

Power Purchase Agreement

For
Tariff Based Bidding Process for
Procurement of Power
on Long Term Basis

between

**MP POWER
TRADING COMPANY LIMITED**
("Procurer")

and

ESSAR POWER M.P. LIMITED
("Seller")

(As per Guidelines for Determination of Tariff by Bidding Process
for Procurement of Power by Distribution Licensee)

MP Power Trading Company Limited

Essar Power M.P. Limited

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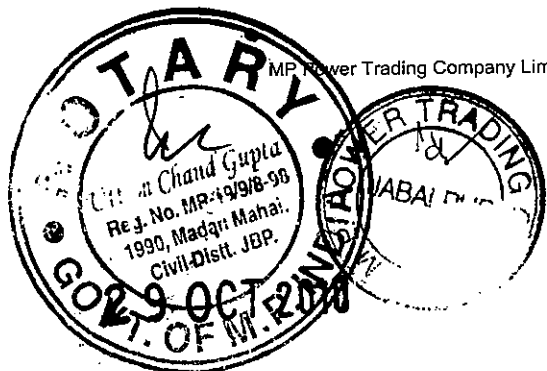


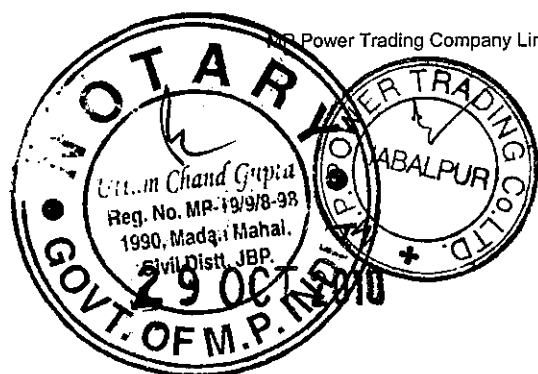
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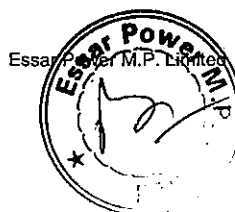
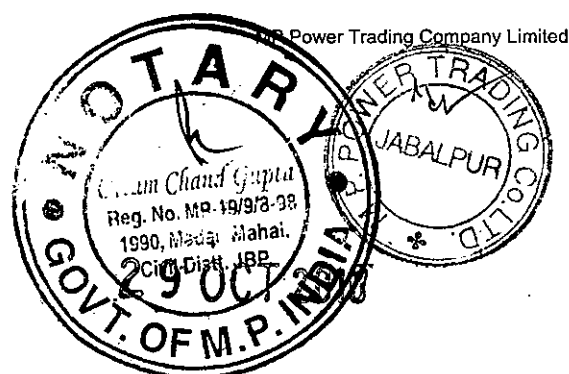
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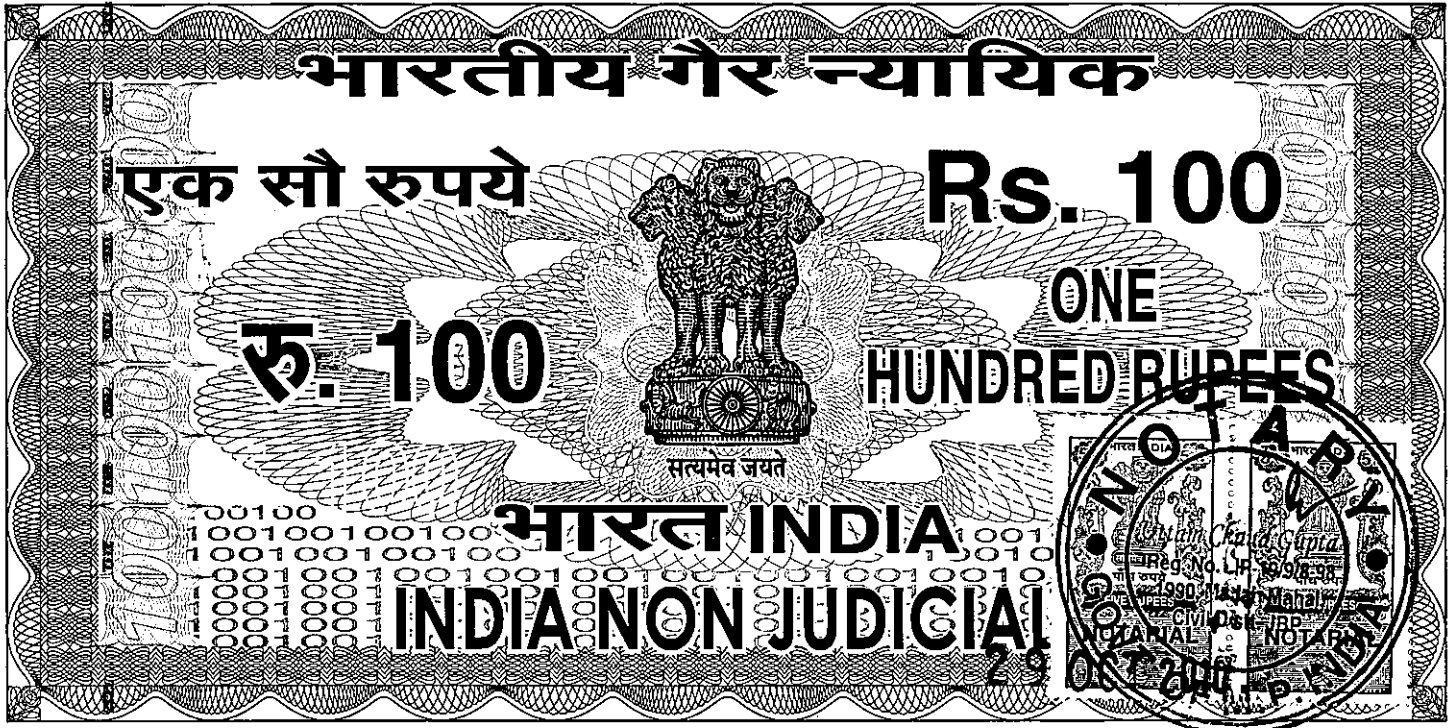
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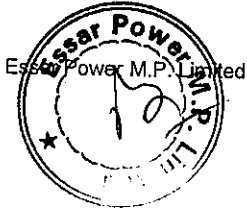
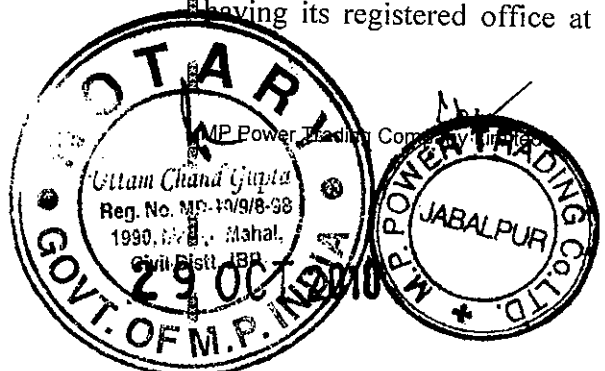
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S.No. 5841
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This Power Purchase Agreement hereinafter referred to as the "Agreement" is entered into at Jabalpur on the 29th day of October 2010 by and between

MP Power Trading Company Limited, a Company incorporated under the Companies Act, 1956, having its registered office at Shakti Bhawan, Vidyut Nagar, Jabalpur - 482 008 (hereinafter referred to as the "Procurer", which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) as party of the first part;

and

Essar Power M.P. Limited, a Company incorporated under the Companies Act, 1956, having its registered office at Essar House, 11 Keshavarao Khadye Marg, Mahalaxmi,



Mumbai - 400 034 (hereinafter referred to as the "Seller", which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) as party of the second part.

Each of the "Procurer" and "Seller" are individually referred to as "Party" and collectively to as the "Parties".

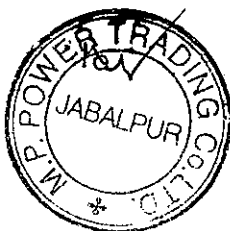
Whereas:

- A.** In accordance with the Competitive Bidding Guidelines (as defined hereunder), the Procurer had initiated a competitive bidding process on behalf of Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited, Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited and Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited through issue of RFQ and RFP for selecting a Successful Bidder for supplying Capacity upto 2000 MW at the Delivery Point (as defined hereunder).
- B.** Pursuant to the said Bidding Process, Essar Power M.P. Limited has been identified by the Procurer as the Selected Bidder to supply Contracted Capacity (as defined hereunder) of 150 MW and sale and supply of electricity in bulk therefrom its 2x600 MW Mahan Thermal Power Project in District Singrauli, Madhya Pradesh to the Procurer in accordance with the terms of this Agreement.

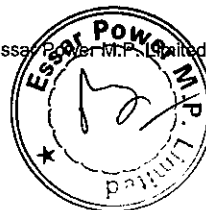
All the other RFP Project Documents have been executed by the Procurer and the Seller simultaneously with the signing of this Agreement.

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:

MP Power Trading Company Limited



Essar Power M.P. Limited



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1 ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under (including those issued/framed by Appropriate Commission (as defined hereunder) as amended or re-enacted from time to time.

The following terms when used in this Agreement shall have the respective meanings, as specified below:

"Act" or "Electricity Act 2003"	Means the Electricity Act 2003 or any amendments made to the same or any succeeding enactment thereof;
"Agreed Form"	Means, in relation to any document, the form of the said document most recently agreed to by the Parties and initialled by them for identification;
"Agreement" or "Power Purchase Agreement" or "PPA"	Means this document including its recitals and Schedules;
"Appropriate Commission"	Means the Central Electricity Regulatory Commission or the Madhya Pradesh Electricity Regulatory Commission or such other succeeding authority or Commission as may be notified by Government of India/Madhya Pradesh from time to time exercising the function to regulate sale of electricity by a generating company and the power purchase and procurement process of the Procurer under the Electricity Act, 2003;
"Availability Based Tariff" or "ABT"	Shall mean either (i) all the regulations contained in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, as amended or revised from time to time, and/or (ii) the relevant regulations notified by Madhya Pradesh Electricity Regulatory Commission, as amended or revised from time to time, as applicable on the sale of electrical output by the Seller to the Procurer, and to the extent applied as per the terms of this Agreement;
"Availability Factor" or "Availability"	Shall have the meaning ascribed thereto in ABT (provided that in place of Installed capacity and Normative Auxiliary Consumption it shall be the Contracted Capacity);



“Available Capacity”	Shall have the meaning ascribed thereto in ABT (provided that in place of Installed capacity and Normative Auxiliary Consumption it shall be the Contracted Capacity);
“Bid”	Shall mean Non-Financial Bid and Financial Bid submitted by the Bidders, in response to the RFP, in accordance with the terms and conditions of the RFP;
“Bid Documents” or “Bidding Documents”	Means the RFQ and RFP along with all its attachments and any amendments thereto or clarifications thereof;
“Bid Deadline”	Shall mean the last date for submission of the Bid in response to the RFP, specified in Clause 2.8 of the RFP;
“Bidding Guidelines” or “Competitive Bidding Guidelines”	Shall mean Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees, issued by Ministry of Power, Government of India under The Electricity Act, 2003 on January 19, 2005 and as amended from time to time till Bid Deadline;
“Bill Dispute Notice”	Means the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
“Business Day”	Means with respect to the Seller and the Procurer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in the Jabalpur, Madhya Pradesh;
“Capacity Charge” or “Capacity Charges”	Shall have meaning ascribed thereto in Schedule 7;
“Capacity Notice”	Shall have the meaning ascribed thereto under ABT or the Grid Code;
‘Capital Cost’	<p>Means the lower of the following:</p> <ul style="list-style-type: none"> (a) Actual capital cost of the Project on a relevant date which shall not be later than the Commercial Operation Date of the Power Station, as certified by the auditors appointed jointly by the Seller and Procurer; or (b) Total project cost of the Project as set forth in the Financing Agreements, <p>Provided that Capital Cost shall always exclude cost overruns arising due to a Seller Event of Default, or costs due to events for which compensation has been received by Seller from the Procurer or Insurers or Third Parties.</p> <p>Provided further that the Capital Cost in relation to a Unit shall be the total Project Cost allocated in proportion to the Contracted Capacity of the said Unit;</p>
‘Capital Structure Schedule’	Shall mean sources of finance used to finance the Capital Cost as provided in the Financing Agreements and to be attached as Schedule



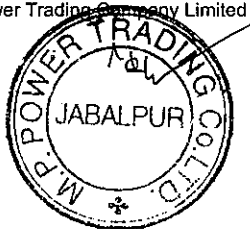
	14 of this Agreement;
"Central Transmission Utility" or "CTU"	Shall have the meaning as defined in the Electricity Act, 2003;
"CERC"	Means the Central Electricity Regulatory Commission, as defined in the Electricity Act, 2003, or its successors;
"CERC Norms"	Means the tariff fixation and other relevant regulations as announced by CERC from time to time;
"Change in Law"	Shall have the meaning ascribed thereto in Article 13.1.1;
"Commercial Operation Date" or "COD"	Means the actual date(s) when the Seller supplies the Contracted Capacity to the procurer at the Delivery Point;
"Commissioning Tests" or "Commissioning Test"	Means the Performance Test at the time of commissioning of plant required to test the capacity of the plant as per the designed parameters or the Repeat Performance Test to test the design specifications in the operating phase of the plant, or both the performance test and the Repeat Performance Test;
"Commissioned Unit"	Means the Unit in respect of which COD has occurred;
"Construction Contractor/s"	Means one or more main contractors, appointed by the Seller to design, engineer, supply, construct and commission the Project;
"Construction Period"	Means the period from (and including) the date upon which the Construction Contractor is instructed or required to commence work under the Construction Contract up to (but not including) the Commercial Operation Date;
"Consultation Period"	Means the period, commencing from the date of issue of a Seller Preliminary Default Notice or a Procurer Preliminary Default Notice as provided in Article 14 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
"Contract Year"	Means the period beginning on the Effective Date (as defined hereunder) and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: <ul style="list-style-type: none"> (i) in the financial year in which Scheduled COD of the first Unit would have occurred, a Contract Year shall end on the date immediately before the Scheduled COD of the first Unit and a new Contract Year shall begin once again from the Scheduled Commercial Operation Date of the first Unit and end on immediately succeeding March 31 and provided further that (ii) the last Contract Year of this Agreement shall end on the last



	day of the term of this Agreement; Provided that for the purpose of payment, the tariff will be the Quoted Tariff for the applicable Contract Year as per Schedule 11;
"Contracted Capacity"	Means rated net capacity expressed in MW at the Interconnection Point, as provided in the Selected Bid as per Format 3 of Annexure 6 of the RFP;
"Control Centre" or "Nodal Agency"	Means the State Load Dispatch Centre located at Jabalpur, Madhya Pradesh or such other load control centre designated by the Procurer from time to time through which the Procurer shall issue Dispatch Instructions to the Seller for the Power Station;
"Debt Service"	Means the amounts which are due under the Financing Agreements by the Seller to the Lenders, expressed in Rupees (with all amounts denominated in currencies other than Rupees being converted to Rupees at the Reference Exchange Rate, the rate in Rupees for the Foreign Currency on the relevant day, as notified by the State Bank of India as its TT Rate at 12:00 noon on the Notice to Proceed);
"Declared Capacity"	Means the net capacity of the Power Station at the relevant time (expressed in MW at the Interconnection Point) as declared by the Seller in accordance with the Grid Code and dispatching procedures as per ABT;
"Default Electricity"	Shall mean that percentage of the Contracted Capacity available for sale to third parties (applicable as per 11.5.2 and 11.5.3);
" Delivery Point " or "Interconnection Point"	Means the points of delivery specified in Schedule 8 for fulfilling the obligation of the Seller to deliver the Contracted Capacity to the Procurer;
"Direct Non-Natural Force Majeure Event"	Shall have the meaning ascribed thereto in Article 12.3(ii)(1);
"Dispute"	Means any dispute or difference of any kind between a Procurer and the Seller in connection with or arising out of this Agreement including any issue on the interpretation and scope of the terms of this Agreement as provided in Article 17;
"Dispatch Instruction"	Means any instruction issued by the Procurer through the respective SLDC and RLDC to the Seller, in accordance with applicable Grid Code and this Agreement;
"Due Date"	Means the thirtieth (30th) day after a Monthly Bill or a Supplementary Bill is received and duly acknowledged by Procurer (or, if such day is not a Business Day, the immediately succeeding Business Day) by which date such bill is payable by the Procurer;
"Effective Date"	Means the date of signing of this Agreement by the Procurer and Seller;



"Electricity Laws"	Means the Electricity Act, 2003 and the rules and regulations made thereunder from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Electrical Output"	Means the net electrical output of the Power Station at the Delivery Point, as expressed in kWh;
"Energy Charge"	Shall have the meaning ascribed thereto under Schedule 7;
"Expiry Date"	Means for coal based projects the 25 th anniversary of the Commercial Operation Date of the last of the Units of the Project offered to the Procurer; for avoidance of doubt, in case the COD of the Power Station occurs on June 1, 2013, then the 25th anniversary of the Scheduled COD of the Power Station shall occur on June 1, 2038, i.e. in the Contract Year 2038-39;
"Final Test Certificate"	Means a certificate of the Independent Engineer certifying and accepting the results of a Commissioning Test/s, the procedure of Commissioning Test being mutually agreed among Procurer and Seller;
"Financial Closure" or "Financial Close"	Means the execution of all the Financing Agreements required for the Project and the fulfilment of all the Conditions Subsequent of the Seller as mentioned in Clause 3.1.2 subject to waiver, if any, of any of those Conditions Subsequent, for the initial draw down of funds there under;
"Financing Agreements"	Means all the loan agreements, notes, indentures, security agreements, letters of credit, share subscription agreements and other documents relating to the financing or re-financing of the Project at the Financial Closure, as may be amended, modified, refinanced or replaced from time to time, but without in anyway increasing the liabilities of the Procurer;
"Force Majeure"	Shall have the meaning ascribed thereto in Article 12.3;
"Forced Outage"	Shall have the meaning ascribed thereto in Grid Code;
"Fuel"	Means primary fuel used to generate electricity such as coal, gas or oil (as applicable);
"Fuel Supply Agreements" (as applicable)	Means the agreement(s) entered into between the Seller and the Fuel Supplier for the purchase, transportation and handling of the Fuel, required for the operation of the Power Station. In case the transportation of the Fuel is not the responsibility of the Fuel Supplier, the term shall also include the separate agreement between the Seller and the Fuel Transporter for the transportation of Fuel in addition to the agreement between the Seller and the Fuel Supplier for the supply of the Fuel;



"Functional Specifications"	Means the technical requirements and parameters described in Schedule 4 of this Agreement and as provided in the Grid Code relating to the operation, maintenance and dispatch of any Unit and the Power Station;
"Grid Code" or "IEGC"	Means any set of regulations or codes issued by Appropriate Commission as amended and revised from time to time and legally binding on the Sellers' and Procurer governing the operation of the Grid System or any succeeding set of regulations or code;
"Grid System"	Means the Interconnection and Transmission Facilities and any other transmission or distribution facilities through which the Procurer supply electricity to their customers or the transmission company transmits electricity to the distribution licensees/consumers in the State of Madhya Pradesh;
"Independent Engineer"	Means an independent consulting engineering firm or group appointed by the Seller to carry out the functions in accordance with Article 4.7.1 and Article 12 herein. Provided that separate Independent Engineer may be appointed for the purposes of Article 4.7.1, and Article 12;
"Indian Railways"	Means Government of India owned entity established under the Railways Act 1989 and its successors;
"Indirect Non-Natural Force Majeure Event"	Shall have the meaning ascribed thereto in Article 12.3(ii)(2);
"Indian Governmental Instrumentality"	Means the Government of India (GOI), Government of Madhya Pradesh and any ministry, department, body corporate, board, agency or other authority of GOI or Government of State where the Project is located and includes the Appropriate Commission;
"Interconnection Facilities" or "Interconnection and Transmission Facilities"	Means the facilities on the Procurer's side of the Interconnection Point for receiving and metering Electrical Output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers and associated equipment, relay and switching equipment and protective devices, safety equipment and, subject to Article 9, the Metering System required for the Project. The Interconnection Facilities also include the facilities for receiving power at the Delivery Point where the transmission line from the Power Station Switchyard end is injecting power into the MP STU network;
"Invoice" or "Bill"	Means either a Monthly Tariff Invoice, a Supplementary Invoice or a Procurer Invoice;
"Late Payment Surcharge"	Shall have the meaning ascribed thereto in Article 11.3.4;

