCHEDULE 2

Inspection of Thermostatic Valves 4000 8 hours

Required time per year (including other activities) 720 hours

Scheduled Outages thereafter continue on a one year cycle which must be maintained.

The scheduling of maintenance inspections will be compatible with manufacturer's requirements. All inspections required in accordance with manufacturer's specifications will be carried out during Scheduled Outages. In addition to the above annual Scheduled Outages, 720 hours of Scheduled Outages shall be allowed for every fifth (5th) year for overhaul items of work as shown in Table 5.

TABLE 5

		Estimated duration of each activity <u>per unit</u>
Piston-overhaul	≈ 40,000	90
Cylinder liner overhaul	≈ 40,000	274
TurboCharger overhaul	≈ 40,000	120
Fuel Injection Pump overhaul	≈ 40,000	18
Inspection / overhaul of Main Bearings	≈ 40,000	108
Check of Damper	≈ 40,000	5

3. Prudent Utility Practice

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

4. While the Complex is under the control of AGC, KESC shall not remotely control the Start-up, synchronization to the Grid System or shutdown of any of the individual diesel generating units at the Complex. .

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SCHEDULE 3

INTERCONNECTION FACILITIES AND TRANSMISSION FACILITIES

1. Interconnection and Transmission Facilities

- (a) The connection between the Complex and KESC's network shall be through 132 kV double circuit transmission lines, one originating from the Baldia grid station and the other from Hub Chowki grid station.. The transmission line each will terminate in the substation of the Complex; the location of which is shown on the Site plan attached as Figure 1. The circuits of the transmission lines will connect at bushings provided by the Company as shown on the single line diagram of the Complex substation attached as Figure 2. The boundary of responsibility between the Company and KESC will be at the top of the bushings (the "Interconnection Point"). The Company will provide KESC with an earth connection from the earthing system of the Complex. KESC will install the Metering System (on the 132 kV side of the Complex's transformers) which together with the transmission lines referred to above within the Site boundary shall comprise the "Interconnection Facilities." This equipment will remain the property of KESC and shall be commissioned and maintained thereafter by KESC.
- (b) Protection. A carrier intertripping circuit for each transmission line shall be provided between the line circuit breakers at the Complex owned by the Company and the line circuit breakers at Baldia and Hub Chowki grid stations owned by KESC.

2. Design Data

The following design data has been provided by the Company to KESC to enable completion of KESC of the design of the Interconnection Facilities and the Transmission Facilities.

2.1. Generator Design Data

(a) Rating

Rating	13,125 kVA
Power factor	0.8 lagging 0.9 leading
Number of phases	3
Number of poles	10

SCHEDULE 3

Frequency	50 Hz \pm 6 %
Rated speed	600 rpm
Terminal voltage	11 kV \pm 10 %
Short circuit ratio at rated MVA	not < 0.55
Excitation system	brushless

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

Unsaturated direct axis synchronous reactance	190 %
Saturated direct axis sub-transient reactance	22.7 %
Saturated direct axis transient reactance	33.8 %
Negative phases sequence reactance	24.7 %
Zero phase sequence reactance	12.8 %
Leakage reactance	0.01 per unit

(c) Generator time constants

Direct axis open circuit time constant	4.500 seconds
Direct axis open circuit sub-transient time constant	0.037 seconds
Direct axis short circuit trans-transient time constant	1.000 seconds
Direct axis short circuit sub-transient time constant	0.035 seconds

(d) Inertia constant

Diesel engine generator	J =	5,050 kgm ² *
	H =	0.69 sec
* Definition of J:	J =	0.25 GD ²

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

2.2 Excitation System

Excitation of the main generator is provided by a brushless system using booster transformers. The excitation control system comprises of one automatic voltage regulator (AVR) and one manual excitation control (MEC). During normal operation, the whole excitation system is subject to automatic control by means of AVR.

Technical Characteristics

- (i) Voltage setting range for AVR operation: \pm 10 %

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SCHEDULE 3

- (ii) Voltage adjusting range for MEC operation: 90-110 %
- (iii) Generator terminal voltage is held within $\pm 10\%$ from no load to full load at rated frequency
- (iv) Under the maximum direct current supplied from the excitation system for a specified time, the ceiling voltage to the generator field voltage is 2.0 per unit
- (v) The transfer function diagram of the AVR to manual excitation system as mentioned above is to be provided.

2.3 Generator Transformer

MVA rating ONAF	58.6 MVA
Rated voltage	132 kV/11 kV $\pm 10\%$
On-Load Tap changers	± 13 Taps
Frequency	50 Hz $\pm 6\%$
Connection Group	Ynd5
B.I.L. 11 kV side	75 kV
B.I.L. 132 kV side	650 kV
Insulation levels for impulse	145 kV
Insulation levels for AC withstand	275 kV
Type of cooling	ONAN / ONAF
Temperature rise wdg./oil	55 / 50 °C
Maximum system short circuit power	10 GVA
Impedance and Losses at reference power at nominal tap	58.6 MVA
Impedance	12 % HV to LV
No Load Losses	30 kW
Load Losses	230 kW
Auxiliary Losses	4 kW
Positive Reactance	$U_x = 13\%$
Zero Sequence Reactances	$Z_0 = 9.6\%$

- * i. HE-L (Leakage)
- * ii. HE-T (Leakage)
- * iii. L-T (Leakage)
- * Magnetizing reactance at rated voltage (from H.V. terminal)
- * X air core (from H.V. terminal)
- * X air core (from L.V. terminal)
- * Saturation curve at no load V (rms)
- * Versus I (rms)

* Data to be supplied by _____.

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- 2.4 The governor droop will be adjustable from 0 % to 10 % and is designed to operate over the frequency range 47 to 53 Hz.
- 2.5 The AVR droop setting is ± 0 to 10 % of rated voltage, with a droop characteristic of ± 0.5 %.

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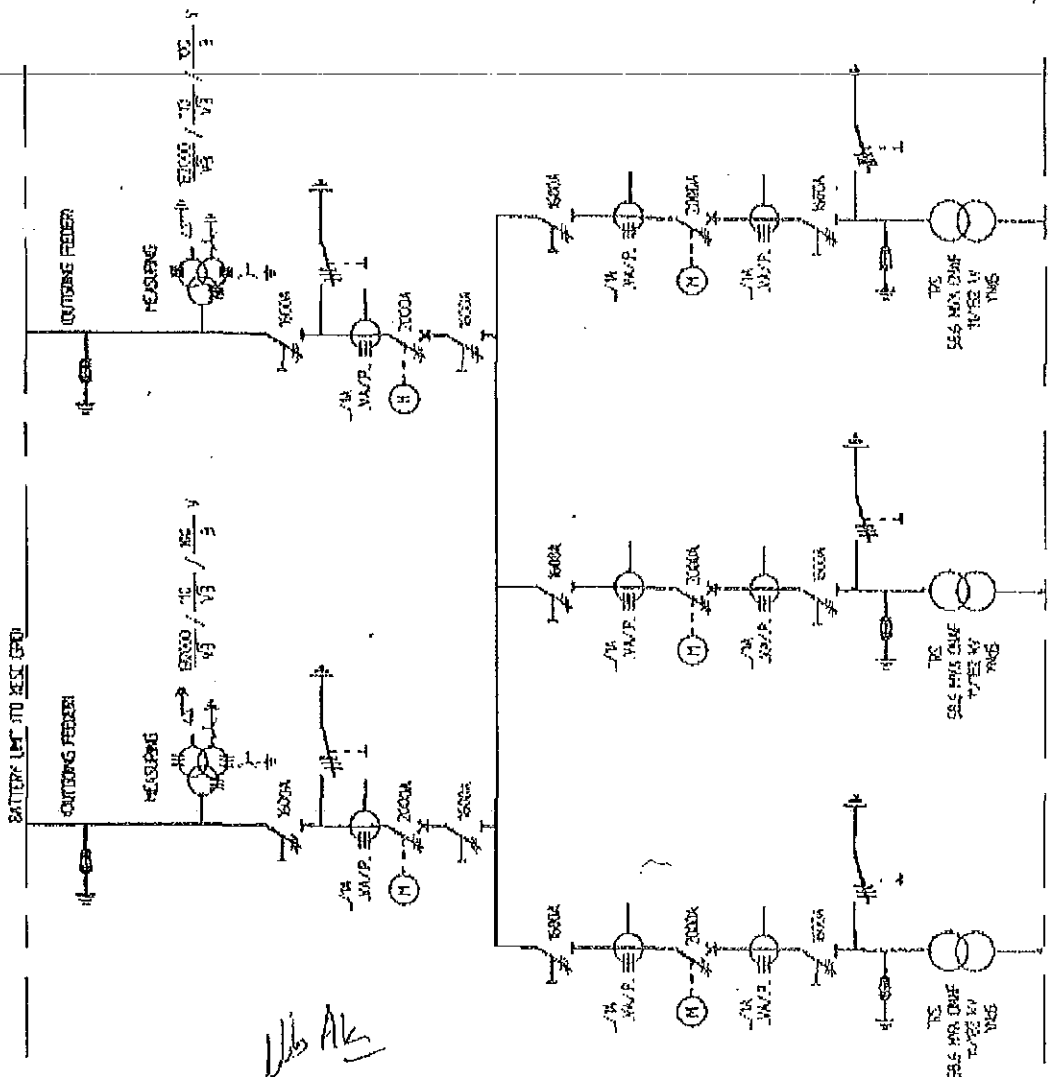


FIG 2

STORK-WÄRTSILÄ DIESEL
PROJECTS
DRELMIN 1736

TYPE DIESEL	STROKE	DISCHARGE	DRUM BEATER
15 H 30	12	12	12

TAPAL ENERGY LTD

STROKE	12	12	12
DISCHARGE	12	12	12
DRUM BEATER	12	12	12

SAUCE LEE CHAGAM
SWITCH YARD

2421410102521

STORK-WÄRTSILÄ DIESEL

Stork-Wärtsilä Diesel B.V.

SCHEDULE 4

COMMISSIONING AND TESTING

(a) Delivered Capacity

During Commissioning the Actual Initial Dependable Capacity (AIDC) of the Complex will be demonstrated by testing in accordance with Article X of the Power Purchase Agreement. For purposes of determining AIDC, the tested capacity of the Complex shall be adjusted to Reference Conditions in accordance with Table 1 of this Schedule 4. In the event of a shortfall in tested capacity of the Complex exceeding ten percent (10%) of the Estimated Dependable Capacity, KESC shall have the right to reject the Complex.

(b) Reliability Run

A reliability run will be carried out as part of the Commissioning tests and must be satisfied prior to the Complex being certified Commissioned by the Engineer. The run will be for a period of 7 days (168 hours) and will include seventy-two (72) continuous hours at maximum continuous rating ('MCR' which shall be 10,300 kWe as measured at the generator terminals as specified by the manufacturer) except during TurboCharger washing of each unit for about fifteen (15) minutes when the Unit load will be allowed to be reduced to twenty percent (20%) of MCR when required but not earlier than 68 operating hours. The output during the remaining 96 hours of the test will be as requested by KESC. The test shall have been satisfactorily completed only if it continues without interruption for not less than 168 hours.

(c) Automatic Voltage Regulator (AVR) Droop

The AVR will be demonstrated to control the generator voltage over the range of ± 10 percent of rated voltage with a droop characteristic of ± 0.5 percent.

(d) Engine Governor Operation

The operation of the engine speed governor will be demonstrated over its range, the droop being adjusted from 1.0 percent to 10.0 percent.

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SCHEDULE 4

(e) Reactive Capacity

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

	<u>Lagging</u>	<u>Leading</u>
100% output	104.40 MVAR	72.00 MVAR
0% output	144.00 MVAR	91.20 MVAR

(f) Minimum Load Capability

Tests will demonstrate the capability of the Complex to be operated at six percent (6%) percent of the gross capacity of the Complex specified in Section 3 of Schedule 1 while the Units and auxiliaries remain in a stable and controlled condition.

(g) Response of Complex to Step Load Changes

The Complex shall be demonstrated to be capable of a step increase in Despached load of 20 % provided the Complex load is greater than 30% of gross capacity of the Complex specified in Section 3 of Schedule 1. It shall also be demonstrated to be capable of withstanding a sudden loss of demand of 10 percent of such gross capacity from any load in the range 30 percent to 100 percent of such gross capacity. The Complex must not trip and must otherwise remain in a safe condition.

(h) Full Load Rejection

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

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

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SCHEDULE 4

TABLE 1

ADJUSTMENT OF POWER OUTPUT

When the diesel engine generating sets (each a 'Unit') are operated under conditions different from the Reference Conditions, the output of the Units shall be adjusted in accordance with the following Adjustment Formulae as per ISO 3046/1;

Eqn. 1 $P_x = \alpha P_r$

Eqn. 2 $\alpha = k - 0.7 (1 - k) [(1/\eta_m) - 1]$

Eqn. 4 $k = (p_x / p_{ra})^m (T_{ra} / T_x)^n (T_{cra} / T_{cx})^q$

Eqn. 5 $p_{ra} = p_r (\pi_r / \pi_{max})$

Symbols:	P_r	=	power output under Reference Conditions
	P_x	=	power output under the conditions being considered
	α	=	power adjustment factor
	k	=	ratio of indicated power
	η_m	=	mechanical efficiency, equal to 0.9 for the Units
	p_x	=	total barometric pressure condition being considered
	p_{ra}	=	substitute reference total barometric pressure given by Eqn. 5
	T_{ra}	=	reference absolute air temperature
	T_x	=	absolute air temperature being considered
	T_{cra}	=	reference absolute charge air coolant temperature
	T_{cx}	=	absolute charge air coolant temperature at the charge air cooler inlet being considered
	p_r	=	reference total barometric pressure
	π_r	=	the boost pressure ratio at declared power under standard reference conditions stated by the manufacturer
	π_{max}	=	the maximum available boost pressure ratio stated by the manufacturer

Note 1: $p_{ra} = p_r$ as π_r is equal to π_{max}

Note 2: In the above formulae $T_{ra} \leq T_x$ and $p_x \leq p_{ra}$ and $T_{cra} \leq T_{cx}$ and $k \leq 1$

Note 3: Exponents: $m = 0.7$; $n = 1.2$; $q = 1.0$

Note 4: Subscripts: r = Reference Conditions; x = conditions at the time of the test

Note 5: The Reference Conditions are as stated in Schedule 1

SCHEDULE 5

METERING STANDARDS AND TESTING

1. Provision of Tariff Metering

The metering points to record the MWh and MVARh exchange between the Complex and the KESC Grid System shall be as shown in an appropriate diagram to be provided by the Company. The current and voltage transformers will measure current and voltage on the outgoing busbar of the 132 kV switchyard of the Complex. The meters owned by KESC will be located at the Complex in a location mutually agreeable to the Parties. Any photographic facilities will be provided by the Company as part of the verification process for monthly meter readings.

The Metering System and the Back-up Metering System shall be to a mutually agreed international standard providing a measured accuracy of $\pm 0.5\%$.

2. Testing

2.1 The calibration of meters will be checked to ensure that the accuracy remains within the specified limits.

The method of calibration and frequency of tests will be agreed between the Company and KESC based on knowledge of the performance and the design of the installed meters and the manufacturers' recommendations.

2.2 Compensation will be made for the errors of current and voltage transformers in the meter calibration or during the computation of records. Current and voltage transformers will be tested for ratio and phase angle errors following manufacture at an accredited testing station in the presence of representatives from the Company and KESC. 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 KESC after giving appropriate notice to the Company in line with the agreed frequency of testing or in the event of either party having reasonable cause to believe the meters are outside specified limits. During such tests and calibration the Company shall have the right to have a representative present at all times.

SCHEDULE 5

- 2.4 Testing and calibration of the Back-up Meter System shall be carried out by the Company as in paragraph 2.3 above. During such tests and calibration KESC shall have the right to have a representative present at all times.

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SCHEDULE 6

TARIFF, INDEXATION AND ADJUSTMENT

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III	Pro-forma monthly invoice for Supplemental Charges

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SCHEDULE 6

PART I: THE REFERENCE TARIFF

A -- ESTABLISHMENT OF THE REFERENCE TARIFF

1. Introduction and Definitions

- 1.1 This Schedule 6 shall be read in conjunction with, and is subject to, the provisions of Article IX of the Power Purchase Agreement of which this Schedule 6 is a part. To the extent that any provision of this Schedule 6 is inconsistent with any provision of Article IX, the provision of Article IX shall prevail. References to Articles and Sections are to Articles and Sections of this Schedule 6 unless indicated otherwise. References to Tables and Annexes are to the Tables and Annexes to this Schedule 6.
- 1.2 Payments to be made to the Company under the Power Purchase Agreement shall be calculated in accordance with this Schedule 6, and adjusted from time to time as provided herein.
- 1.3 The procedures for the presentation and payment of invoices as set out in Article IX of the Power Purchase Agreement shall apply to all invoices referred to in this Schedule 6.

1.4 Definitions

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

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

"E" - The Exchange Rate Indexation Factor, as calculated pursuant to Section 15.2;

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

"Fuel Supply Agreement" - The fuel supply agreement dated 199 between the Company and the Pakistan State Oil Company Limited, as in effect on the date hereof or as amended from time to time with the prior written consent of KESC.

SCHEDULE 6

"Foreign Lenders" - the lenders providing finance to the Company under the Loan Agreements that are not incorporated under the Laws of Pakistan;

"IE₁" - The Inflation and Exchange Rate Indexation Factor, as calculated pursuant to Section 15.1;

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

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

"Reference Date" - 1 January 1994; and

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

"RFO" - Residual Fuel Oil

2. Establishment

- 2.1 The reference tariff (the "Reference Tariff"), and each component thereof, computed on the basis of the assumptions stated herein, for each Agreement Year during the Term is shown in Table I.
- 2.2 The actual tariff (the "Tariff") payable in any Period shall be determined by applying the provisions of this Schedule 6 to the Reference Tariff.
- 2.3 All Adjustments to the Reference Tariff that are identified to occur at Financial Closing shall occur at the earlier to occur of the Financial Closing or the Commercial Operations Date.

B -- DESCRIPTION OF REFERENCE TARIFF

3. Capacity Purchase Price

The Capacity Purchase Price shall comprise the following components:

- 3.1 The Escalable Component as set out in Section 8.1; and

SCHEDULE 6

3.2 The Non-Escalable Component as set out in Section 8.2;

4. Energy Purchase Price

The Energy Purchase Price shall comprise the following components:

4.1 The Fuel Cost Component as set out in Section 9.1(a); and

4.2 The Variable O&M Costs Component as set out in Section 9.1(b).

5. Supplemental Charges and Supplemental Tariff

5.1 Supplemental Charges

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

5.2 Supplemental Tariff

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

5.2(b) Supplemental Tariff payments will be structured to permit the Company to recover costs (including financial costs) of restoration or modification of the Complex over a reasonable term approved by the GOP, which term shall not be greater than the term of the debt secured by the Company to effect the restoration or modification of the Complex, and for the Company (or KESC) to recover in each Agreement Year the cost of any increases (or decreases) in consumables directly attributable to a Change in Law. Any Supplemental Tariff Payment amounts to recover debt incurred in connection with the restoration or modification of the Complex shall not be adjusted after the date the Complex returns to operation. Any Supplemental Tariff Payment to recover the return on additional equity contributions made in connection with the restoration or modification of the Complex shall be escalable in accordance with

SCHEDULE 6

Section 13.2(a) provided however, that in that event the Reference Date for the Inflation and Exchange Rate Indexation Factor shall be the weighted average date on which the additional equity is invested into the Company for the restoration of the Complex. Supplement Tariff Payments to recover the cost of increased (or decreased) consumables shall be fixed prior to the date the Complex return to operation (or if the Complex does not cease operation, at a date agreed by the Company and the GOP) and shall thereafter be subject only to indexation in conformity with Section 13.1(a) or Section 13.1(b) as applicable, provided however, that the Reference Date shall be the date the Complex returns to operation (or if the Complex does not cease operation, at a date agreed by the Company and the GOP).

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

6. Assumptions

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

- 6.1 The Complex will burn RFO supplied by the Fuel Supplier under the Fuel Supply Agreement and the price of such RFO shall be the price of RFO delivered at the Complex as established by the Director General (Oil) Ministry of Petroleum and Natural resources, GOP, on the Reference Date.
- 6.2 Withholding tax on dividends on shares of the Company shall be payable at the rate of 7.5 percent and the Government of Pakistan shall exempt shareholders in the Company from any withholding tax in excess of 7.5 percent.
- 6.3 The Company shall be exempt from the payment of Iqra and Import License Fees on all plant and equipment imported into Pakistan for incorporation into the Complex through the Commercial Operations Date. All Octroi charges before and after the Commercial Operations Date shall be payable by the Company without adjustment of the Tariff.
- 6.4 The Company shall be liable to withhold and pay to the GOP as full and final tax liability of the Contractors (and sub-contractors) @ 4% of the relevant payments made by the Company to the Contractors plus 4% of the relevant payments made by the Contractors to their direct sub-contractors so that (i) the Company shall deduct income tax of @4% from its relevant

SCHEDULE 6

payments to the Direct Contractors; (ii) the Direct Contractors will deduct 4% from the relevant payments to the direct sub-contractors.

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

SCHEDULE 6

6.11 Change in Assumptions

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

- 6.11(a) To the extent that changes in the assumptions set out in paragraphs 6.2 to 6.10 give rise to variations in expenditure, or, in the case of paragraph 6.2 or 6.4, to any variation in withholding tax payable by the Company in accordance with paragraph 6.2 or 6.4, such variations in expenditure or such amounts paid by way of withholding tax (net of any tax refunds or rebates received by the Company) shall be Pass-Through Items and, on and after the Commercial Operations Date, shall be reimbursed by an exact payment equal to the relevant variation in expenditure or withholding tax from KESC to the Company and, in the case of changes in the assumptions that reduce an applicable expenditure or withholding tax below the amount or percentage specified in the assumptions, from the Company to KESC. These changes shall be effected as described in Section 10.1. Changes in such assumptions occurring prior to the Commercial Operations Date shall earn interest at the average rate of interest accruing under the Financing Documents from the date paid by the Company through the Commercial Operations Date, and the Supplemental Tariff Payments shall be structured to allow the recovery of such expenditures through the first five (5) Agreement Years of the Power Purchase Agreement or, in the case of reductions in expenditures or withholding taxes, paid by the Company to KESC over the same term.
- 6.11(b) Changes in the assumption set out in Section 6.1 shall not fall within the provisions of Section 6.11(a). Changes in the assumptions referred to in Section 6.1 shall be dealt with as provided in Section 13.1(a).

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C -- CAPACITY PURCHASE PRICE

7. Payment of Capacity Purchase Price

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

8. Capacity Purchase Price Components

8.1 Escalable Component.

This component includes the fixed operations and maintenance cost, the insurance cost, the administrative cost and the return on equity, etc. The escalable component of the Capacity Purchase Price as set forth in Table 1 is only adjustable against change, if any, proposed in the Energy Price by the Company. Once determined at the earlier of Financial Closing or the Commercial Operations Date, the base figure will remain unchanged during the term of the Power Purchase Agreement and only indexation will be provided in accordance with the procedure set forth in Section 13.

8.2 Non-Escalable Component.

(a) The Non-Escalable Component as set forth in Table 1 includes the debt servicing charges, including payments of principal, interest and other fees to the Company's lenders. This component will decline with the passage of time as the loans related to the Project are repaid. Once adjusted at the earlier of Financial Closing or the Commercial Operations Date, pursuant to Section 13.2(b) this component will be indexed as provided in Section 8.2 (b) below.

(b) The Company has elected Indexation of the Non-Escalable Component pursuant to Section 9.1 (d) of the Power Purchase Agreement and, therefore, the non-escalable component (less the local currency loan portion thereof, if any) will be indexed for changes in the value of the Rupee against the Dollar from the earlier of the date of Financial Closing or the Commercial Operations Date.

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D -- ENERGY PURCHASE PRICE

9. Energy Purchase Price

- 9.1 The Energy Purchase Price as set forth in Table 1 is adjustable against change, if any, proposed by the Company in the Escalable Component of the Capacity Purchase Price. Once determined at the earlier of the date of Financial Closing or the Commercial Operations Date, the components of the Energy Purchase price shall only be adjusted as specifically provided herein. The Energy Purchase Price comprises two components, each relating to the energy output of the Complex, as follows:

9.1(a) Fuel Cost Component.

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

9.1(b) Variable O&M Costs Component.

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

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

SCHEDULE 6

E -- SUPPLEMENTAL CHARGES

10. Supplemental Charges

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

10.1 Pass-Through Items

"Pass-Through Items" pursuant to Part III of this Schedule 6 shall be treated as Supplemental Charges for the purpose of invoicing and payment on the basis of the actual cost or charge incurred by the Company therefor as agreed between the Parties or, failing agreement, as determined by an expert pursuant to Sections 15.2 and 15.3 of the Power Purchase Agreement.

Unless otherwise provided in Section 14, the Company shall present an invoice to KESC for a Pass-Through Item on the first Day of the Month following the Month in which the cost, charge, or other liability was incurred by the Company and shall show the due date of the invoice to be thirty (30) Days after its delivery.

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SCHEDULE 6

PART II: INDEXATION/ADJUSTMENT PROVISIONS

11. Indexation Factors

- 11.1 Pursuant to this Schedule 6, certain items as specified herein shall be indexed in accordance with the provisions of this Part II of this Schedule 6.
- 11.2 If, at any time, an index is applied under this Part II to any component of the Reference Tariff, either Party may seek to verify the application of the relevant index and may require the other Party, where appropriate, to provide to it copies of its calculations, with reasonable supporting information for the application of the relevant index, to enable that Party to verify the result of applying the relevant index to the relevant component of the Reference Tariff.
- 11.3 The escalable components of the Reference Tariff shall be adjusted upward or downward, as appropriate, to reflect changes in the Indexation or adjustment formula, as the case may be, according to which each such component is to be indexed or adjusted, as specified below.
- 11.4 The Non-Escalable Component, less any local debt portion thereof, as established on the earlier of the Date of Financial Closing or the Commercial Operations Date, shall be adjusted upward or downward by application of the Exchange Rate variation of the Rupees to Dollars as specified in Section 13.2(b)(ii).

12. Methodology to be used for Indexation

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

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

12.1 Fuel Price Factor

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

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

where:

Fuel Price_p = the price per unit of fuel as established pursuant to the Fuel Supply Agreement (after correction for standard temperature and expressed in Rupees), at date "p", and

Fuel Price_{REF} = the price per unit of fuel as established by the GOP (after correction for standard temperature and expressed in Rupees), at the Reference Date.

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

Subject to the immediately preceding sentence, the Fuel Price Factor shall be applied to those elements stated to be subject to Indexation for Fuel Price from the date when a change in the price of fuel as established pursuant to the Fuel Supply Agreement is effective.

12.2 Inflation and Exchange Rate Indexation Factor

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

12.3 Exchange Rate Adjustment Factor

The Non-Escalable Component of the Capacity Purchase Price less any local loan portion thereof (as shown at Financial Closing) is subject to indexation for exchange rate movements pursuant to Section 13.4(b), in each Agreement Year and shall be adjusted with effect from the earlier to occur of the date of the Financial Closing or the Commercial Operations Date, in

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SCHEDULE 6

accordance with Exchange Rate Indexation Factor (as defined in Section 15.2) on the Commercial Operations Date and on each 1 January, 1 April, 1 July and 1 October thereafter using the most current exchange rate and inflation rate information available on that date. No retroactive adjustments will be permitted in the event that an index figure is subsequently revised. The adjusted Tariff payable to the Company in any Period, p , will be calculated by multiplying the Non-Escalable Component, less any local loan portion thereof, of the Reference Tariff by the Exchange Rate Indexation Factor from the earlier to occur of the date of the Financial Closing or the Commercial Operations Date, through the calculation date, t , immediately preceding Period p .

12.4 Exchange Rates

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

12.5 Inflation Factors

The source indices for indexation against inflation shall be the Consumer Price Index (IFS CPI), reported in the publication of the International Monetary Fund entitled "International Financial Statistics" for the United States and Pakistan.

12.6 Replacement of an Index

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

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SCHEDULE 6

If after fourteen (14) Days the Parties are unable to agree on an alternative index to be substituted for the index that requires replacement pursuant to this Section 12.6, the Parties shall appoint an expert pursuant to Section 15.2 of the Power Purchase Agreement who shall nominate an index that in his sole opinion most adequately replaces the withdrawn, unavailable, or inappropriate index within fourteen (14) Days after his appointment. The Parties shall be bound by the determination of the expert as to the alternative index.

In the event that (1) the GOP no longer establishes the delivered price of RFO or (2) an index or factor, used to compute or index the same element in the Fuel Supply Agreement and in this Schedule 6, is no longer available and an alternate therefor is not established or approved by the GOP, then (1) an index to establish the price of RFO and changes thereof or (2) an alternate index or factor, as the case may be, acceptable to KESC, the Company and the Fuel Supplier shall be used under this Schedule 6. If KESC, the Company and the Fuel Supplier cannot agree to an alternate index or factor, as the case may be, within sixty (60) Days, an expert acceptable to KESC, the Company and the Fuel Supplier will nominate an alternate index or factor, as the case may be, that shall be binding on the Parties. KESC, the Company and the Fuel Supplier may refer the matter to the National Electric Power Regulatory Authority (NEPRA) for final resolution in lieu of referral to the expert. The expert or NEPRA, as the case may be, will be requested to make a final determination within sixty (60) Days after such referral.

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

13. Application of Indices to Variables

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

13.1 Energy Purchase Price

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

Variations to the FCC shall be calculated as provided in the following formula and at the times indicated in this Section 13.1(a):

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


SCHEDULE 6

where:

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

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

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

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

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

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

The variable operations & maintenance costs element shall be indexed as follows:

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

where:

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

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

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

13.2 Capacity Purchase Price13.2(a) Escalable Component:

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

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

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

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

where:

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

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

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

13.2(b) Non-Escalable Component:

(i) The Non-Escalable Component of the Capacity Purchase Price will be adjusted at earlier of the Financial Closing or the Commercial Operations Date, for the variation in exchange rates of Rupee to Dollar from the Reference Date to the date of adjustment. The adjustment factor for this component will be equal to 0.7% for each 1% variation in Dollar to Rupee exchange rate. The Non-Escalable Component (less

SCHEDULE 6

any local loan portion thereof) will be further indexed during the Term in accordance with clause (ii) below.

(ii) The base date for the application of such indexation will be the earlier of the date of the Financial Closing or the Commercial Operations Date. The indexation of the Non-Escalable Component (less any local loan portion thereof) will apply prospectively on the Commercial Operation Date and on each 1 January, 1 April, 1 July and 1 October thereafter.

The Non-Escalable Component shall be indexed as follows:

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

where:

$N-ESC_t$ = the value of the Non-Escalable Component of the Tariff (less any local loan portion thereof), as adjusted at the relevant calculation date, c .

$N-ESC_{(REF)}$ = the value of the Non-Escalable Component of the Reference Tariff (less any local loan portion thereof) in the relevant Agreement Year, as adjusted at the earlier of the date of Financial Closing or the Commercial Operations Date pursuant to Section 13.2(b)(i), and

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

13.3 Bonus and Liquidated Damages

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

13.3(a) Bonus

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

SCHEDULE 6

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

where:

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

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

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

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

- (ii) The Energy Purchase Price Premium provided in Section 9.3 of the Power Purchase Agreement is payable in Rupees at the Rupee to Dollar Exchange Rate in effect immediately prior to the date of calculation, c , and is not subject to any escalation or indexation.

13.3(b) Liquidated Damages

The liquidated damages payable under Section 9.4(b) and 9.4(c) of the Power Purchase Agreement shall be indexed on the dates as set out in Section 15.1 as follows:

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

where:

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

$LD_{(NT)}$ = the initial value of the relevant liquidated damages payment as computed in accordance with Section 9.4(b)&(c) of the Power Purchase Agreement.

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

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SCHEDULE 6

The indexation will apply prospectively on the Commercial Operations Date and on each 1 January and 1 July thereafter.

The liquidated damages payable under Section 9.4(a) shall be indexed on the date set out in Section 15.2 as follows:

$$LD = LD_{(INT)} * I_1$$

$$I_1 = P_{(US)} / P_{(RD)}$$

where:

$LD_{(INT)}$ = the initial value of the relevant liquidated damages payment as computed in accordance with Section 9.4(a) of the Power Purchase Agreement.

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

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



PART III: PASS-THROUGH ITEMS

14. Items Payable on the Basis of Actual Cost

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

14.2 Pass-Through Items

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

-
- 14.2(a) payments into the Workers' Welfare Fund and the Workers' Profit Participation Fund ;
 - 14.2(b) reasonable costs approved by KESC incurred by the Company after Commercial Operations Date for modifications or expansion of the requirements for protective devices required by KESC; and
 - 14.2(c) Customs Duties on permanent equipment which are levied on the Company prior to the Commercial Operations Date and which are not refunded to the Company by Central Board of Revenue ("CBR") after the issuance of the consent of the CBR specified in Schedule 2 of the Implementation Agreement.
 - 14.2(d) The tariff does not account for the 0.5% Turnover Tax on revenues and if it is to be paid by the Company during operations, the Tariff will be increased accordingly.
 - 14.2(e) Taxes referred to in Section 18.4 of the Implementation Agreement.
 - 14.2(f) Any penalty incurred by the Company for changes in fuel deliveries under Section 6.3(c) of the Fuel Supply Agreement as a result of changes in KESC's

SCHEDULE 6

Despatch levels that are recoverable by the Company pursuant to Section 6.2(d) of the Agreement.

- 14.2(g) Transportation Costs payable to the Fuel Supplier under Section 7.5 of the Fuel Supply Agreement in the event of a change in the Freight Pool Rules as determined pursuant to Section 12.6.

PART IV: ADJUSTMENT FORMULAE

15 Calculation of Inflation and Exchange Rate Factors

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

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

where:

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

$FX_{(US/P)t}$ = the average exchange rate of the Dollar against the Rupee over the six Months prior to the date of calculation. This average will be calculated as the sum of the exchange rates (as described in Section 12.4 of this Schedule 6) for each of the last days of the six Months prior to date of calculation divided by six.

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

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

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

SCHEDULE 6

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

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

where:

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

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

$FX_{(RD)_t}$ = the exchange rate of the Dollar against the Rupee at the earlier to occur of the date of the Financial Closing or the Commercial Operations Date.

(INDICATIVE ONLY)

TAPAL ENERGY LIMITED

119.50 MW

Estimated Initial Dependable Capacity

Units Sold at 50% Plant Factor:

Agreement Year	ENERGY PURCHASE PRICE Rupees per kWh			CAPACITY CHARGE Rupees per MWh					TOTAL TARIFF Rs/kWh	CAPACITY PURCHASE PRICE Rupees per kW / MONTH				BONUS TARIFF		
	Fuel	Variable O&M	Total	Escalable Component	Non-Escalable Component		FERI	Total Capacity Charge		Escalable Component	Non-Escalable Component		FERI	Total Capacity Charge	Completion Before Dec. 31, 1987	Energy Exceeding 55% Capacity Factor
					Local	Foreign					Local	Foreign				
1	0.624	0.158	0.782	0.253	0.000	0.253	0.000	1.133	115.200	0.000	361.100	0.000	496.300	0.075	0.080	
2	0.624	0.156	0.780	0.253	0.000	0.256	0.000	1.128	115.200	0.000	375.300	0.000	494.500	0.075	0.080	
3	0.624	0.155	0.779	0.253	0.000	0.245	0.000	1.108	115.200	0.000	369.200	0.000	494.400	0.075	0.080	
4	0.624	0.155	0.780	0.253	0.000	0.626	0.000	1.061	115.200	0.000	362.700	0.000	477.900	0.075	0.080	
5	0.624	0.155	0.780	0.253	0.000	0.611	0.000	1.074	115.200	0.000	316.200	0.000	479.400	0.075	0.080	
6	0.624	0.155	0.780	0.253	0.000	0.789	0.000	1.043	115.200	0.000	216.800	0.000	459.500	0.075	0.080	
7	0.624	0.158	0.780	0.253	0.000	0.769	0.000	1.032	115.200	0.000	335.900	0.000	452.000	0.075	0.080	
8	0.624	0.155	0.780	0.253	0.000	0.757	0.000	1.020	115.200	0.000	331.600	0.000	446.800	0.075	0.080	
9	0.624	0.156	0.780	0.253	0.000	0.757	0.000	1.028	115.200	0.000	217.500	0.000	362.700	0.075	0.080	
10	0.624	0.156	0.780	0.253	0.000	0.565	0.000	0.928	115.200	0.000	216.500	0.000	326.700	0.075	0.080	
11	0.624	0.164	0.788	0.251	0.000	0.485	0.000	0.748	109.900	0.000	210.000	0.000	325.100	0.000	0.080	
12	0.624	0.164	0.788	0.251	0.000	0.480	0.000	0.751	109.900	0.000	153.800	0.000	245.700	0.000	0.080	
13	0.624	0.164	0.788	0.251	0.000	0.310	0.000	0.561	109.900	0.000	44.700	0.000	154.300	0.000	0.080	
14	0.624	0.164	0.788	0.251	0.000	0.102	0.000	0.323	109.900	0.000	8.900	0.000	144.500	0.000	0.080	
15	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
16	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
17	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
18	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
19	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
20	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
21	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	
22	0.624	0.164	0.788	0.251	0.000	0.079	0.000	0.330	109.900	0.000	34.600	0.000	144.500	0.000	0.080	

TO BE FINALIZED AT THE TIME OF FINANCIAL CLOSE (AS DEFINED IN THE POWER PURCHASE AGREEMENT)

Rs/kWh	Average Tariff		Average Capacity Price	
	US Cents/kWh	US\$/kWh	US\$/kW/Month	US\$/kW/Month
1.829	6.09	459.5	15.3	15.3
1.207	4.02	133.6	6.11	6.11

Tariff for Project Use: Rupees 1.565/kWh (US CENTS 5.55/kWh)

SCHEDULE 6

ANNEX I

Pro forma monthly invoice for Capacity Purchase Price

[NAME AND ADDRESS
OF COMPANY]

[KESC;
Aimai House, Abdullah Haroon Road
Karachi, Pakistan]

INVOICE FOR [INSERT MONTH AND YEAR] CAPACITY PAYMENT

Invoice No:

Invoice Date:

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

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

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

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

SCHEDULE 6

ANNEX II

Pro forma Invoice for Energy Purchase Price

[NAME AND ADDRESS
OF COMPANY]

[KESC;
Ainai House, Abdullah Haroon Road
Karachi, Pakistan]

INVOICE FOR [INSERT MONTH AND YEAR] ENERGY PAYMENT

Invoice No.....

Invoice Date _____

Energy Purchase Price due for the Period from _____ to _____

(a) Fuel Costs Component² Rs.....

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

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

(d) Total Net Electrical Output Delivered in kWhkWh

(1) Date of Initial Meter Reading _____
Initial Meter ReadingkWh

(2) Date of Final Meter Reading _____
Final Meter ReadingkWh

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

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

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

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

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ANNEX III
Pro forma monthly invoice for Supplemental Charges

[NAME AND ADDRESS OF COMPANY]

[KESC;
Aimal House, Abdullah Haroon Road
Karachi, Pakistan]

INVOICE FOR SUPPLEMENTAL CHARGES

Invoice No:

Invoice Date:

Supplemental Charges for the month ending are due as follows:

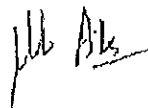
Pass-Through Items:

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

Total Supplemental Charges Rs

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

immediately preceding the calculation date.



SCHEDULE 7

CONSTRUCTION REPORTS

[Format of Construction Reports to be supplied later by the Company]

11/16/12

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SCHEDULE 8

INSURANCE

PART I: CONSTRUCTION PERIOD

1. Marine and Air Cargo:

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

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

Deductible: US\$ 10,000 each loss.

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

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

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

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

Indemnity Period: 12 months.

Deductible: 30 days.

Insured: The Company and the Lenders.

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SCHEDULE 8

3. Contractors' All Risks:

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

Sum insured: The Contract Price.

Deductibles: In relation to Contract Works, Materials etc.

(a) arising during the Construction and Testing period:

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

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

(b) arising out of operational testing or
commissioning: US\$ 35,000

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

Insured: The Company, the Contractors and all suppliers and consultants, GOP, KESC, PSO, 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.

SCHEDULE 8

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

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

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

Indemnity Period: 12 months.

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

Deductible: 30 days.

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

5. Public Liability:

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

Sum insured: For any one claim:
US\$ 5,000,000.

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

Insured: The Company, Contractors, all suppliers and consultants, GOP, KESC, and PSO

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

SCHEDULE 8

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.

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PART II: OPERATING PERIOD

1. All Risks Insurance - Fixed Assets:

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

Sum insured: Full replacement value of the Complex.

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

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

2. Consequential Loss Following All Risks:

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

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

Indemnity Period: 15 months.

Deductible: First 15 days of any interruption.

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

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

3. Machinery Breakdown:

Cover: All machinery, plant, boilers (if any) and ancillary equipment forming part of the Complex against sudden and unforeseen physical loss or damage resulting from mechanical and electrical breakdown or derangement, explosion or collapse of boilers (if any) and pressure

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SCHEDULE 8

vessels(if any), electrical short circuits, vibration, misalignment, excessive current or voltage, abnormal stresses, centrifugal forces, failure of protective or regulating devices, overheating, entry of foreign bodies, impact, collision and other similar causes.

Sum insured: Full replacement value of all machinery, plant, boilers(if any), etc.

Deductible: US\$ 10,000 each loss.

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

4. Consequential Loss following Machinery Breakdown:

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

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

Indemnity Period: 15 months.

Deductible: First 30 days of any interruption.

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

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

5. Public Liability:

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

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

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

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

SCHEDULE 8

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 the Schedule 6.

File Me

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SCHEDULE 9

FORM OF LETTER OF CREDIT

[ISSUED ON ISSUING BANK LETTERHEAD
SHOWING FULL NAME AND ADDRESS]

Date and Place of Issue:

Applicant

Name The _____ Power Company, Limited

Address _____,
_____, Pakistan

Advising and Negotiating Bank

[name and address]
_____, Pakistan

Beneficiary

KESC
[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]

116 112

11

SCHEDULE 9

Amount

[figures]

[words]

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

A. "This drawing in the amount of [currency and amount] is being made pursuant to the Power Purchase Agreement (Agreement) between The _____ Power Company, Limited ("Company") and KESC as a result of Company's failure to perform in accordance with Article/Section _____ of the Agreement."

OR

B. "KESC is making a drawing in the full available amount of [Issuing Bank] Letter of Credit No. _____ because the term of the Letter of Credit will expire within ten (10) business days of the date of this certificate and The _____ Power Company, Limited ("Company") has failed to deliver a replacement or renewal Letter of Credit acceptable to KESC, and security is still required under the terms of Article/Section _____ of the Power Purchase Agreement between the Company and KESC, dated _____ 199__."

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

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

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

SCHEDULE 9

Partial drawings are allowed.

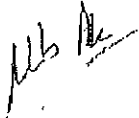
Tested telex reimbursement is allowed.

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

"Drawn under [Issuing Bank] Letter of Credit No. _____, dated _____ 199__."

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

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



Authorised Signature



Authorised Signature

SCHEDULE 10

TESTING SCHEDULE

	Stage	Month
1.	Construction Start	0
2.	Target Completion of Interconnection	10
3.	Scheduled Commercial Operations Date	13

MB AK

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Amendment No.1 dated May 9, 1996

to the

Power Purchase Agreement

between

The Karachi Electric Supply Corporation Limited

and Tapal Energy Limited

dated September 26, 1995.

This Amendment No.1 dated May 9, 1996 to the above-referenced Power Purchase Agreement (the "Agreement") is made at Karachi between The Karachi Electric Supply Corporation Limited and Tapal Energy Limited.

Whereas

- (1) On September 26, 1995, the parties entered into the Agreement.
- (2) The parties now desire to amend and clarify certain provisions of the Agreement pursuant to this Amendment No.1 to the Agreement.

NOW IT IS HEREBY AGREED as follows:

A. Definitions. Capitalized terms used and not defined herein shall have the same meaning as ascribed thereto in the Agreement. The deletion of any section and/or subsection shall not affect the numbering of subsequent sections and/or subsections, unless specified herein.

B. Amendments to the Agreement.

1. Section 1.21 of the Agreement is hereby deleted and replaced in its entirety by the following:

"Company" means Tapal Energy Limited, a public limited company; or a private unlimited company into which Tapal Energy Limited may be converted or re-formed, incorporated under the Laws of Pakistan with its principal office located at Karachi and its permitted successors and assigns."

2. Section 1.28 of the Agreement, "Construction Financial Closing" is hereby deleted in its entirety.
3. Section 1.51 of the Agreement, "Financial Closing" is hereby deleted and replaced in its entirety by the following:

"1.51 "Financial Closing" means (a) the execution and delivery of one or more loan agreements that together evidence the financing for the construction, testing and completion and the permanent financing of the Complex, in each case, following the resolution of any objection raised by the GOP to a term sheet or schedule in accordance with Section 15.3 of the Implementation Agreement that sets out the principal repayment schedule and the other principal terms of the transaction between the Company and the Lenders or following the date on which the GOP shall be deemed to have not objected to such term sheets and principal repayment schedule pursuant to Section 15.3 of the Implementation Agreement and (b) the receipt of commitments for such equity as is required by the Company in order to satisfy the requirements of the Lenders, and the Letter of Support".

4. Section 1.110 of the Agreement is hereby amended by deleting the words "the earlier to occur of either Construction Financial Closing or" in the ~~first line~~ second line of that Section.

-2- *AK*

AK

AK

5. Section 3.3 (a) (i) of the Agreement is hereby amended by deleting the words "earlier to occur of either Construction Financial Closing or" in the first and second lines of that Section.
6. Section 3.3 (a) (ii) of the Agreement is hereby amended by deleting the words "earlier to occur of either Construction Financial Closing or" in the first and second lines of that Section.
7. Section 3.3 (a) (xi) of the Agreement is hereby amended by deleting the words
 - (i) "earlier to occur of either Construction Financial Closing or" in the second line of that Section and
 - (ii) "earlier to occur of either Construction Financial Closing or" in the third and fourth lines of that Section.
8. Section 3.3 (a) (xii) of the Agreement is hereby amended by deleting the words "earlier to occur of either construction Financial Closing or" in the first and second lines of that Section.
9. Section 3.3 (a) (xiii) of the Agreement is hereby amended by deleting the words "Construction Financial Closing and again at" in the first line of that Section.
10. Section 3.3 (a) (xv) of the Agreement is hereby amended by deleting the words "earlier to occur of either Construction Financial Closing or" in the first and second lines of that Section.
11. Section 3.3 (d) of the Agreement is hereby amended by deleting the words "earlier to occur of either Construction Financial Closing or" in the first and second lines of that Section.

12. Section 4.2 (a) of the Agreement is hereby deleted in its entirety.
13. Section 4.2 (b) of the Agreement is hereby deleted in its entirety and replaced with the following:
- "(ii) the failure of the Company to achieve Construction Start and satisfy all conditions precedent to the initial availability of funds necessary to complete construction of the Complex under the Financing Documents within ninety (90) Days following the date of Financial Closing".
14. Section 4.2 (k) of the Agreement is hereby amended by deleting the phrase "an Election Notice" (as defined in Section 4.5)" and inserting in its place "a Succession Notice (as defined in Section 4.5)".
15. Section 4.5 of the Agreement is hereby amended by:
- (i) inserting in the third line of the first paragraph of that Section, following the word "Company" and before the word "without" the parenthetical phrase "(other than a Company Event of Default under Section 4.2 (k))".
 - (ii) deleting the words "earlier to occur of either Construction Financial Closing or" in the ~~fourteenth~~ second line of the first paragraph of that Section. *f AL* *f AL*
 - (iii) deleting the words "Construction Financial Closing and" in the fourteenth line of the first paragraph of that Section.

- (iv) deleting the words "Construction Financial Closing and" in the twenty second and twenty third line of the first paragraph of that Section.
- (v) inserting in the first line of the second paragraph of that Section, following the word "KESC" and before the word "shall" inserting the parenthetical phrase "(other than as a result of a Company Event of Default under Section 4.2 (k))".
- (vi) deleting the words "Election Notice" in the fifteenth and sixteenth lines of the second paragraph of that Section and inserting in its place "Succession Notice".

16. Section 4.8 of the Agreement is hereby amended by adding before the first words "the exercise" add the brackets and letter "(a)" which shall indicate new numbering. All the contents of existing Section 4.8 shall hereinafter be numbered 4.8 (a), and this shall apply consistently throughout the document wherever reference to Section 4.8 is made.

The following new paragraph shall be added to the same section hereinafter referred to as 4.8(b).

"4.8.(b)Notwithstanding Section 4.8 (a), the Parties agree that the Company may be damaged in amounts that may be difficult or impossible to determine in the event that this Agreement is terminated by the Company as a result of a KESC Event of Default. Therefore the Parties have agreed that the termination of this Agreement and the termination of the Implementation Agreement by the Company and the payment in full to the Company by the GOP of the compensation provided under Article XX of the Implementation agreement as a result of a GOP Event of Default (as defined in the Implementation Agreement) is in lieu of actual damages and any other liquidated damages which would

otherwise be payable under this Agreement in respect of such termination and the collection of such amount (and the termination of the Implementation Agreement) is the sole remedy of the Company in respect of such termination. The provisions of this Section 4.8(b) shall be without prejudice to any right or remedy of the Company which arises prior to termination of this Agreement".

17. Section 5.2(b)(iii) of the Agreement is hereby amended by deleting the words "Construction Financial Closing and the" in the first line of that Section.
18. Section 9.4 (f)(i) of the Agreement is hereby amended by deleting subsection/paragraph (A) in its entirety. Existing subsection/paragraph (B) is hereby amended to become new subsection/paragraph (A); existing subsection/paragraph (C) is hereby amended to become new subsection/paragraph (B); existing subsection/paragraph (D) is hereby amended to become new subsection/paragraph (C); Subsequent references to any of the above existing subsection/paragraphs in Section 9.4 (f)(i) are hereby amended to refer to the respective new subsections/paragraphs. References to any of the above existing subsections/paragraphs in Section 9.4 (f)(i) in this Agreement No.1 shall refer to the existing numbering appearing in the Agreement.
19. Section 9.4(f)(i)(D) of the Agreement is hereby amended by inserting the words "or the Company fails to pay any amounts owed to KESC pursuant to Section 3.5 and 4.7, "after the words and punctuation "when due", and before the word "then" appearing in line 2. After the word "Agreement" and before the word, brackets and number "and (2)" appearing in line 6, the words "or amounts due to KESC under Section 3.5 and 4.7" shall be inserted. After the word "invoice" and before the word "for" appearing in line 7, the words "or demand" shall be inserted.

The following shall be added to the end of Section 9.4(f)(i)(D) following the words and punctuation "by the Company" add:

"KESC shall not be entitled to draw any amounts shown in the invoice or demand to the Company that has been disputed by the Company until such amount is determined to be due and payable to KESC in accordance with the dispute resolution procedures set forth in this Agreement. KESC shall also have the right to draw or collect the full available amount of Company Letter of Credit issued pursuant to Sections 9.4(f) (i)(A) or (B) if it is not replaced as required pursuant to this Section 9.4(f) upon presentation of a certificate of an authorized officers of KESC stating that the term of such Company Letter of Credit will expire within ten (10) Business Days of the date of the certificate, and the Company has failed to deliver a replacement Company Letter of Credit in accordance with this Section 9.4(f) and such security is still required under the terms of this Section 9.4(f). If within thirty (30) Business Days of any draw by KESC of the Company Letter of Credit pursuant to the immediately preceding sentence, the Company provides a replacement Company Letter of Credit in the required amount, KESC shall return to the Company the amount drawn by it under the Company Letter of Credit less any amount it would have otherwise been entitled to recover from the Company Letter of Credit arising after the date of encashment under the terms of this Agreement".

20. Section 13.1 of the Agreement is hereby amended by deleting the words "earlier to occur of Construction Financial Closing or" in the ~~seventh and~~ third lines of that Section.

21. Section 17.10(e) of the Agreement is hereby amended by adding in line two after the words and punctuation "Financial Closing," and before the words "all such" the following phrase: "and at any refinancing approved by the GOP in accordance with Section 15.3 of the Implementation Agreement"

22. Table 1 of Schedule 6 of the Agreement is hereby amended, restated and replaced in its entirety by the attached, signed Table 1 ("ATTACHMENT I").

23. Schedule 10 of the Agreement is hereby amended, restated and replaced in its entirety by the attached, signed Schedule 10 ("ATTACHMENT II")

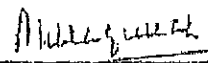
C. Miscellaneous

1. This Amendment No: 1 shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and permitted assigns.

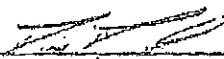
2. This Amendment No.1 shall be governed by and construed in accordance with the laws of England.

In Witness Whereof, the parties hereto have caused this Amendment No.1 to the Agreement to be executed and acknowledged by their respective duly authorized officers or representatives, as of the date first above written.

THE KARACHI ELECTRIC
SUPPLY CORPORATION LIMITED

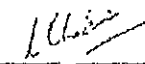
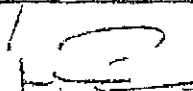
By: 
A. K. H. L. A. Q. ULLAH
General Manager
Name: (Generation, Transmission and
Private Power Cell)
Title: K. E. S. C. Ltd.

TAPAL ENERGY LIMITED

By: 

Name: TABISH TAPAL
Title: DIRECTOR

Witnesses:

1.  Witness - (1) - Reimbursement
2. 
MOIZ TAPAL

ATTACHMENT 1

Schedule of Reference Tariff and its components for each Agreement Year

TAPAL ENERGY LIMITED

Estimated initial Dependable Capacity

119.5 MW

Units Sold at 60% Plant Factor

Agreement Year	ENERGY PURCHASE PRICE Rupees per kWh			CAPACITY CHARGE Rupees per kWh				CAPACITY CHARGE Rupees per kW /Month				TOTAL TARIFF Rs./kWh	
	Fuel	Variable O&M	Total	Non-Escalable Component		FERI	Total Capacity charge	Escalable Component	Non-Escalable Component		FERI		Total Capacity charge
				Local	Foreign				Local	Foreign			
1	0.6300	0.1850	0.8150	0.22700	0.00000	0.87100	1.098	1.9130	99.4260	0.00000	581.4980	0.00000	430.9240
2	0.6300	0.1850	0.1850	0.22700	0.00000	0.83800	1.065	1.8800	99.4260	0.00000	567.0440	0.00000	466.4700
3	0.6300	0.1850	0.1850	0.22700	0.00000	0.83800	1.065	1.8800	99.4260	0.00000	567.0440	0.00000	466.4700
4	0.6300	0.1850	0.1850	0.22700	0.00000	0.83800	1.065	1.8800	99.4260	0.00000	567.0440	0.00000	466.4700
5	0.6300	0.1850	0.1850	0.22700	0.00000	0.83800	1.065	1.8800	99.4260	0.00000	567.0440	0.00000	466.4700
6	0.6300	0.1850	0.1850	0.22700	0.00000	0.77850	1.006	1.8205	99.4260	0.00000	540.9830	0.00000	440.4090
7	0.6300	0.1850	0.1850	0.22700	0.00000	0.71230	0.939	1.7543	99.4260	0.00000	511.9874	0.00000	411.4134
8	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
9	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
10	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
11	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
12	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
13	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
14	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
15	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
16	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
17	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
18	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
19	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
20	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
21	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046
22	0.6300	0.1850	0.1850	0.22700	0.00000	0.39470	0.622	1.4367	99.4260	0.00000	172.8786	0.00000	272.3046

Rs/kWh
1.674980

Levelized 22 year tariff
US Cents/kWh
0.0557769

ATTACHMENT II

SCHEDULE 10

TESTING SCHEDULE

	Stage/Event	Month
1.	Later of March 17, 1996 or Financial Closing	0
2.	Target Completion Interconnection	10
3.	Scheduled Commercial Operations Date	13

AK

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On behalf of KESC:

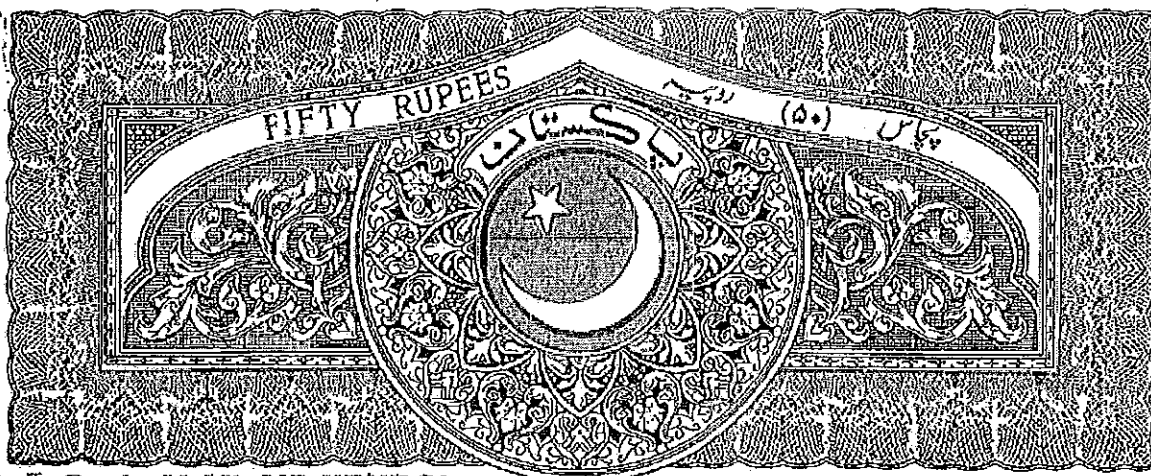
On behalf of Tapal Energy Limited:

BY:

BY:

TITLE:

TITLE:



SAFAR ALAM STAMP-VENDOR
 Lianop No. 67, Seat No. 8 City Court, Karachi,
 S. No. 1210 DATE

06 JUL 2006

ISSUED TO WITH ADDRESS.....
 THROUGH WITH ADDRESS, NISAR ADVOCATE
 PURPOSE.....
 VALUE RS. 50/- (ATTACHED)
 *STAMP VENDOR'S SIGNATURE

THIS AGREEMENT is made at Karachi on this 11th day of July 2006.

BY and BETWEEN

TAPAL ENERGY (PRIVATE) LIMITED, a company incorporated in Pakistan with limited liability under the Companies Ordinance 1984, having its principal office at F-25, Block 5, Kellikashan, Clifton, Karachi (hereinafter referred to as the "TEL", which expression shall where the context permits or requires deem to mean and include its successors-in-interests and assigns), of the One Part

AND

KARACHI ELECTRIC SUPPLY CORPORATION LIMITED, a public limited company, having its principal office located in Karachi (hereinafter referred to as the "KESC", which expression shall where the context permits or requires deem to mean and include its successors-in-interests and assigns), of the Other Part

(the TEL and KESC shall hereinafter be collectively referred to as the "Parties" and individually as the "Party")

WHEREAS TEL entered into a Power Purchase Agreement with KESC dated 26th September 1995, as amended and/or varied from time to time, (the "PPA");

AND WHEREAS the KESC, under Article II of the PPA, agreed to purchase Dependable Capacity of upto 105% of the Estimated Dependable Capacity and the Net Electrical Output of the Complex to the extent that it is dispatched;

AND WHEREAS under the terms of the PPA, the TEL is required to conduct Annual Dependable Capacity Test of the Complex such that at any point of time, the last tested capacity is deemed to be the prevalent Dependable Capacity of the Complex, which is then used to calculate the monthly Capacity Payments, which KESC is liable to pay to the TEL;

AND WHEREAS on 15th May 2001, the TEL conducted Annual Dependable Capacity test ("the Test") for fifth Agreement Year and demonstrated capacity of 126.8 MW at reference conditions which was restricted to 125,475 MW, as required by the PPA, for billing of Capacity Payments;

AND WHEREAS the KESC raised an Invoice Dispute contesting that the set point for the generators should have been put at 10.3 MW instead of 10.8 MW during the Test and started making deductions from the TEL's monthly Capacity Payment invoices by calculating the Capacity Payment amount on a basis different from the tested Dependable Capacity (the "Dispute");

AND WHEREAS in November 2001, the Dispute was referred to an expert pursuant to Art.15 of the PPA (the "Expert"), who agreed with the contention of TEL that the Test was conducted in accordance with the requirements of the PPA (the "Decision");

AND WHEREAS despite the Decision, the KESC disputed subsequent Tests undertaken in accordance with the PPA, and deducted various amounts from the invoices of TEL such that as on 31st May 2006 an amount of Rs. 261,910,187/- is due and payable by KESC to TEL in respect of the Dispute (the "Claimed Amount");

AND WHEREAS the Parties now desire to resolve the Dispute and settle the Claimed Amount and to amend the PPA in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

1. INTERPRETATION

1.1. In this Agreement:

- (a) references to Clauses are to the clauses to this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) all headings are for convenience only and shall not constitute a part of, or be used in construing, this Agreement.
- (d) all capitalised terms used in this Agreement shall have the meaning as ascribed to them under this Agreement and all such terms used and not defined in this Agreement shall have the meaning as given to them in the PPA.

2. EFFECTIVE DATE

This Agreement shall be deemed to take effect from 31st May 2006.

3. THE SETTLEMENT

KESC acknowledges the Claimed Amount and TEL agrees that the payment by KESC to TEL of Rs.100,000,000 (Rupees One hundred million) in the following instalments shall, if punctually so made, be in full and final settlement of the Claimed Amount:

- (a) Rs.33,000,000 in the month of July 2006
- (b) Rs.33,000,000 in the month of August 2006
- (c) Rs.34,000,000 in the month of September 2006.

and upon payment by KESC in accordance with this clause 3, TEL shall have no further claims whatsoever against KESC in respect of the Claimed Amount.

4. AMENDMENTS TO THE PPA

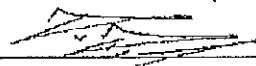
The Parties agree that with effect from 31st May 2006:

- (a) In Section 2.1(a)(i) of the PPA, the words "one hundred five percent (105%) of the Estimated Dependable Capacity" shall be replaced by "123.5MW".
- (b) In Section 10.4 (b) of the PPA, the words "105% of the Estimated Dependable Capacity" shall be replaced by "123.5MW". The Tests shall be undertaken without any restriction on the set point of the generators."
- (c) If KESC desires, TEL shall have the option, but no obligation, to deliver energy to KESC, at any point of time, in excess of the Dependable Capacity.

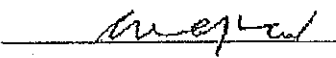
And the PPA shall be read and construed as amended herein above.

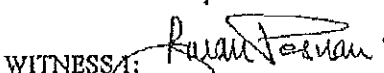
IN WITNESS WHEREOF the Parties have executed this Agreement on the date first mentioned above.


For and on behalf of
TAPAL ENERGY (PRIVATE) LIMITED


Name: TABISH TAPAL
Designation: C.E.O.

For and on behalf of
KARACHI ELECTRIC SUPPLY CORPORATION


Name: Mohammed Aslam
Designation: CEO

WITNESS 1: 
Name: RIZWAN AKBAR ALI PESNANI
Address: TAPAL ENERGY (PVT) LTD
F-25 Block S, KHEKASHAN CLIFTON, KARACHI.

WITNESS 2: 
Name: ABDUL RAUF YOUSUF
Address: Director (RA&SP)
KESC.