

CONFORMED COPY

LOAN NUMBER 2982 PAK

(Private Sector Energy Development Project)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated August 8, 1988

LOAN NUMBER 2982 PAK

LOAN AGREEMENT

AGREEMENT, dated August 8, 1988, between ISLAMIC REPUBLIC OF PAKISTAN acting by its President (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project; and

(B) the Borrower intends to obtain funds from the following financiers in the following amounts or equivalent (the Cofinancing Funds) to assist in financing the Project on the terms and conditions set forth in agreements to be entered into between the Borrower and such financiers (the Cofinancing Agreements):

United States Agency for	
International Development (USAID)	- \$160,000,000
Overseas Development Administration (ODA)	- 30,000,000

Government of Italy (Italy) - \$ 50,000,000
Export-Import Bank of Japan (EXIMBANK) - \$150,000,000;

and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, with the modifications set forth in Schedule 4 to this Agreement (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

- (a) "MWP" means the Borrower's Ministry of Water and Power;
- (b) "MPNR" means the Borrower's Ministry of Petroleum and Natural Resources;
- (c) "MOF" means the Borrower's Ministry of Finance;
- (d) "NDFC" means the National Development Finance Corporation, a body corporate established and existing under the Borrower's National Development Finance Corporation Act (No. XIII) of 1973, as amended from time to time;
- (e) "WAPDA" means the Water and Power Development Authority of Pakistan, a body corporate established and existing under the Borrower's Water and Power Development Authority Act (No. XXXI) of 1958, as amended from time to time;
- (f) "PPC" means MWP's Private Power Cell referred to in paragraph 1 (b) (i) of Schedule 7 to this Agreement;
- (g) "CMC" means MPNR's Coal Mining Cell referred to in paragraph 1 (b) (ii) of Schedule 7 to this Agreement;
- (h) "PED" means NDFC's Private Energy Division referred to in paragraph 2 (b) of Schedule 7 to this Agreement;
- (i) "WPPC" means WAPDA's Private Power Cell referred to in paragraph 3 (b) of Schedule 7 to this Agreement;
- (j) "Fund" means the Private Sector Energy Development Fund referred to in paragraph 7 (a) of Schedule 7 to this Agreement;
- (k) "Administration Agreement" means the agreement between the Borrower and NDFC referred to in paragraph 7 (a) of Schedule 7 to this Agreement, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Administration Agreement;
- (l) "Statement of Policy" means the statement of policy on private sector participation in the energy sector as adopted and approved by the Borrower on September 22, 1985, as amended to the date of this Agreement;
- (m) "Brochure" means the brochure describing the Borrower's policies and procedures for evaluating and approving proposals for private sector participation in the energy sector referred to in

paragraph 5 (b) of Schedule 7 to this Agreement;

(n) "Fund Guidelines" mean the Borrower's guidelines for the operation of the Fund referred to in paragraph 6 (a) of Schedule 7 to this Agreement;

(o) "Sub-loan" means a loan made or proposed to be made by the Borrower out of the proceeds of the Loan to an Investment Enterprise for an Investment Project;

(p) "free-limit Sub-loan" means a Sub-loan, as so defined, which qualifies as a free-limit Sub-loan pursuant to the provisions of paragraph 3 (b) of Schedule 5 to this Agreement;

(q) "Investment Enterprise" means an enterprise, incorporated under the Borrower's Companies Ordinance (No. XLVII) of 1984 with at least 51% private sector shareholding, to which the Borrower proposes to make or has made a Sub-loan;

(r) "Investment Project" means a specific development project in the energy sector to be carried out by an Investment Enterprise utilizing the proceeds of a Sub-loan;

(s) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(t) "Rs" and "rupees" mean the currency of the Borrower.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, an amount in various currencies equivalent to one hundred fifty million dollars (\$150,000,000).

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) amounts paid (or, if the Bank shall so agree, to be paid) by the Borrower on account of withdrawals made by an Investment Enterprise under a Sub-loan to meet the reasonable cost of goods and services required for the Investment Project in respect of which the withdrawal from the Loan Account is requested; and (ii) for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for Part B of the Project and to be financed out of the proceeds of the Loan.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account in the National Bank of Pakistan on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 8 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1994 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate per annum for each Interest Period equal to one-half of one percent per annum above the Cost of Qualified Borrowings for the last Semester ending prior to the commencement of such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings for such Semester.

(c) For purposes of this Section:

- (i) "Interest Period" means the six-month period commencing on each date specified in Section 2.06 of this Agreement, including the Interest Period in which this Agreement is signed.
- (ii) "Cost of Qualified Borrowings" means the cost of the outstanding borrowings of the Bank drawn down after June 30, 1982, expressed as a percentage per annum, as reasonably determined by the Bank.
- (iii) "Semester" means the first six months or the second six months of a calendar year.

Section 2.06. Interest and other charges shall be payable semiannually on February 1 and August 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

Section 2.08. The Secretary, MWP, the Secretary, MPNR, the Secretary, MOF, the Chairman NDFC and the Chairman, WAPDA are designated as representatives of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions in respect of the parts of the Project for which they are responsible.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out the Project through MWP, MPNR, NDFC, MOF and WAPDA with due diligence and efficiency and in conformity with appropriate administrative, financial, commercial and public utility standards and practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Bank shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 7 to this Agreement.

Section 3.02. (a) The Borrower undertakes that, unless the Bank shall otherwise agree, Sub-loans will be made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 5 to this Agreement.

(b) The Borrower shall exercise its rights in relation to each Investment Project in such manner as to: (i) protect the interests of the Borrower and the Bank; (ii) comply with its obligations under this Agreement; and (iii) achieve the purposes of the Project.

Section 3.03. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 6 to this Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to monitor the progress of the Project and of each Investment Project (including its cost and the benefits to be derived from it) and to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof and the operation and financial condition of the Fund and of each Investment Enterprise.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account and the financial statements (balance sheets, statements of income and expenses and related statements) of each Investment Enterprise for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, (A) certified copies of said financial statements for such year as so audited and (B) the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records, accounts and financial statements and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (k) of the General Conditions, the following additional events are specified:

(a) NDFC shall have failed to perform any of its obligations under the Administration Agreement.

(b) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that NDFC will be able to perform its obligations under the Administration Agreement.

(c) The NDFC Act referred to in Section 1.02 (c) of this Agreement shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of NDFC to perform any of its obligations under the Administration Agreement.

(d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of NDFC or for the suspension of its operations.

(e) The Statement of Policy shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Borrower to carry out the Project or to perform any of its obligations under this Agreement.

(f) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower to withdraw the proceeds of any of the Cofinancing Funds shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor, or

(B) any loan included in the Cofinancing Funds shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Bank that: (A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (B) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower;

(b) the events specified in paragraphs (c), (d) and (e) of Section 5.01 of this Agreement shall occur; and

(c) the event specified in paragraph (f) (i) (B) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (f) (ii) of that Section.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

(a) the Fund has been established to the satisfaction of the Bank;

(b) the Administration Agreement has been entered into by the Borrower and NDFC to the satisfaction of the Bank;

(c) PPC, CMC, PED and WPPC have all been established to the satisfaction of the Bank;

(d) the Brochure has been issued;

(e) the Fund Guidelines have been submitted to the Bank for approval;

(f) the consultants referred to in paragraph 2 (b) of Schedule 7 to this Agreement have been appointed pursuant to Section II of Schedule 6 to this Agreement; and

(g) all conditions precedent to the effectiveness of the Cofinancing Agreements providing for Cofinancing Funds in an aggregate amount equivalent to about \$150 million, other than the effectiveness of this Agreement, have been fulfilled.

Section 6.02. The following is specified as an additional matter, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely, that the Administration Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and NDFC and is legally binding upon the Borrower and NDFC in accordance with its terms.

Section 6.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representatives of the Borrower; Addresses

Section 7.01. The Secretary to the Government of Pakistan, Economic Affairs Division, or any Additional Secretary, Joint Secretary, Deputy Secretary or Section Officer in that Division of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Economic Affairs Division
Government of Pakistan
Islamabad
Pakistan

Cable address:

ECONOMIC
Islamabad

Telex:

ECD IV -05-634

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

Telex:

INTBAFRAD
Washington, D.C.

440098 (ITT),
248423 (RCA) or
64145 (WUI)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

ISLAMIC REPUBLIC OF PAKISTAN

By /s/ M. Afzal

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ P. Hasan

Acting Regional Vice President
Europe, Middle East and North Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Sub-loans		
(a) Equipment and materials	120,000,000	100% of foreign expenditures and 100% of local expenditures (ex-factory cost)
(b) Installation	15,000,000	100% of foreign expenditures
(2) Consultants' services and training	4,000,000	100%
(3) Unallocated	11,000,000	
TOTAL	150,000,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other

than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) a Sub-loan unless the Sub-loan has been made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 5 to this Agreement; and

(b) payments made for expenditures prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are: (i) to assist the Borrower in mobilizing the additional resources required to bridge the energy supply and demand gap through the participation of the private sector in the energy sector; (ii) to establish an incentive framework to encourage such participation; and (iii) to establish an institutional framework to facilitate the Borrower's dealings with the private sector for these purposes.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

Part A: Investment Projects

Financing of specific development projects through loans including Sub-loans to private enterprises in the energy sector.

Part B: Technical Assistance and Training

Provision of technical assistance:

- (i) to MWP and MPNR, for evaluating and approving proposals, and negotiating implementation and energy purchase agreements, for Investment Projects and recruiting and training staff for these purposes.
- (ii) to NDFC, for carrying out the appraisal, approval and supervision of Investment Projects and recruiting and training staff for these purposes.
- (iii) to MOF, for undertaking a study on the feasibility of reconstituting the Fund as an autonomous finance institution.
- (iv) to WAPDA, for negotiating the purchase of power produced by Investment Projects, and training staff for this purpose.

* * *

The Project is expected to be completed by June 30, 1994.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
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February 1, 1994	2,740,000
August 1, 1994	2,845,000
February 1, 1995	2,955,000
August 1, 1995	3,065,000
February 1, 1996	3,185,000
August 1, 1996	3,310,000
February 1, 1997	3,435,000
August 1, 1997	3,570,000
February 1, 1998	3,705,000
August 1, 1998	3,850,000
February 1, 1999	4,000,000
August 1, 1999	4,155,000
February 1, 2000	4,315,000
August 1, 2000	4,480,000
February 1, 2001	4,650,000
August 1, 2001	4,830,000
February 1, 2002	5,020,000
August 1, 2002	5,210,000
February 1, 2003	5,415,000
August 1, 2003	5,620,000
February 1, 2004	5,840,000
August 1, 2004	6,065,000
February 1, 2005	6,300,000
August 1, 2005	6,540,000
February 1, 2006	6,795,000
August 1, 2006	7,055,000
February 1, 2007	7,330,000
August 1, 2007	7,610,000
February 1, 2008	7,905,000
August 1, 2008	8,205,000

* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

The following premiums are specified for the purposes of Section 3.04 (b) of the General Conditions:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the balance outstanding on the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.15
More than three years but not more than six years before maturity	0.30
More than six years but not more than eleven years before maturity	0.55
More than eleven years but not more than sixteen years before maturity	0.80
More than sixteen years but not more than eighteen years before maturity	0.90

More than eighteen years before
maturity

1.00

SCHEDULE 4

Modifications of the General Conditions

For the purposes of this Agreement, the provisions of the General Conditions are modified as follows:

(1) The last sentence of Section 3.02 is deleted.

(2) The words "the Bank may, by notice to the Borrower and the Guarantor, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Loan shall be cancelled" set forth at the end of Section 6.03 are deleted and the following is substituted therefor:

"or (f) by the date specified in sub-paragraph 4 (b) of Schedule 5 to the Loan Agreement, the Bank shall, in respect of any portion of the Loan; (i) have received no applications or requests under sub-paragraphs (a) or (b) of said paragraph; or (ii) have denied any such applications or requests. The Bank may, by notice to the Borrower and the Guarantor, terminate the right of the Borrower to submit such applications or requests or to make withdrawals from the Loan Account, as the case may be, with respect to such amount or portion of the Loan. Upon the giving of such notice, such amount or portion of the Loan shall be cancelled."

SCHEDULE 5

Procedures for and Terms and Conditions of Sub-loans

A. Terms and conditions

1. The terms and conditions for a Sub-loan shall be:

- | | |
|------------------------------------|---|
| (a) Interest rate: | 14% per annum or such other rate as may be established pursuant to paragraph 2 of this Schedule |
| (b) Amortization period: | up to 23 years, including up to 8 years grace |
| (c) Principal amount to be repaid: | the aggregate equivalent of the amounts in various currencies withdrawn from the Loan Account expressed in rupees determined as of the respective dates of withdrawal |

2. The Borrower shall, not later than April 30 in each year, beginning with 1989, review with the Bank the interest rate charged for Sub-loans and shall, in order to ensure that such rate remains positive in real terms, adjust such rate for new Sub-loans made on or after July 1 in such year.

B. Procedures

3. No expenditures for goods or services required for an Investment Project shall be eligible for financing out of the proceeds of the Loan unless:

(a) the Sub-loan for such Investment Project shall have been

approved by the Bank and such expenditures shall have been made not earlier than ninety days prior to the date on which the Bank shall have received the application and information required under paragraph 4 (a) of this Schedule in respect of such Sub-loan; or

(b) the Sub-loan for such Investment Project shall have been a free-limit Sub-loan for which the Bank has authorized withdrawals from the Loan Account and such expenditures shall have been made not earlier than ninety days prior to the date on which the Bank shall have received the request and information required under paragraph 4 (b) of this Schedule in respect of such free-limit Sub-loan. For the purposes of this Agreement, a free-limit Sub-loan shall be a Sub-loan for an Investment Project which is estimated to cost less than the equivalent of \$30 million.

4. (a) When presenting a Sub-loan (other than a free-limit Sub-loan) to the Bank for approval, the Borrower shall furnish to the Bank an application, in form satisfactory to the Bank, together with (i) a description of the Investment Enterprise and an appraisal of the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Loan; (ii) the proposed terms and conditions of the Sub-loan, including the schedule of amortization of the Sub-loan; and (iii) such other information as the Bank shall reasonably request.

(b) Each request by the Borrower for authorization to make withdrawals from the Loan Account in respect of a free-limit Sub-loan shall contain (i) a summary description of the Investment Enterprise and the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Loan, and (ii) the terms and conditions of the Sub-loan, including the schedule of amortization therefor.

(c) Applications and requests made pursuant to the provisions of sub-paragraphs (a) and (b) of this paragraph shall be presented to the Bank on or before October 31, 1991.

5. Sub-loans shall be made on terms whereby the Borrower shall obtain, by written contract with the Investment Enterprise or by other appropriate legal means, rights adequate to protect the interests of the Bank and the Borrower, including the right to:

(a) require the Investment Enterprise to carry out and operate the Investment Project with due diligence and efficiency and in accordance with sound technical, financial and managerial standards and to maintain adequate records;

(b) require that: (i) the goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 6 to this Agreement and (ii) such goods and services shall be used exclusively in the carrying out of the Investment Project;

(c) inspect, by itself or jointly with representatives of the Bank if the Bank shall so request, such goods and the sites, works, plants and construction included in the Investment Project, the operation thereof, and any relevant records and documents;

(d) require that: (i) the Investment Enterprise shall take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice; and (ii) without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Investment Enterprise to replace or repair such goods;

(e) obtain all such information as the Bank or the Borrower shall reasonably request relating to the foregoing and to the

administration, operations and financial condition of the Investment Enterprise and to the benefits to be derived from the Investment Project; and

(f) suspend or terminate the right of the Investment Enterprise to the use of the proceeds of the Loan upon failure by such Investment Enterprise to perform its obligations under its contract with the Borrower.

SCHEDULE 6

Procurement and Consultants' Services

Section I. Procurement of Goods

Part A: International Competitive Bidding

Except as provided in Part B hereof, goods shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

Part B: Other Procurement Procedures

Equipment available from a limited number of sources may be procured under contracts awarded through limited international bidding procedures on the basis of evaluation and comparison of bids invited from a list of at least three qualified suppliers eligible under the Guidelines and in accordance with the procedures set forth in Sections I and II of the Guidelines (excluding paragraphs 2.8, 2.9, 2.55 and 2.56 thereof).

Part C: Review by the Bank of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract estimated to cost the equivalent of \$2,500,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, said procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 8 to this Agreement.

(c) The provisions of the preceding subparagraphs (a) and (b) shall not apply to contracts on account of which the Bank has authorized withdrawals from the Loan Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c)(ii) of this Agreement.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

In order to assist MWP, MPNR, NDFC, WAPDA and MOF in carrying out Part B of the Project, the Borrower shall employ or cause to

be employed consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

SCHEDULE 7

Implementation Program

A. Project Implementation Arrangements

1. Ministry of Water and Power (MWP) and Ministry of Petroleum and Natural Resources (MPNR)

(a) MWP and MPNR shall be responsible for evaluating and approving proposals for Investment Projects submitted under Part A of the Project and for the technical assistance provided under Part B (i) of the Project.

(b) For the purpose of carrying out these responsibilities:

(i) MWP shall establish a Private Power Cell (PPC). PPC shall be headed by a Director General, who shall be a qualified engineer experienced in management of power utilities, with emphasis on system operation, power supply contracts, and project supervision. PPC shall initially include a power engineer experienced in system operation, project appraisal and contract management, and a finance specialist experienced in project finance, financial management of power utilities and development of computer-based financial models. PPC shall be assisted by the consultants employed pursuant to Section II of Schedule 6 to this Agreement for the purposes of Part B (i) of the Project, with expertise in preparation and evaluation of energy projects. Such consultants shall be appointed by MWP not later than December 31, 1988.

(ii) MPNR shall establish a Coal Mining Cell (CMC). CMC shall be headed by a Director who shall be experienced in managing mining operations. CMC shall include a coal mining specialist experienced in the construction, operation and management of mines or a geologist experienced in geological investigation of mining reserves, review of geological data and preparation of mine plans, and a finance specialist experienced in financial management of coal mining companies. CMC shall be assisted by the consultants employed pursuant to Section II of Schedule 6 to this Agreement for the purposes of Part B (i) of the Project, with expertise in preparation and evaluation of energy projects. Such consultants shall be appointed by MPNR not later than December 31, 1988.

2. National Development Finance Corporation (NDFC)

(a) NDFC shall be responsible for administering the Private Sector Energy Development Fund (the Fund), for appraising, approving and supervising the implementation of Investment Projects, and for the technical assistance provided under Part B (ii) of the Project.

(b) For the purpose of carrying out these responsibilities, NDFC shall establish a Private Energy Division (PED), consisting of a manager of the level of senior executive vice president or deputy managing director, who shall be supported by two senior

vice presidents, one each for engineering and finance. The senior vice president for engineering shall be supported, in turn, by three engineers experienced in power generation and coal mining, and by a specialist in contract management and procurement. The senior vice president for finance shall be supported by two finance specialists. PED shall be assisted by the consultants employed pursuant to Section II of Schedule 6 to this Agreement for the purposes of Part B (ii) of the Project, with expertise in project appraisal, engineering and supervision, and in investment banking.

3. Water and Power Development Authority (WAPDA)

(a) WAPDA shall be responsible for negotiating the purchase of energy produced by Investment Projects and for the technical assistance provided under Part B (iv) of the Project.

(b) For the purpose of carrying out these responsibilities, WAPDA shall establish a Private Power Cell (WPPC). WPPC shall be headed by an engineer/finance specialist experienced in commercial aspects of bulk power transfers, and shall include a power engineer experienced in power system operation and load dispatch, and a financial analyst experienced in financial management of a power utility with multiple sources of supply. WPPC shall be assisted by the consultants employed pursuant to Section II of Schedule 6 to this Agreement for the purposes of Part B (iv) of the Project, with expertise in preparation and implementation of power purchase contracts. Such consultants shall be appointed by WAPDA not later than December 31, 1988.

4. Ministry of Finance (MOF)

(a) MOF shall be responsible for undertaking the feasibility study on the reconstitution of the Fund referred to in Part B (iii) of the Project.

(b) For the purpose of carrying out this responsibility, MOF shall be assisted by the consultants employed pursuant to Section II of Schedule 6 to this Agreement for the purposes of Part B (iii) of the Project, with expertise in financial management, accounting and investment banking.

B. Investments Projects

5. Evaluation and Approval of Proposals for Investment Projects

(a) The Borrower shall not approve any proposal for an Investment Project unless the Borrower and the Bank are satisfied:

- (i) that the Investment Project is included in the national least cost investment plan;
- (ii) that the price per unit of the energy produced by the Investment Project shall be:
 - (aa) in the case of power, less than the unit cost of generation that WAPDA would have incurred had it undertaken the Investment Project, such cost having been adjusted for the differential in the financing terms that WAPDA would have obtained and the financing terms that the Investment Enterprise sponsoring the Investment Project would obtain for the Investment Project;
 - (bb) in the case of power, equal to or less than the economic cost of supply (the long run marginal cost), expressed in terms of thermal equivalency; and
 - (cc) in the case of gas, less than the c.i.f. price of fuel oil, expressed in terms of thermal equivalency; and

(iii) that the Investment Project is technically, economically and financially viable.

(b) The Borrower shall prepare and issue, for the use of Investment Enterprises, a brochure, in form and substance satisfactory to the Bank, inter alia, describing the policy and incentive framework for private sector participation in the energy sector (including the measures set forth or referred to in the Annex to this Schedule), setting out the guidelines for the preparation, evaluation and approval of proposals for Investment Projects and including models of the Implementation and Energy Purchase Agreements referred to in Parts C (ii) (a) and (b) of the Annex to this Schedule.

6. Appraisal, Approval and Supervision of Investment Projects

(a) NDFC shall prepare and furnish to the Bank, for its approval, guidelines for the operation of the Fund, including the guidelines for the appraisal, approval and supervision of Investment Projects (the Fund Guidelines).

(b) With respect to each Investment Project, NDFC shall, subject to the Fund Guidelines:

- (i) require the Investment Enterprise sponsoring the Investment Project to prepare a detailed feasibility study covering the matters including:
 - (aa) suitability of site; (bb) availability of inputs; (cc) appropriateness of, and proven experience with, the technology offered; (dd) project design; (ee) arrangements for detailed engineering; (ff) cost estimates; (gg) construction and procurement arrangements; (hh) arrangements for operation and maintenance; (ii) arrangements for compliance with environmental and resettlement standards; (jj) financial viability of the Investment Project; (kk) adequacy of the proposed financing and the incentives to be offered to attract such financing, including the contractual arrangements to be made therefor; and (ll) the corporate structure of the Investment Enterprise; and
- (ii) review such feasibility study and, on the basis thereof, prepare and furnish to the Bank for its review and approval, pursuant to paragraph 3 (a) (i) of Schedule 5 to this Agreement, a comprehensive appraisal report.

7. Financing of Investment Projects

(a) For the purpose of financing Investment Projects, the Borrower shall establish a Private Sector Energy Development Fund (the Fund), into which the proceeds of the Loan and of the Co-financing Funds shall be placed. The Fund shall be administered by NDFC on the terms and conditions, including the fee to be paid to NDFC for this purpose, set forth in an Administration Agreement to be entered into between the Borrower and NDFC (the Administration Agreement).

(b) NDFC shall provide financing for each Investment Project, including the Sub-loan approved for such Investment Project, out of the proceeds of the Fund in amounts sufficient to cover up to 30% of the total cost, or 50% of the foreign exchange cost, whichever is less, of such Investment Project on terms and conditions including those set forth in Part A of Schedule 5 to this Agreement.

(c) Financing required for each Investment Project, in addition to the financing provided out of the proceeds of the

Fund, shall be provided by the Investment Enterprise sponsoring such Investment Project through equity investment sufficient to cover at least 25% (including the 1 1/4% referred to in paragraph 8 (c) of this Schedule) of the cost of the Investment Project and through commercial loans and/or export credits raised without the Borrower's guarantee. To attract such financing, the Borrower shall take or cause to be taken, with respect to each Investment Project, the measures described in the Annex to this Schedule.

8. Implementation of Investment Projects

With respect to each Investment Project, NDFC shall require the Investment Enterprise sponsoring such Investment Project to employ:

(a) engineering consultants, with qualifications and experience satisfactory to the Bank, to prepare detailed designs and bidding documents and to supervise project implementation;

(b) financial advisors, with qualifications and experience satisfactory to the Bank, to prepare proposals for and assist in mobilizing project financing; and

(c) a main contractor, as approved by the Bank, to assume full responsibility for project implementation, such contractor to make an equity investment sufficient to cover at least 1 1/4% of the cost of the Investment Project.

9. Environmental Standards for Investment Projects

Each Investment Project shall comply with the standards set forth in the Bank's "Environmental Guidelines" dated July 1984 and the Bank's "Occupational Health and Safety Guidelines" dated June 1984. To that end, the Borrower shall:

(a) specify such standards in the Brochure;

(b) require each Investment Enterprise applying for a Sub-loan to furnish evidence satisfactory to the Borrower and the Bank, showing that the Investment Project in respect of which the application has been made would comply with such standards, such evidence to include an environmental impact assessment and, where applicable, a resettlement plan for displaced populations, for such Investment Project; and

(c) in respect of each Investment Project, include both in the Letter of Intent referred to in Part C (i) of the Annex to this Schedule and the Implementation Agreement referred to in Part C (ii) (a) of the Annex to this Schedule a suitable provision obligating the Investment Enterprise sponsoring such Investment Project to ensure compliance with such standards.

C. Other Matters

10. Study on Reconstitution of the Fund

The Borrower shall:

(a) not later than October 31, 1989, appoint the consultants required for the purposes of the study on the feasibility of reconstituting the Fund referred to in Part B (iii) of the Project; and

(b) not later than March 31, 1990, review with the Bank the recommendations of such study and agree on a timetable, satisfactory to the Bank, for the implementation of such of the recommendations as shall be acceptable to the Bank.

11. Progress Reports

Pursuant to Section 9.07 (a) (iii) of the General Conditions, the Borrower shall furnish to the Bank, within thirty days of the

end of each quarter, a report, in form and substance satisfactory to the Bank, on the progress of the Project during such quarter.

Annex to Schedule 7

Measures Referred to in Paragraph 7 (c) of Schedule 7
to this Agreement to Attract Financing for
Investment Projects

A. Incentives for Investment Enterprises

With respect to each Investment Project, the Borrower shall permit the Investment Enterprise sponsoring such Investment Project:

- (i) to determine the price of energy produced by the Investment Project taking into account a reasonable return, net of income tax, on the equity investment of the Investment Enterprise;
- (ii) to repatriate its profits and debt service payments under arrangements with the State Bank of Pakistan;
- (iii) to adjust the price of energy produced by the Investment Project in accordance with agreed adjustment indices to reflect changes in prices of inputs and exchange rate movements, but not necessarily so as to reflect changes in any other costs of the Investment Project;
- (iv) to have the Investment Project treated like a new industrial undertaking for the purposes of receiving exemption from payment of import duties and enjoying a five-year tax holiday if the Investment Project is located in certain specified territories of the Borrower;
- (v) to take appropriate measures to off-set the effects of any changes in duties and taxes and other actions taken by the Borrower or its agencies affecting the cost and price of energy produced by the Investment Project as previously agreed with the Borrower;
- (vi) to receive additional finance from the Fund, on terms and conditions satisfactory to the Bank, so as to enable the Investment Enterprise: (a) to meet up to 25% of any additional financing needs of the Investment Project arising from an increase in the costs thereof, provided the Investment Enterprise finances at least 25% of such needs through equity investment; and (b) to continue to meet its debt service payments in respect of the Investment Project in the event of delay in the completion of construction or the suspension of operations of the Investment Project resulting from causes beyond the control of the Investment Enterprise; and
- (vii) to enter into arrangements under which the commercial loans and/or export credits obtained for the purposes of the Investment Project shall have priority over the financing obtained from the Fund for such purposes in the allocation and distribution of funds available with the Investment Enterprise for repayment.

B. Incentives for Lenders/Creditors

With respect to each Investment Project, the Borrower shall require the Investment Enterprise sponsoring such Investment Project:

- (i) to assign, as necessary, to its lenders/creditors the performance guarantee furnished to the Investment Enterprise by the main contractor responsible for implementing the Investment Project, to which such lenders/creditors shall have recourse in the event of delay in the implementation of the Investment Project;
- (ii) to provide for its lenders/creditors to have recourse also to the assets of the Investment Project;
- (iii) to assign to its lenders/creditors the performance guarantee furnished to the Investment Enterprise by the operator (if other than the Investment Enterprise itself) of the Investment Project, to which such lenders/creditors shall have recourse in the event of a shortfall in the performance of the Investment Project; and
- (iv) to establish, at the time of the commissioning of the Investment Project, a debt service escrow account, which shall at all times hold sufficient funds to meet six months debt service payments in respect of the Investment Project.

C. Contractual Framework for Incentives

In order to clearly lay down the mutual rights and obligations of the Borrower, the Investment Enterprise and the latter's lenders/creditors, the Borrower shall with respect to each Investment Project:

- (i) before the Investment Enterprise is required to prepare and submit a detailed feasibility study for the Investment Project, issue to the Investment Enterprise a Letter of Intent, in form and substance satisfactory to the Bank, conveying the Borrower's approval of the proposal for the Investment Project and indicating the Borrower's willingness to offer the incentives described in Part A of this Annex; and
- (ii) at appropriate stages following approval by the Borrower of the detailed feasibility study for the Investment Project, require the Investment Enterprise to enter into the following agreements, each in form and substance satisfactory to the Bank:
 - (a) an Implementation Agreement with the Borrower, superseding the Letter of Intent referred to in (i) above and setting forth the obligations of the Investment Enterprise, particularly with respect to the financing, design, construction, and operation and maintenance of the Investment Project within mutually agreed parameters and to mutually acceptable standards and including the obligation to offer the incentives described in Part B of this Annex, and the obligations of the Borrower, particularly with respect to the incentives described in Part A of this Annex;
 - (b) an Energy Purchase Agreement with WAPDA or any other purchaser of the energy produced by the Investment Project, guaranteed by the Borrower and setting forth the obligations of the Investment Enterprise, particularly with respect to the operation of the Investment Project to mutually acceptable standards, and the obligations of the purchaser, particularly with respect to the

purchase of a guaranteed minimum of the energy produced by the Investment Project, the purchase price of such energy, and the adjustment of such price as provided for pursuant to Part A (iii) of this Annex;

- (c) a Construction Agreement with the main contractor responsible for the construction and commissioning of the Investment Project, as approved by the Bank pursuant to Part D.2 of Schedule 6 to this Agreement and including a performance guarantee furnished by the contractor;
- (d) an Operation and Maintenance Agreement with the operator (if other than the Investment Enterprise itself) of the Investment Project, approved by the Borrower and setting forth the obligations of the operator, particularly with respect to the operation of the Investment Project to the standards specified in the Implementation Agreement referred to in (a) above and in the Energy Purchase Agreement referred to in (b) above, and including a performance guarantee furnished by the operator;
- (e) a Fuel Supply Agreement with the supplier of fuel required by the Investment Project, guaranteed by the Borrower and setting forth the obligations of the supplier, particularly with respect to the quality, quantity and frequency of supplies, and the penalties for inadequate performance of such obligations; and
- (f) other agreements, including a Shareholders' Agreement (setting forth the rights and obligations of the shareholders of the Investment Enterprise), a Loan Agreement or Agreements (setting forth the obligations of the Investment Enterprise towards its lenders/creditors, particularly with respect to the assignment to the latter of the performance guarantees furnished by the main contractor and the operator of the Investment Project pursuant to Parts B (i) and (iii) of this Annex), and an Escrow Agreement (establishing and providing for a Debt Service Escrow Account pursuant to Part B (iv) of this Annex).

SCHEDULE 8

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) and (2) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Investment Projects and for Part B of the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$5,000,000 to be withdrawn from the Loan Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Bank shall otherwise agree, payments out of the

Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account may be made as follows:

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Bank requests for replenishment of the Special Account at such intervals as the Bank shall specify. On the basis of such requests, the Bank shall withdraw from the Loan Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of the Special Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Bank, prior to or at the time of such request, such documents and other evidence as the Bank shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Bank when either of the following situations first arises:

(i) the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(ii) the total unwithdrawn amount of the Loan allocated to the eligible Categories, minus the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall be equal to the equivalent of twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank, deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or

justified. No further deposit by the Bank into the Special Account shall be made until the Borrower has made such deposit or refund.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount for crediting to the Loan Account.

