

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the day of 20..... at Bhopal between Governor of Madhya Pradesh acting through Secretary to Government of Madhya Pradesh, Energy Department, Mantralya, Vallabh-Bhavan, Bhopal (hereinafter referred to as State Government which expression shall include his successor in the office and permitted assignees) **FIRST PART**; And

M/s (Name and details of the company), a company incorporated under the companies Act, 1956 (1 of 1956) and having its registered office at (hereinafter referred to as "the Company" which expression shall unless repugnant to the context of the context of the meaning thereof, include its successor and assignees) of the **SECOND PART**;

The Government and the Company shall hereinafter be collectively referred to as the "**The Parties**" and individually be referred to as "**The Party**"

WHEREAS, the Government is desirous of facilitating private investments in power generation projects in the State of Madhya Pradesh and providing assistance for the development of such projects and in consideration being entitled to a certain share of the power generated from such projects;

[Insert this recital only in case of a single company] **AND WHEREAS**, the Company is desirous of establishing and operating a MW Thermal Power Station (hereinafter referred to as "**The Project**") at in the State of Madhya Pradesh with the proposed investment of approximately Rs. crores in accordance with the provisions of the **Madhya Pradesh (Investment in Power Generation Projects) Policy, 2012**;

[Insert this recital only in case of a consortium] **AND WHEREAS**, the Company, being the lead member of the consortium (as per the consortium agreement annexed as Annexure – A1 of this MoU), is desirous of establishing and operating a MW Thermal Power Station (hereinafter referred to as "**The Project**") along with the other members of the consortium through a SPV at in the State of Madhya Pradesh with the proposed investment of approximately Rs. crores in accordance with the provisions of the **Madhya Pradesh (Investment in Power Generation Projects) Policy, 2012**;

AND WHEREAS, the project will be setup in conformity with the various constitutional and statutory provisions of the Government of India and Government of Madhya Pradesh in this regard, as may be amended from time to time and also in conformity with the provisions of the **Madhya Pradesh (Investment in Power Generation Projects) Policy, 2012**;

AND WHEREAS, the Government agrees to provide assistance and cooperation to the Company for the successful implementation of the Project in the State of Madhya Pradesh.

NOW THEREFORE, in consideration of the foregoing and all other related factors, the Government of Madhya Pradesh and the Company execute this MoU on the terms, assurances, obligations and commitments as set out herein below:

1. It is agreed by the Parties here to, that the Company will set up the Project in

_____ district of the State of Madhya Pradesh, subject to the feasibility studies and investment approval from its Board.

2. The Company shall identify a suitable site in the district _____ and carry out necessary surveys for availability of land for the Power Station, source of fuel, township and ash bund (as may be required), feasibility for movement of fuel, water availability, facilities for power evacuation etc. After signing this MoU, the Company shall submit a Detailed Project Report (DPR) of the Project to the Government before signing the Implementation Agreement (IA). The Company shall obtain all necessary clearances from the competent authorities.
3. On receipt of the Detailed Project Report (DPR) from the Company, the Energy Department, Government of Madhya Pradesh will verify various requirements. The Company shall proceed with the development of the Project, including but not limited to, land acquisition, water allocation, fuel linkage, captive coal block allocation (subject to availability), and statutory and other clearances required under the applicable Central and State Laws for implementation of the Project. The primary responsibility of development of the Project shall be of the Company. The Energy Department, Government of Madhya Pradesh State will facilitate the project development activities by extending cooperation to the Company.
4. The Government, through its Energy Department, will facilitate expeditious grant of permissions, approvals, no objection certificates, recommendations, etc., under the purview of the State Government. The Company shall be responsible to obtain all statutory clearance / approvals related to Foreign Direct Investment (FDI), if any, as per Law.
5. The Company shall provide the implementation schedule of the Project within sixty (60) days of the signing of this MoU to the Energy Department, Government of Madhya Pradesh. The status and progress of implementation of the project shall be monitored on a continuous basis, at the level of the Energy Department, or any other empowered authority.
6. The Company, from their own share, will be allowed to wheel power to their consumer(s) or a licensee, as per the provisions of the Electricity Act, 2003 and in accordance with applicable regulations either through the MPTransco / PGCIL / other Grid Lines or its own dedicated lines, as the conditions necessitate and as may be technically feasible. The company shall enter into a separate wheeling agreement for this purpose with the competent licensee(s).
7. The Company shall pay to the competent licensees as per the agreement mentioned in Clause 6 above, power wheeling charges, grid discipline charges, and such other applicable charges as determined by the Appropriate Electricity Regulatory Commission from time to time for the actual power wheeled through the intra-state and inter-state transmission lines, as the case may be.
8. The Company shall pay all statutory taxes, duties, cess to Government of India and to the State Government, as may be applicable from time to time.
9. The Company will provide, on an annualized basis, to the Government or its nominated agency, ten percent (10%) of the power generated ex-bus (gross power generated minus the auxiliary consumption) by the Project at Variable cost as determined by the Appropriate Electricity Regulatory Commission.
10. The quantum of Net Power to be provided at variable cost, as defined in Clause 9, will be computed on the basis scheduled energy related to the installed capacity of the project based on the actual generation of the plant at normative availability. The quality of such power shall be firm power and at no time the Company shall be supplying such power less than ninety percent (90%) of the percentage defined in Clause 9, as the case may be. However, such

percentage shall not be more than One hundred and ten percent (110%) during the off-peak period. The off-peak period shall be notified by Government of Madhya Pradesh or its authorized agency from time to time. The detailed protocols and procedure for supply and evacuation of such power shall be set out in the appropriate Power Purchase Agreement (PPA) to be signed between the Company and the purchasing entity.

11. The Government or their nominated agency does not guarantee purchase of power from the Company except for the quantum specified in Clause 9 above.
12. Suitable manpower for the Project for which this MoU is being executed will be engaged / recruited / deployed by the Company from the State of Madhya Pradesh as per the Industrial Policy or any other prevailing Policy of the Government, as amended from time to time.
13. The Company shall prepare Rehabilitation and Resettlement (R&R) plan for the Project as per the prevalent Policy of the State Government and implement Rehabilitation and Resettlement of the project affected persons accordingly. The Company shall bear all costs related to such Rehabilitation and Resettlement.
14. The Company will abide by all Regulations and Acts notified by the Government of India, Government of Madhya Pradesh and Appropriate Regulatory Commissions, from time to time, to the extent they are applicable to the Project.
15. The Company shall adopt appropriate, state of the art technology for setting up the Power Station to have environment friendly, safe, and commercially viable power generation to minimize resource inputs such as fuel, coal, water etc.
16. If required, the Energy Department shall facilitate with the concerned Distribution Utility in the State of Madhya Pradesh to provide adequate power for construction, erection, start-up and commissioning on payment basis at the rates, terms and conditions as prevailing on the date of such supply to the Project.
17. All expenses towards formulation and implementation of this MoU and other activities during execution of this MoU shall be borne by the respective Parties, as applicable.
18. The Company understands that the offers and special consideration of the Government indicated in this MoU are for the Project. The company shall be fully responsible for any damage or loss arising out of the Project to any property or persons.
19. The Company, while implementing the Project, undertakes to comply with all statutory requirements / clearances in respect of Laws, regulations, and procedures governing establishment and operation of the Project.
20. In the event of cancellation of this MoU, its becoming time barred or non-implementation of the Project, the corresponding support / commitment of the Government indicated in the MoU with regard to land, water, coal block etc., including all incentives and concessions of the Government shall be deemed to be withdrawn.
21. Any claims, differences, or disputes arising out of or in connection with this MoU shall be settled by an amicable effort by the Parties. However, if such efforts fail, then all such differences or disputes between the parties, arising out of or in connection with this MoU, shall be settled through an arbitration process as provided herein. For this, either Party may, by a written notice of thirty (30) days to the other Party, request for arbitration. The arbitration shall be in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 and the Rules of the Indian Council of Arbitration, as amended from time to time. 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 Bhopal. The Arbitrator shall decide in what proportion his fee and cost of arbitration proceedings shall be borne by the Parties. Notwithstanding the existence of any question, disputes and differences referred to arbitration, the Parties hereto shall continue to perform their respective obligations under the MoU.

22. This MoU shall remain in force for a period of twelve (12) months from the date of its signing ("the Term"). Time is the essence of this MoU. Therefore, depending upon the progress of the Project during the period of its validity, the State Government may extend the Term of this MoU for such further period, as may be mutually agreed upon. The Parties shall replace this MoU by signing an Implementation Agreement (IA) for the project during the validity of this MoU.
23. The Company shall achieve the following milestones before signing the IA as specified below.

Sr. No.	Activities/ Milestone	Timeline	Documents to be submitted by the Developer on achievement of milestone
1	Technical and commercial Feasibility studies	Before signing the Implementation Agreement (IA)	Detailed Project Report (DPR)
2	Water Allocation	Before signing the Implementation Agreement (IA)	In Principle Water Allocation
3	Land Acquisition	At least twenty five percent (25%) of identified land acquired before signing the Implementation Agreement (IA)	Land Registration / Transfer deed / Land lease agreement
4	Environment Impact Assessment	Before signing the Implementation Agreement (IA)	Copy of ToR issued for appointment of consultant for carrying out EIA

24. This MoU is being entered into on the understanding that each Party shall carry its own risks and costs and therefore, neither Party shall have any claims on the other Party for any reason whatsoever under this MoU.
25. In the event of any increase in the installed capacity as mentioned above or any expanded capacity to the existing Unit(s) under the Project, a fresh MoU shall be signed for such increase in the Capacity as per prevailing policies of the Government, at that time.
26. Subsequent to the signing of this MoU, if Government of India, through its Laws, regulations, or policies, imposes any obligations on the Project to supply free or concessional power to the State where such project is located, then the State Government assures that it will set off such requirement against its entitlement defined under Clauses 9. However, conditions defined in Clauses 9 shall prevail in case such Law / regulation / Policy is less beneficial to

the State.

27. The Courts at Bhopal shall have the exclusive jurisdiction in all matters arising under this MoU.
28. Any correspondence / notice to be given hereunder by any Party to the other Party / Parties shall be sent by Registered letter with acknowledgement due / Speed Post / Facsimile / Courier at the address stated below:
 - a) The Secretary, Energy department, Government of Madhya Pradesh, Vallabh Bhawan, Bhopal – 462004, Madhya Pradesh: Fax +91 755 2441642.
 - b) The (Name / Designation & Address of the Authorized Person of the company with fax no.)

In witness whereof, the parties have signed this Memorandum of Understanding through their authorized representatives on this Day of 201...

Signed and Declared By

.....
For & on behalf of
Governor of
Madhya Pradesh

.....
For & on behalf
of the Company

.....
Secretary
Energy Department
Govt, of Madhya Pradesh

.....
Authorized signatory

Witness:

1. Signature

1. Signature

Name:
Address:

Name:
Address:

2. Signature

2.Signature

Name:
Address:

Name:
Address:

Annexure - A1: Copy of the consortium agreement

[Copy of the consortium agreement, submitted in case of the Developer being a consortium of companies, along with its expression of interest, to be attached here as Annexure - B1 to the Implementation Agreement]