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POWER PURCHASE AGREEMENT

BETWEEN

NTPC-SAIL POWER COMPANY PRIVATE LIMITED

AND

ELECTRICITY DEPARTMENT OF

UNION TERRITORY OF DADRA & NAGAR HAVELI

FOR SUPPLY OF POWER TO

DADRA & NAGAR HAVELI FROM

BHILAI CAPTIVE THERMAL POWER PROJECT

THIS POWER PURCHASE AGREEMENT hereinafter called the "Agreement" entered into at Silvassa on this 26th day of Oct of Two Thousand Seven (2007) between NTPC-SAIL Power Company Private Limited, a Company incorporated under the Companies Act, 1956 having its registered Office at NBCC Tower, (4th floor) 15,

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G. BASU
Addl. General Manager
(Planning, Projects & Commercial)
NTPC-SAIL Power Co. Pvt. Ltd.
(A Joint Venture of NTPC & SAIL)

[Handwritten signature]
EXECUTIVE ENGINEER
ELECTRICITY DEPARTMENT
DADRA & NAGAR HAVELI
SILVASSA.

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Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as "NSPCL") which expression shall unless repugnant to the context or meaning thereof include its successors and assigns as party of the first part and the Electricity Department of Union Territory of Dadra & Nagar Haveli, having its Head Office at Silvassa-396230 (hereinafter referred to as "DNH") which expression shall unless repugnant to the context or meaning thereof include its successors and assigns as party of the second part.

WHEREAS NSPCL is a Generating Company as defined under Section 2 of Electricity Act, 2003 and Joint Venture Company formed by NTPC Ltd. and Steel Authority of India Limited (SAIL).

AND WHEREAS NSPCL is executing (2 X 250 MW) coal fired Captive Generating Plant at Bhilai in Durg District of Chhattisgarh State primarily for use of SAIL hereinafter referred to as Bhilai Captive Thermal Power Project ("Bhilai Project") and generally referred to as "Generating Station" to be owned and operated by NSPCL.

AND WHEREAS the total capacity of Bhilai Project is proposed to be allocated to Bhilai Steel Plant (BSP) and other units of SAIL and other Bulk Power Beneficiaries in accordance with the allocation as mentioned in clause 2.1 and all the beneficiaries are collectively referred to as Bulk Power Beneficiaries.

AND WHEREAS the above Bulk Power Beneficiaries are desirous of purchasing energy from NSPCL's Bhilai Project and NSPCL is willing to sell energy from Bhilai Project to Bulk Power Beneficiaries from the date of commissioning of Unit - I of Bhilai Project on mutually agreed terms and conditions mentioned hereunder.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the parties as follows:-

1.0 DEFINITIONS

The words/expressions used in this Agreement unless repugnant to the context shall have the same meaning assigned to them by Electricity Act, 2003 as amended from time to time and the Rules framed thereunder. The words/expressions mentioned below shall have the meanings respectively as assigned hereunder.

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- i) GOI : Shall mean Govt. of India.
- ii) CEA : Shall mean Central Electricity Authority.
- iii) CERC / Commission : Shall mean Central Electricity Regulatory Commission.
- iv) SERC: Shall mean State Electricity Regulatory Commission
- v) POWERGRID: Shall mean Power Grid Corporation of India Ltd.
- vi) CENTRAL TRANSMISSION UTILITY : Shall mean any Government Company which the Central Govt. may notify as per Electricity Act, 2003.
- vii) STATE TRANSMISSION UTILITY : Shall mean the Board or the Govt. Company specified as such by the State Govt. as per Electricity Act, 2003
- viii) WREB : Shall mean Western Regional Electricity Board duly established by Government of India vide Resolution No.EL-II-35(2)/63 dated 28.3.1964 and subsequent amendment/ resolution thereof and as defined in the amended Electricity Act, 2003.
- ix) REGIONAL POWER COMMITTEE : Shall mean a Committee established by resolution by the Central Govt. for a specified region for facilitating integrated operation of the power systems in that region.
- x) WRLDC : Shall mean Western Regional Load Despatch Centre
- xi) BUSBARS Shall mean 400 KV Busbars of the station to which outgoing feeders are connected.
- xii) BOUNDARY LIMIT Boundary limit will be gantry of 400 KV Switchyard of Bhilai Project.
- xiii) MAIN IMPORT/EXPORT METER: Shall mean Special Energy Meters for measurement of active energy import/export. on the outgoing feeders at Bhilai Project 400 KV busbars for Energy measurement.
- xiv) Check Import/Export Meter Shall mean Special Energy Meters on the outgoing feeders at Bhilai Project 400 KV busbars for providing a check on the measurements recorded in Main

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Import/Export meter.

- xv) Reactive Import/ Export Meter : Shall mean meters for measurements of reactive energy import/export on the outgoing feeders at Bhilai Project 400 KV busbars.
- xvi) Energy : Account Shall mean Periodic Energy Account including amendments thereof, if any prepared by WREB / WRLDC / WRPC as per mutually accepted procedures from time to time.
- xvii) Charges for supply of energy/power: Shall mean and include all charges to be paid by Bulk Power Beneficiaries in respect of supply of energy / power to them by NSPCL in accordance with the provisions of this Agreement.
- xviii) LC : Shall mean Irrevocable Revolving Letter(s) of Credit.
- xix) Date of : commercial operation Shall mean the date of Commercial operation declared by NSPCL in respect of generating unit(s).
- xx) Bulk Power Beneficiary(ies) Shall mean all Beneficiaries of Power from Bhilai Project.
- xxi) WRPC Means Western Regional Power Committee established under Section 2(55) of the Electricity Act, 2003.
- xxii) IEGC Means Indian Electricity Grid Code, as approved by CERC.
- xxiii) TPA Shall mean Tri-partite Agreement signed by Govt. of Chhattisgarh, Govt. of India and Reserve Bank of India on 20.3.2003 as per provision of Govt. of India Scheme for One time settlement of SEB dues
- xxiv) Captive Generating Plant Means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association.
- xxv) Person Means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person.
- xxvi) Act, 2003 Means the Electricity Act, 2003 as amended or modified from time to time, including any re-enactment thereof.

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2.0 INSTALLED CAPACITY

The nominal capacity of Bhilai Project shall be 500 MW (2X250 MW).

2.1 Allocation of Capacity

2.1.1 The allocation of capacity from Bhilai Project to Bulk Power Beneficiary(ies) based on their confirmation are as under :-

Bulk Power Beneficiary(ies)	Capacity Allocation (MW)
SAIL/ BSP	280
UNION TERRITORY OF DAMAN & DIU	70
UNION TERRITORY OF DADRA & NAGAR HAVELI	100
CHHATTISGARH STATE ELECTRICITY BOARD	50
TOTAL	500

- 2.1.2 The unallocated capacity shall be allocated from time to time by NSPCL. Balance unallocated capacity, if any, after the above allocation shall be deemed to have been allocated to various Bulk Power Beneficiaries (excluding SAIL. Allocation of capacity from unallocated capacity of NSPCL to SAIL and CSEB will only be at the request of SAIL and CSEB) in proportion to their allocated shares.
- 2.1.3 The allocation will further be subject to ensuring compliance with the financial and commercial terms of the PPA signed by the beneficiary with NSPCL and the tariff finalisation. In case of failure by the beneficiary adhering to the payment terms including payment security mechanism included in the PPA, NSPCL may shut off or restrict power supply from the power station and also reallocate power to other beneficiary (ies).
- 2.1.4 The right of each Bulk Power Beneficiary to draw power against the above allocations shall be limited to the amount of valid operational Letters of Credit (LC) opened by them in favour of NSPCL.
- 2.1.5 As the power from Bhilai Project is allocated to Bulk Power Beneficiaries, thereby in case of outage / planned shut down of unit, the power to Bulk Power Beneficiaries shall be on proportionate basis.
- 2.1.6 Notwithstanding the obligations of Bulk Power Beneficiary(ies) to pay all the dues as per this Agreement including deemed generation as per para(viii) of Annexure-I, NSPCL shall be entitled to divert the share(s) of any Bulk Power Beneficiary(ies) to other Bulk Power Beneficiaries, in the event of their inability to utilise their full share of power which could be generated by NSPCL at Bhilai Project in accordance with the guidelines of CERC/GOI/other competent authority from time to time including sharing of capacity charges/ making timely payment of NSPCL

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dues. In such a case, Bulk Power Beneficiary(ies) will facilitate supply of power to other Bulk Power Beneficiary(ies) by wheeling such power on their transmission system subject to the availability of transmission system and further subject to payment of wheeling charges as may be applicable. The total charges of Bhilai Project will be payable by Bulk Power Beneficiaries.

2.1.7 It is agreed by and between the parties that NSPCL shall operate the station as per GOI/CERC guidelines as applicable from time to time and directives issued by WREB / WRLDC based on the above guidelines and as per the relevant statutory provisions.

2.1.8 Availability of power from the generating station at its 400 KV Bus bar shall be deemed to be supply of allocated capacity to Bulk Power Beneficiaries irrespective of availability of transmission system.

2.2 Commercial Operation of generating units

The dates of commercial operation of generating units of Bhilai Project shall be as defined under clause 1.0 above.

2.3 Drawal of Power

The power from the Generating Station shall be drawn by the Bulk Power Beneficiaries directly and/or by method of displacement. Bulk Power Beneficiary (ies) shall draw their share of power from 400 KV busbars of Bhilai Project. For accounting purpose, the power will be deemed to have been delivered at 400 KV bus bar.

3.0 TRANSMISSION/WHEELING OF POWER

The evacuation of power from Generating Station to Bulk Power Beneficiaries through the transmission system / transmission access will be as allowed / implemented by Central Transmission Utility / State(s) Transmission Utility and/or other Agency(ies)/NSPCL Bulk Power Beneficiaries shall enter into Bulk Power Transmission Agreement(s) with Central Transmission Utility / State(s) Transmission Utility and/or Other Agency(ies)/NSPCL as the case may be for payment of transmission and other charges as applicable for their service which will be settled and paid directly by Bulk Power Beneficiaries to the concerned transmission agencies.

4.0 ENERGY ACCOUNTING

a) Energy Accounts shall be prepared latest by 2nd day of every month

b) Energy Accounts, whether they are final or provisional, shall account for total energy scheduled by the Beneficiaries from Generating Station. WRLDC/WRPC shall be billing for "Unscheduled Interchange" for the

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differential energy of generation compared to scheduled as per prevailing practice.

- c) NSPCL shall prepare and submit bills to the beneficiaries on the basis of such Regional Energy Accounts.
- d) Energy Account issued by WREB / WRPC/WRLDC shall be binding on all the parties to these presents for billing and payment purposes.
- e) Any change in the methodology of Regional Energy Accounting shall be done only as per the decisions taken in the WREB/WRPC forum and No unilateral deductions by any Bulk Power Beneficiaries shall be made from the bills of the NSPCL on this account.

4.1 Points for Metering

The main and check meters on all outgoing feeders at the 400 KV/220 KV busbars of Bhilai Project shall be installed and maintained by CTU/RLDC. Installation and maintenance of main and check meters at other locations shall be the responsibility of the concerned Bulk Power Beneficiary(ies) or CTU / STU or other agencies as the case may be. The meters shall be sealed after calibration by the concerned parties jointly. The metering locations will be decided by WRLDC/WRPC in consultation with CTU/Beneficiaries.

4.2 Metering System

- 4.2.1 A set of Main and Check Special Energy Meters (or better accuracy if commercially available) shall be installed by CTU/RLDC on all outgoing feeders at 400 KV/220 KV bus bars of Bhilai Project. Each of the Main and Check meters will be a pair of Export and Import meters. Main and Check meters will have their independent CTs and PTs.
- 4.2.2 Data shall be downloaded from the meters at Regular Intervals as decided by WRPC/WRLDC for preparation of Regional Energy Account.
- 4.2.3 All the meters shall be jointly inspected and sealed on behalf of the parties and shall not be interfered with except in the presence of other party or for joint testing and calibration and/or replacement and/or any other purposes for which due notice of 7 (seven) days will be given so that this is done in the presence of the authorised representatives of the Bulk Power Beneficiaries.
- 4.2.4 All the meters shall be checked quarterly for accuracy by NSPCL and Bulk Power Beneficiaries and shall be treated as working satisfactorily so long as the errors are within the limits prescribed in relevant Indian Standard (or British Standard where Indian Standard is not existing) for meters of the said class. The meter readings of main meters shall form the basis of the Energy Accounts so long as

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the quarterly check results thereof are within prescribed limits.

If the check meters are found to be defective during the quarterly checks, these shall be immediately calibrated. Where the quarterly checks indicate errors in the main meter(s) beyond limits but error within limit is noticed in check meter(s) during quarterly checking, computation of total net energy sent out at 400 KV/220 KV busbars of Bhilai Project for the month shall be done on the basis of check meter(s) and main meter(s) shall be calibrated immediately. If during the quarterly test check both the main meter(s) and the corresponding check meter(s) are found to be beyond the permissible limits of error both the meter(s) shall be immediately calibrated and the correction applicable to main meter shall be applied to the consumption registered by the main meter(s) to arrive at the correct consumption of energy for the purpose of Energy Accounts for the month from the date of last meter reading upto the time of replacement of correct main meter. Billing for the period thereafter till the next monthly meter reading shall be as per calibrated main meter. During this period of calibration of main and check meter(s), another set of main and check meters duly calibrated and sealed will be installed by CTU/RLDC at Bhilai Project in the presence of Bulk Power Beneficiaries and jointly sealed. The energy accounting during the period of calibration of original meters shall be as per the readings of the substituted main meters. In case spare meters are not available with NSPCL, the main/check meters shall be calibrated by rotation. During the period of removal of main meter, the energy accounting will be done based on check meter readings applied with correction factor of the check meter obtained during testing/calibration of check meter.

4.2.5 All the main and check energy meter(s) shall be calibrated once in every 2 years jointly by the parties irrespective of the calibrations that might have been done, where necessary, during the quarterly check. It shall be endeavour of the parties that errors are adjusted as close to zero as possible. If the error found at such time of calibration are beyond permissible limits the same procedures applicable to the quarterly test checks shall be followed.

4.2.6 If, in any, month the readings of the main energy meter(s) differs from the readings of corresponding check energy meter(s) beyond permissible accuracy limit as prescribed, the main and check energy meter(s) shall be tested in turn and the errors at various levels as per standard procedures would be determined. If on such testing main energy meter error is found to exceed specified allowable limit of the energy figures recorded by the main energy meter(s) for the above month concerned shall be revised accordingly and the main energy meter(s) shall be recalibrated or replaced by the correct energy meter(s). Pending the results of such testing, billing and payment shall continue to be based on the energy recorded by the check energy meter(s).

- 4.2.7 All the tests during quarterly checks and calibration on the main and check energy meter(s) shall be conducted in the presence of authorised representatives of NSPCL and Bulk Power Beneficiaries and the results/correction so arrived at shall be applicable and binding on NSPCL and Bulk Power Beneficiaries.
- 4.2.8 Corrections in billing, whenever necessary, shall be applicable for the period between the previous meter reading and the date and time of the replacement of recalibrated correct meter and this correction shall be for the full value of the absolute error. For the purpose of the correction to be applied, the meter shall be tested as per Indian Standard (British Standard where Indian Standard is not existing). The error at the load and power factor nearest to the average monthly load served at the point during the period shall be taken as the error to be applied for correction.
- 4.2.9 During the period of calibration of the defective meter(s) another export and import meter(s) duly calibrated would be installed by CTU/ RLDC at Bhilai Station's bus bars in the presence of other parties and jointly sealed. In case spare meter(s) are not available with NSPCL the main and check meter(s) shall be calibrated by rotation. During the period of removal of main meter, the energy accounting will be done based on check meter readings applied with correction factor of the check meter obtained during testing/calibration of check meter.
- 4.2.10 If both the main and check meter(s) fail to record or if any of the PT fuses are blown out, then the energy will be computed on a mutually agreeable basis between NSPCL and Bulk Power Beneficiary(ies) for that period of defect. In case there is no mutual agreement, the decision of Member Secretary of WREB / WRPC would be final and binding.
- 4.2.11 For the purpose of test and calibration, the Sub-Standard (SS) meter calibrated and sealed by Government Authorised Meter testing House/Laboratory shall be utilised. This Sub-Standard meter shall be got calibrated once in every 2 years at the Government Authorised Meter testing House/Laboratory.
- 4.2.12 If at any time any party to the Agreement feels that a meter is not recording correctly it shall give notice to the other party. NSPCL shall then undertake testing and calibration of the meters owned by NSPCL and located at NSPCL Station in coordination with the other party. For other locations, the agency under whose jurisdictions the meters are located would be responsible for such testing and calibration. If error on such testing is found to exceed the error limits specified in the relevant Indian Standard (British Standard where Indian Standard is not existing), for this class of meters, necessary adjustments in the bills shall be made from the date of notice or from such other date as can be satisfactorily established to be proper for such adjustment not exceeding 30 (Thirty) days prior to notice.

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5.0 TARIFF

5.1 Terms and conditions:

The tariff and terms & conditions for the energy to be supplied by NSPCL from Bhilai Project shall be determined / approved by CERC / other competent authority from time to time under the Electricity Act, 2003 or any other Act / Rules / Regulations as may be enacted by Govt. of India in this connection. It is further agreed that tariff for Bhilai Project shall be worked out specifically taking into account tariff norms / guidelines enclosed at Annexure-I of this Power Purchase Agreement. Other terms & conditions and parameters not included in this Annexure-I shall be adopted based on tariff norms/guidelines as notified by the Commission/ Govt. of India.

- 5.1.1 In case the tariff is not notified by CERC prior to commencement of commercial operation of the 1st unit of the Station, the parties agree that NSPCL may work out a provisional tariff based on CERC's terms and conditions or guidelines of competent authority, as applicable from time to time and as per approved capital cost for the project. NSPCL shall inform DNH of such provisional tariff and pending determination of tariff by CERC billing on provisional basis would be carried out, subject to adjustment of the differential amount as and when the tariff is determined by CERC or any order passed by CERC pending the determination of such tariff.

5.2 Levies, Taxes, Duties, Cess etc.

- 5.2.1 The above tariff is exclusive of any statutory taxes, levy, duties, cess, royalty fees or any other kind of imposition(s) whatsoever imposed/charged by any Government (Central/State) and/or CERC/SERC and/or any other local bodies/authorities on generation of electricity including auxiliary consumption, transmission, environment protection, sale or on supply of power/energy and/or in respect of any of its installations associated with Generating Stations and/or on Transmission System.

The total amount of such levies/taxes/duties/cess/royalty/fees etc. as indicated above payable by NSPCL to the authorities concerned in any month shall be borne and additionally paid by Bulk Power Beneficiaries to NSPCL and the same shall be charged in the monthly bills raised by NSPCL on the Bulk Power Beneficiaries in proportion to the fixed charges paid by them for Bhilai Project.

The above tariff is exclusive of any statutory taxes, levy, duties, cess, royalty fees or any other kind of imposition(s) whatsoever imposed/charged by any Government (Central/State) and/or CERC/SERC and/or any other local bodies/authorities on any other type of consumption including water and the total

amount of such levies/taxes/duties/cess/royalty/fees etc. on this account as payable by NSPCL to the authorities concerned in any month shall be borne and additionally paid by Bulk Power Beneficiaries to NSPCL and the same shall be charged in the monthly bills raised by NSPCL on the Bulk Power Beneficiaries in proportion to the Energy Charges paid by them for Bhilai Project.

5.2.2 Incidence of tax liability on NSPCL as per the provisions of the Income Tax Act applicable from time to time, duly certified by Statutory Auditors of NSPCL, shall be recovered from the Bulk Power Beneficiaries.

5.2.3 Payment of Income Tax :

If any advance Income Tax is paid by NSPCL in any month, NSPCL shall submit a bill to Bulk Power Beneficiaries supported by a certificate of its Chartered Accountants. Bulk Power Beneficiaries shall pay to NSPCL an amount equal to their share of such advance tax. After the tax assessment is completed for any year and the liability thereon is determined by the taxation authorities, the excess or shortfall in the tax liabilities so determined will be adjusted in the regular monthly bill for the billing month in which such tax has become due for payment by NSPCL. The due date of payment of the bills for such advance Income Tax or final Income Tax shall be 15 days from the date of presentation of the bill thereof by NSPCL.

6.0 BILLING AND PAYMENT

6.1 Billing:

All charges under this Agreement shall be billed by NSPCL and shall be paid by the Bulk Power Beneficiaries in accordance with the following provisions:

6.1.1 NSPCL shall present the bills after the end of each calendar month for energy supplied to Bulk Power Beneficiaries from Bhilai Project as per Regional Energy Account issued by WREB / Regional Power Committee/WRPC/WRLDC.

6.1.2 The authority of Bulk Power Beneficiary to whom the bills have to be submitted would be informed by the Bulk Power Beneficiary to NSPCL failing which NSPCL would submit the bills to the Chief of Finance and Accounts wing of the Bulk Power Beneficiary.

6.1.3 The monthly bill for Bhilai Project shall be aggregate charges in accordance with the provisions of the Agreement. If for certain reasons some of the charges can not be included in the main monthly bills, such charges shall be billed as soon as possible through supplementary bill (s).

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- 6.1.4 The bill (s) of NSPCL shall be paid in full subject to the condition that –
- i) there is no apparent arithmetical error in the bill (s)
 - ii) the bill (s) is / are claimed as per tariff referred to in clause 5.0
 - iii) they are in accordance with the energy accounts referred to in clause 4.0

6.1.5 In disputed cases, Bulk Power Beneficiary shall file a written objection with NSPCL within 45 days of presentation of the bill, giving following particulars:

- i) Item disputed, with full details / data and reasons of dispute
- ii) Amount disputed against each item.

NSPCL shall resolve the above dispute (s) with Bulk Power Beneficiary as soon as possible preferably within 90 days of receipt of such written objection from the Bulk Power Beneficiary.

6.1.6 In case, the dispute is not resolved, and in the event it is decided to proceed with the Arbitration as provided in clause 7.0, then the Bulk Power Beneficiary shall pay 100 % of the disputed amount forthwith and refer the dispute for arbitration as provided in this Agreement. The amount of excess / shortfall with respect to the payment based on final award of arbitration shall be paid / adjusted with interest @ 15% per annum from the date on which the amount in dispute was payable/ refundable.

6.2 Establishment of Letter of Credit (LC) and payment of bills:

6.2.1 Payment of bills for supply of power from Bhilai Project shall be made by Bulk Power Beneficiary(ies) through irrevocable revolving Letters of Credit (LC) established in favour of NTPC-SAIL Power Company Private Ltd.(NSPCL) with a public sector bank at least one month prior to the commencement of power supply from Bhilai Project.

6.2.2 The LC shall cover one month estimated billing in respect of power supplied from Bhilai Project, NSPCL.

6.2.3 The amount of LC shall be reviewed each half-year commencing April and October in each financial year and its amount shall be enhanced / reduced accordingly.

6.2.4 The LC shall be established for a minimum period of one year. Bulk Power Beneficiary shall ensure that LC remains valid and operational at all times during the entire / extended validity of this Agreement.

6.2.5 LC shall be without any limitation or restriction with regard to the manner and dates when bill(s) can be presented to Bank by NSPCL. The bills so presented by NSPCL to the Bank shall be promptly paid on their presentation. The LC charges shall be borne by the Bulk Power Beneficiary.

6.3 Rebate

For payment of bills of capacity charges and energy charges through a letter of credit on presentation, a rebate at the prevailing rate as decided by the commission shall be allowed. If the payments are made by a mode other than through a letter of credit but within a period of one (1) month from the date of billing by NSPCL, a rebate at the prevailing rate as decided by the commission shall be allowed.

6.4 Late Payment Surcharge

In case the payment of bills of capacity charges and energy charges by the beneficiary (ies) is delayed beyond a period of one (1) month from the date of billing by NSPCL, a late payment surcharge at the prevailing rate as decided by the commission shall be levied by NSPCL. The surcharge amount shall be payable along with the monthly bill.

6.5 Payment Security Mechanism

6.5.1 Government Guarantee

Notwithstanding the above, Bulk Power Beneficiary(ies) shall arrange to obtain Guarantee from Union Territory of Dadra & Nagar Haveli within three months of signing of this Agreement as per draft enclosed at Annexure-II, to be operative atleast three months prior to the date of commencement of supply of power from Bhilai Project, in favour of NTPC-SAIL Power Company Private Ltd.(NSPCL) to guarantee the performance of the obligations of Bulk Power Beneficiary(ies) to make regular payments of the energy bills presented by NSPCL for power supplied to Bulk Power Beneficiary(ies) from its power station.

6.5.2 Tripartite Agreement

In case payment of bills for power supplied from NSPCL Power Station is delayed by more than 90 days from the date of billing, NSPCL shall have right to get the payments inclusive of surcharge directly from the Govt. of India (GOI) through adjustments against release to the Union Territory of Dadra & Nagar Haveli on account of Plan assistance, it's share of central taxes and any other grant or loan automatically, without referring the matter further to the Union Territory of Dadra & Nagar Haveli, for which a Tripartite Agreement shall be signed between the Govt. of India, the Union Territory of Dadra & Nagar Haveli and the Reserve Bank of India. This PPA shall take effect on signing of the Tripartite Agreement and its coming into force.

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6.6 Non-payment of bills and non-establishment of LC / Payment Security Mechanism

Bulk Power Beneficiary(ies) shall open / enhance and maintain LC as per this Agreement covering the monthly payments towards power supply to Bulk Power Beneficiary(ies) from Bhilai Project and provide Payment Security Mechanisms of Govt. Guarantee and Tripartite Agreement as detailed above. In the event of failure to establish LC and/or provide Payment Security Mechanisms as detailed above and/or enhance LC within the specified period or if any bills remain unpaid beyond due date indicated in the bill, NSPCL shall

take action to discontinue / reduce supply of power from Bhilai Project to such Bulk Power Beneficiary(ies) and Loss of generation during this period would be treated as deemed generation and accounted for working out fixed charges to be borne by Bulk Power Beneficiary(ies). Other charges eg. disconnection and restoration of supply are also payable by the Bulk Power Beneficiary(ies) during such period. In case of regulation of power supply by reduction / diversion / discontinuation of power, the Bulk Power Beneficiary(ies) so regulated shall continue to pay its share of the fixed charges so that the other Bulk Power beneficiary(ies) not being regulated are not required to pay additional fixed charges.

7.0 ARBITRATION

- 7.1 All differences or disputes between the parties arising out of or in connection with this Agreement which are not mutually resolved shall be settled through arbitration as provided herein.
- 7.2 In the event of such differences or disputes between the parties, any party may by a written notice of 30 days to the other party request for Arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications thereto. The Arbitrator shall give a speaking and reasoned award. The decision of the Arbitrator shall be final and binding on the parties. The venue of the arbitration shall be as decided by the Arbitrator.
- 7.3 The Arbitrator shall reasonably decide in what proportion his fee and cost of arbitration proceedings shall be borne by the parties. The Arbitrator with the consent of the parties may extend the time to make and publish the award.
- 7.4 Notwithstanding the existence of any question, disputes and differences referred to arbitration, the parties hereto shall continue to perform their respective obligations under this Agreement. The payment of disputed amounts, not covered by tariff notifications, which are under arbitration shall, during the pendency of such proceedings, be subject to the order of the Arbitrator.

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8.0 FORCE MAJEURE

The parties shall ensure due compliance with the terms of this Agreement. However, no party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the Agreement to the extent that such a failure is due to force majeure events such as war, rebellion, mutiny, civil commotion, riot, strike, lock-out, forces of nature, accident, act of God and any other reason beyond the control of concerned party. But any party claiming the benefit of this clause shall reasonably satisfy the other party of the existence of such an event and give written notice within a reasonable time to the other party to this effect. Generation/drawal of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

9.0 IMPLEMENTATION OF THE AGREEMENT

All discretions to be exercised and directions, approvals, consents and notices to be given and actions to be taken under these presents unless otherwise expressly provided herein, shall be exercised and given by the signatories to this Agreement or by the authorised representative(s) that each party may nominate in this behalf and notify in writing to the other party by Registered Post. Any other nomination of authorised representative(s) shall be informed likewise in writing to/by Bulk Power Beneficiary(ies) within one month of signing of the Agreement. Notwithstanding any nomination, the Chief Executive Officer, NSPCL, NBCC Tower (4th floor), 15, Bhikaji Cama Place, New Delhi-110 066 or his authorised representatives at its Registered Office first above mentioned, shall be authorised to act for and on behalf of NSPCL.

10.0 NOTICE

All notices required or referred to under this Agreement shall be in writing and signed by the respective authorised signatories of the parties mentioned herein above, unless otherwise notified. Each such notice shall be deemed to have been duly given if delivered or served by registered mail/speed post of Department of Posts with an acknowledgement due to the other parties in terms of Clause 9.0 above.

11.0 EFFECTIVE DATE AND DURATION OF AGREEMENT

The Agreement shall come into force from the date of signing of the Agreement for all purposes and intent and shall remain operative upto completion of Twenty Five (25) years from the date of commercial operation of last unit of Bhilai Project provided that this Agreement may be mutually extended, renewed or replaced by another Agreement on such terms and for such further period of time as the parties may mutually agree. In case Bulk Power Beneficiary(ies) continue to get power from Bhilai Project even after expiry of this Agreement without further

renewal or formal extension thereof then all the provisions of this Agreement shall continue to operate till this Agreement is formally renewed, extended or replaced.

12.0 ASSIGNMENT

This agreement shall not be assigned by any Party without the prior written consent of other Party.

13.0 INDEMNITY

The Parties agree to indemnify the other Party against all reasonable costs, charges, expense and claims whatsoever incurred or suffered by such other Party solely attributable to a material breach of any representation, warranty under this agreement.

14.0 SUCCESSORS AND ASSIGNS

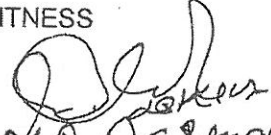
In case any of the Bulk Power Beneficiaries is wound up and/or its generation and/or transmission and/or distribution activities are taken over by other organisation(s)/agency(ies), partly or wholly, the Agreement shall be binding mutatis mutandis upon the successor organisation(s)/agency(ies) and shall continue to remain valid with respect to the obligations of the successor organisation(s)/agency(ies).

one B. S. S. M.

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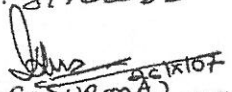
IN WITNESS WHEREOF the parties have executed these presents through their
Authorised Representatives on the date mentioned above.

WITNESS


(N.D. Parmar)
Accountant (Comm.)
Electricity Department
Dadra & Nagar Haveli,
Silvassa.

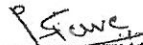
Name : N.D. Parmar.

Address : Silvassa.

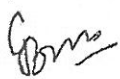
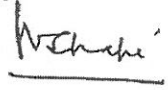

(C.P. C. Surma)
Deputy Engineer (ASM)
Electricity Department
Dadra & Nagar Haveli
SILVASSA.

Name :  K. Chandhri
CEO NPCL
Address : New Delhi

Signed, sealed and delivered by


EXECUTIVE ENGINEER
ELECTRICITY DEPARTMENT
For and on behalf of DADRA & NAGAR HAVELI,
SILVASSA.
Union Territory of Dadra & Nagar Haveli

Signed, sealed and delivered by

 
For and on behalf of G. Basu
Addl. General Manager
NTPC SAIL Power Projects & Commercial
NTPC-SAIL Power Company Private Limited
(A Joint Venture of NTPC & SAIL)
S.V. Shah
GM (F)

Tariff Norms / Guidelines for Bhilai Project

Following guidelines are presently applicable for working out tariff for Bhilai Project.

- (i) Post tax return on equity - 14% or as revised from time to time by GOI / CERC / other Competent Authority.
- (ii) Debt:Equity ratio as approved for the project - 70:30. All capital expenditure towards the project shall stand allocated in the same proportion for tariff purposes.
- (iii) For the purpose of tariff, rates of depreciation shall be as specified in Schedule XIV of Companies Act, 1956 for the continuous process plant. In case of inadequacy of cash for debt repayment, tariff shall also include advance against depreciation for the period limited to loan repayment amount.
- (iv) Interest on loan shall be as per actual rate of interest and considering contracted loan repayment period.
- (v) Incentive is payable by the Bulk Power Beneficiaries in accordance with the tariff as applicable from time to time. Incentive is payable by the Bulk Power Beneficiaries on monthly basis subject to cumulative adjustment in each month of the financial year. Final adjustment is made at the end of the financial year. Incentive payment by the Bulk Power Beneficiaries is in the same proportion as Fixed Charges billed by NSPCL for the relevant period. During the stabilisation period of 180 days from the date of commercial operation of a unit, its Target Availability shall be 75% of the Target Availability norm for a stabilised unit.
- (vi) No incentive/ disincentive is applicable on account of Force Majeure events.
- (vii) No disincentive is applicable on account of NSPCL resorting to restriction of generation or stopping generation altogether on account of non- payment of dues. Fixed Charges during the period of regulation shall be payable by the Bulk Power Beneficiary(ies).
- (viii) Deemed Generation means for any period the quantum of energy which NSPCL was in a position to generate during such period, but could not generate, as a direct result of:
 - (a) any direction, issued by WREB / Regional Power Committee / WRLDC/ Bulk Power Beneficiary(ies) to reduce or restrict generation for any reason whatsoever, and/or
 - (b) any failure on the part of Bulk Power Beneficiaries to draw/purchase energy, except the failure occasioned due to Force Majeure condition and/or

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- (c) any failure on the part of Bulk Power Beneficiaries to make payment of NSPCL dues.
- (d) non-availability of fuel.
- (ix) The tariff includes provision for water charges, cess, royalty and other levies on water at rates prevailing on the effective date of fixation of tariff. In case of revision of rates by the concerned authorities results in higher payment by NSPCL as compared to the charges payable on the effective date of tariff fixation, such excess, on certification by the statutory auditors of NSPCL, duly supported by documents, is recoverable additionally from Bulk Power Beneficiaries in the same proportion as Fixed Charges billed by NSPCL for that financial year.
- (x) Any expenditure incurred towards the Capital Cost of the station denominated/funded in one or more foreign currencies is converted into rupee equivalent at the exchange rate prevailing on the date such expenditure is actually incurred and reflected in the books of accounts and updated as on 31st March each year as per Accounting Standard of the Institute of Chartered Accountants of India which provides that long term loan liabilities incurred for the acquisition of fixed assets and changes on account of exchange rate variations in respect thereof should be regarded as an adjustment of cost and should be included in the carrying amount of the related fixed assets.
- (xi) In case the tariff, as provided above, is not finalised prior to commencement of commercial operation of the 1st unit, the same would be worked out by NSPCL based on the above provisions and the guidelines of CERC/Govt. of India as applicable from time to time. This would be mutually discussed between the Bulk Power Beneficiaries and NSPCL, and if not agreed within one month from date of first Unit commissioning, the same shall be billed by NSPCL on provisional basis and payment will be made by Bulk Power Beneficiaries subject to retrospective adjustment as and when the tariff is mutually agreed.
- (xii) Infirm power, i.e., sale of energy prior to commercial operation of the unit, will be billed by NSPCL based on norms for variable charges as applicable during the period of stabilisation of a newly commissioned unit as per guidelines of CERC / Govt. of India, applicable from time to time.

for P. S. S. M.

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Annexure-II

GUARANTEE

GUARANTEE OF THE UNION TERRITORY OF DADRA & NAGAR HAVELI

THIS GUARANTEE is made at Silvassa on 26th day of October, 2007, by the Governor of DNH (UT) acting through Executive Engineer, Electricity Deptt, DNH (hereinafter referred to as the "GUARANTOR" which expression shall unless repugnant to the context as meaning thereof, include his successors in office and assigns).

Whereas NTPC-SAIL Power Company Private Limited, a Company incorporated under the Companies Act, 1956 having its registered Office at NBCC Tower, (4th floor) 15, Bhikaji Cama Place, New Delhi – 110066, (hereinafter referred to as "Company" which expression shall unless repugnant to the context or meaning thereof, include its successors and assigns) have agreed to sell electrical energy to DNH (UT) Electricity Board, having its Head Office at Silvassa (hereinafter referred to as "DNH (UT)" which expression shall unless repugnant to the context or meaning thereof, include its successors and assigns) as per provisions of the Power Purchase Agreement in respect of Bhilai Project of the Company dated 26.10.07 (hereinafter referred to as "PPA") executed between the Company and DNH (UT) (Copy annexed hereto as Appendix - A);

And whereas in terms of the said PPA, DNH (UT) have agreed to arrange the Government Guarantee in favour of the Company;

And whereas DNH (UT) have requested Government. of India (UT) to make guarantee in terms of the said PPA;

Now this Deed witnesses as under:

In terms of provisions of PPA in respect of Bhilai project, dated the 26.10.07 executed between the Company and DNH (UT) stipulating, interalia that DNH (UT) will arrange Government guarantee in favour of the Company, the Guarantor hereby covenants and agrees as follows:

for Guar. M

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1. GOVERNMENT OF DARA & NAGW (UT) GUARANTEE
Havels

(A) Guarantee of DNH (UT) Payment Obligations:

The Guarantor hereby irrevocably and unconditionally guarantees to the Company (as a secondary obligor) to promptly pay to the Company, within seven days following submission by the Company of a demand in accordance with Clause 1 (B) below any and every sum of money which DNH (UT) is liable to pay to the Company for supply of power from Bhilai power station of NSPCL as mentioned in the said PPA.

(B) Conditions relating to demand:

The Company shall make a demand by a written notice for payment upon the Guarantor pursuant to this Guarantee if DNH (UT) has failed to pay, within seven days of the last date for payment of bills, any sum of money which it is liable to pay to the Company for supply of power from Bhilai power station of NSPCL as mentioned in the said PPA. In case the Guarantor fails to pay the aforesaid amount within a period of fifteen days of receipt of the demand notice from NSPCL, NSPCL shall have right to get the payments inclusive of surcharge directly from Government Of India through Central Plan Assistance to the UT Government or from the UTs' Reserve Bank of India Account in case of default in payment automatically without referring the matter further to the State Government or DNH (UT).

2. PAYMENTS

All payments made by the Guarantor hereunder shall be made without set off or counterclaim and without any deduction or withholding for any reason except as required by law. If in compliance with the laws, any deduction or withholding on account of any tax, impost or levy of whatever nature and by whomsoever imposed is required to be made from any sum paid or payable by the Guarantor to the Company, the Guarantor shall pay any such amount as shall be necessary to ensure that the Company receives on the due date and retains a net sum equal to what it would have received and so retained had no deduction or withholding been required or made.

3. OTHER PROVISIONS OF THE GUARANTEE

(A) Waiver: No obligation of the Guarantor hereunder shall be in any way discharged or impaired by reason of any extension of time or other indulgence granted by the Company to DNH (UT) by any variation of the PPA or by any other act or thing (except the fulfilment by DNH (UT) of the obligations Guaranteed hereunder or in PPA).

(B) **Continuing Guarantee:** This Guarantee shall be a continuing security and accordingly

- (1) it shall remain valid at all times during the entire life of the power plant and any extended life of the power plant and shall extend to cover the balance dues at any time from DNH (UT) to the Company as mentioned in the PPA; and
- (2) it shall not be discharged by an intermediate discharge or part payment by DNH (UT) or any part settlement of accounts between DNH (UT) and the Company.

(C) **Additional Security:** This Guarantee shall be in addition to, and not in substitution for, or derogation of any other security which the Company may at any time hold in respect of the obligations of DNH (UT) under the PPA.

(D) **Immediate Recourse:** The Company shall not be obliged before taking steps to enforce this Guarantee to

- (1) take action or obtain judgement against DNH (UT) in any court; or
- (2) exercise diligence against DNH (UT); or
- (3) exercise any legal remedies which may be available to the Company under or in respect of the PPA.

(E) **Indemnity:** The Guarantor undertakes, as primary obligor, to indemnify and keep indemnified the Company against any loss sustained or incurred by the Company by reason of the invalidity, illegality or unenforceability of the provisions of this Guarantee or the PPA and the amount of such loss shall be the amount which, but for such invalidity, illegality or unenforceability, the Company would otherwise have been entitled to recover hereunder or thereunder.

4. GUARANTOR'S REPRESENTATIONS AND WARRANTIES

The Guarantor hereby represents, warrants and undertakes to the Company as follows :

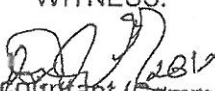
(A) **Power and Authority :** The Guarantor has full power, authority and legal right to incur the obligations provided for in this Guarantee, to execute and deliver this Guarantee and to perform and observe the terms and provisions hereof.

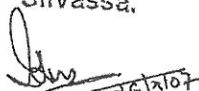
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IN WITNESS WHEREOF, this Guarantee has been executed by the authorised representative of the Governor of Dadra & Nagar Haveli (UT) on the day and year first herein above written.

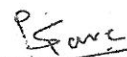
SIGNED SEALED AND DELIVERED
BY _____

WITNESS:


Accountant (Comm.)
Electricity Department
Dadra & Nagar Haveli,
Silvassa.


Deputy Engineer (ASW)
Electricity Department
Dadra & Nagar Haveli
SILVASSA.

(Signature)


EXECUTIVE ENGINEER
ELECTRICITY DEPARTMENT
DADRA & NAGAR HAVELI,
SILVASSA.
Date _____
Name _____
Designation _____

For and on behalf of the Governor
of Dadra & Nagar Haveli (UT) in the presence of:

ACCEPTED AND AGREED BY :


K. Khanna
CEO, NTPC
New Delhi


G. BASU
Addl. General Manager
(Planning, Projects & Commercial)
NTPC-SAIL Power Co. Pvt. Ltd.
(A Joint Venture of NTPC & SAIL)
Date _____
Name _____
Designation _____

For and on behalf of
NTPC-SAIL Power Company Private Ltd.

