

Public Disclosure Authorized

CONFORMED COPY

LOAN NUMBER 7687-IN
GEF GRANT NUMBER TF094676-IN

Project Agreement

(Coal Fired Generation Rehabilitation Project)

among

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT
(acting as an Implementing Agency of the Global Environment Facility)

and

STATE OF MAHARASHTRA

and

MAHARASHTRA STATE POWER GENERATION COMPANY LTD.

Dated December 17, 2009

PROJECT AGREEMENT

AGREEMENT dated December 17, 2009, entered into among INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank”), the Bank acting as an implementing agency of the Global Environment Facility, and STATE OF MAHARASHTRA and MAHARASHTRA STATE POWER GENERATION COMPANY LTD. (“Project Agreement”).

Whereas by a loan agreement of even date herewith between India (the “Borrower”) and the Bank (the “Loan Agreement”), the Bank is agreeing to make available to the Borrower an aggregate principal amount of one hundred eighty million Dollars (\$180,000,000) on the terms and conditions set forth in the Loan Agreement, and by a grant agreement of even date herewith between the Borrower and the Bank acting as an implementing agency of the GEF (the “GEF Grant Agreement”), the Bank is agreeing to extend to the Borrower a grant in an amount equal to forty-five million four hundred thousand Dollars (\$45,400,000), on the terms and conditions set forth in the GEF Grant Agreement, but only on condition that the Project States and the Participating Utilities agree to undertake such obligations toward the Bank as are set forth in the Loan Agreement, GEF Grant Agreement, and in the Project Agreements, including this Agreement.

Now therefore, the parties hereby agree as follows:

ARTICLE I – GENERAL CONDITIONS; DEFINITIONS

- 1.01. The “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005 (as amended through February 12, 2008) (“General Conditions”) and the “Standard Conditions for Grants Made by the World Bank Out of Various Funds”, dated July 1, 2008 (“Standard Conditions”) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Loan Agreement, the General Conditions or the Standard Conditions.

ARTICLE II – PROJECT

- 2.01. The Project State and the Participating Utility declare their commitment to the objectives of the Project. To this end, the Project State and the Participating Utility shall carry out their Respective Parts of the Project in accordance with the provisions of Article V of the General Conditions and Article II of the Standard Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for their Respective Parts of the Project.

- 2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank and the Project State and Participating Utility shall otherwise agree, the Project State and the Participating Utility shall carry out their Respective Parts of the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III – REPRESENTATIVE; ADDRESSES

- 3.01. The Project State's Representative is its Chief Secretary. The Participating Utility's Representative is its Managing Director.

- 3.02. The Bank's Address is:

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

Cable:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423(MCI) or 64145(MCI)	1-202-477-6391

- 3.03. The Project State's Address is:

Industry, Energy and Labour Department
Government of Maharashtra
Mantralaya, Mumbai - 400032
India

Facsimile:

91-22-22810424

- 3.04. The Participating Utility's Address is:

Maharashtra State Power Generation Company Ltd
Prakashgad, Prof Anant Kanekar Marg
Bandra (East), Mumbai - 400051
India

Facsimile:

91-22-26472641

AGREED at New Delhi, India, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Giovanna Prennushi
Authorized Representative

STATE OF MAHARASHTRA

By /s/ Subrat Ratho
Authorized Representative

MAHARASHTRA STATE POWER GENERATION COMPANY LTD.

By /s/ G. J. Girase
Authorized Representative

SCHEDULE

Execution of the Project State's and the Participating Utility's Respective Parts of the Project

Section I. Implementation Arrangements

A. Eligibility Criteria for the Participating Utility

The Participating Utility shall be eligible to receive, through the Project State, the proceeds of the Loan allocated to Categories (1)(b) and (2)(b) under the table of Section IV.A.2 of Schedule 2 to the Loan Agreement, when the Participating Utility has:

1. prepared and submitted to the Bank the DPR;
2. undertaken, endorsed and disclosed the results of the EADDR and RSA, and adopted the CSRP;
3. adopted and begun to implement satisfactory financial management arrangements, and the CGFAAP;
4. submitted to the Bank the O&M Assessment;
5. adopted the procurement plan satisfactory to the Bank;
6. adopted the PIP; and
7. signed the Participating Utility Subsidiary Agreement with the respective Project State.

B. Participating Utility Subsidiary Agreement

1. The Participating Utility Subsidiary Agreement, shall be consistent with and reflect the terms and conditions of the Loan Agreement and this Agreement, and shall provide, *inter alia*, that the proceeds of the Loan received by the respective Project State from the Borrower shall be made available by the Project State to the respective Participating Utility on the same financial terms and conditions as apply to the Project State.
2. The Project State and the Participating Utility shall exercise their rights under the Participating Subsidiary Agreement in such manner as to protect the interests of the Bank and to accomplish the purposes of the Loan.

3. Except as the Bank shall otherwise agree, the Project State and the Participating Utility shall not assign, amend, abrogate or waive the Participating Utility Subsidiary Agreement or any of its provisions.

C. Other Undertakings

1. The Participating Utility shall ensure that its Respective Part of the Project is carried out in accordance with the PIP and the MSPGCL Procurement Plan, and shall not revise, amend, waive or abrogate the PIP and the MSPGCL Procurement Plan without the prior approval of the Bank.
2. The Project State and the Participating Utility shall ensure that their Respective Parts of the Project are carried out in accordance with the provisions of the Anti-Corruption Guidelines.
3. Within one (1) year of Loan Agreement effectiveness, the Participating Utility shall adopt the O&M Improvement Action Plan, and shall thereafter take all necessary measures to implement such plan.
4. The Participating Utility shall ensure that it maintains post rehabilitation particulate emissions at a level not exceeding 150 mg/Nm³ for the unit which is being renovated, and shall also make its best effort and take all reasonable actions to achieve less than 100 mg/Nm³.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

The Participating Utility shall monitor and evaluate the progress of its Respective Part of the Project and prepare Project Reports for its Respective Part of the Project in accordance with the provisions of Section 5.08(b) of the General Conditions and Section 2.06(b)(i) of the Standard Conditions and on the basis of the indicators agreed with the Bank. Each such Project Report shall cover the period of one (1) Fiscal Year quarter, and shall be furnished to the Borrower not later than two (2) weeks after the end of the period covered by such report for incorporation and forwarding by the Borrower to the Bank of the overall Project Report, except that during the unit shutdown period for renovation and modernization, the reporting shall be more frequent, as may be mutually agreed upon by the Bank and the Participating Utility.

B. Financial Management, Financial Reports and Audits, Financial Ratios

1. The Participating Utility shall maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Bank, both in a

manner adequate to reflect the operations and financial conditions of the Participating Utility, and to register separately the operations, resources and expenditures of the Participating Utility related to its Respective Part of the Project.

2. The Participating Utility shall have the above Financial Statements audited in accordance with the provisions of Section 5.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) Fiscal Year, commencing with the Fiscal Year in which the first withdrawal by the Participating Utility was made. The audited Financial Statements for each such period shall be furnished to the Bank not later than six (6) months after the end of such period.
3. The Participating Utility shall prepare and furnish to the Bank not later than forty-five (45) days after the end of each Fiscal Year quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Bank.
4. The Participating Utility shall furnish to the Borrower and the Bank such other information concerning such financial statements as the Borrower or the Bank shall reasonably request from time to time.
5. (a) Except as the Bank shall otherwise agree, the Participating Utility shall not incur any debt, unless its net revenues for the Fiscal Year immediately preceding the date of such incurrence or for a later twelve-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.1 times the estimated maximum debt service requirements of the Participating Utility for any succeeding Fiscal Year on all debt of the Participating Utility, including the debt to be incurred.

(b) For the purposes of this paragraph 5:
 - (i) The term "debt" means any indebtedness of the Participating Utility maturing by its terms more than one (1) year after the date on which it is originally incurred.
 - (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

- (iii) The term “net revenues” means the difference between: (A) the sum of revenues from all sources related to operations adjusted to take account of the Participating Utility’s tariffs in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; and (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) The term “net non-operating income” means the difference between: (A) revenues from all sources other than those related to operations; and (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (v) The term “debt service requirements” means the aggregate amount of repayments (including sinking fund payments, if any), interest and other charges on debt, excluding interest during construction.
- (vi) Whenever for the purposes of this Paragraph it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

Section III. Procurement

All goods and consultants’ services required for the Participating Utility’s Respective Part of the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Section III of Schedule 2 to the Loan Agreement.