

# **Draft Supplementary Power Purchase Agreement**

**Between**

**Paschimanchal Vidyut Vitran Nigam Ltd.**

**(“Procurer 1”)**

**and**

**Poorvanchal Vidyut Vitran Nigam Ltd.**

**(“Procurer 2”)**

**and**

**Madhyanchal Vidyut Vitran Nigam Ltd.**

**(“Procurer 3”)**

**and**

**Dakshinanchal Vidyut Vitran Nigam Ltd.**

**(“Procurer 4”)**

**and**

**Welspun Energy UP.Private Limited**

**(“Seller”)**

**This Supplementary Power Purchase Agreement is made on the**

**---th day of -----, 2014**

Between

(1) **Paschimanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Victoria Park Meerut-250001 (Hereinafter referred to as “**Procurer 1**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and

(2) **Poorvanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Vidyut Nagar, P.O. DLW, Varanasi-2201010 (Hereinafter referred to as “**Procurer 2**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and

(3) **Madhyanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at 4A, Gokhale Marg, Lucknow-226001 (Hereinafter referred to as “**Procurer 3**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and

(4) **Dakshinanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Urja Bhawan. NH2, Sikandra, Agra (Hereinafter referred to as “**Procurer 4**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns)

## THROUGH

**UTTAR PRADESH POWER CORPORATION LIMITED (“UPPCL”)** a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Shakti Bhawan, 14, Ashok Marg, Lucknow, U.P duly authorised by each of the above Procurers to enter into this

Agreement on their behalf

(The “Procurer1”, “Procurer 2” ,“Procurer 3” and “ Procurer 4” are hereinafter collectively referred to as the “Procurers” and individually as a “Procurer”)

And

**M/s Welspun Energy UP Private Limited** (the “Seller”), a company incorporated in India and registered under the Companies Act, 1956, having its registered office at welspun House , 7th Floor ,Kamala City Senapati Bapat Marg, Lower Parel , Mumbai-400013.

(each of the “Procurer 1”, “Procurer2”, “Procurer 3”, “Procurer4” and or “Procurers” and “Seller” are individually referred as “Party” and collectively to as the “Parties”)

### WHEREAS:

- A-** Power Purchase Agreement Dated 04-01-11 was signed between M/s M/s Welspun Energy UP Private Limited and Procurer for purchase of 100% Saleable Energy from 1320 MW Thermal Power Generating Plant situated at Gazipur (UP) , in accordance with GoUP Energy Policy-2009 (as amended ) issued by Department of Energy , GoUP.
- B-** In accordance with Article-3.1 under “conditions subsequent to be satisfied by the seller and the procurers.” of aforesaid PPA , the seller was required to perform and complete the various prescribed activities within 18 months from the effective date of PPA.
- C-** As per the request of Developer for change of the project location from Gazipur to Mirzapur and for extension of the above period to fulfill the conditions subsequent , GoUP vide order dated 8-6-12 have accorded permission on change of location and the extension of time limit for a further period of 18 months or as requested by the seller (whichever is lesser) with the condition that additional IDC on account of above extension shall not be admissible to the seller.
- D-** GoUP vide its order dated 09-12-13 giving last chance have accorded permission on extension of time limit for a further period of 18 months or as requested by the seller (whichever is lesser) but with a condition that additional IDC on account of aforesaid extension shall not be admissible to the seller.

E- UPPCL on behalf of Procurers and the Seller have mutually agreed to this Supplementary Agreement in respect of Generating Plant being set up and the same has been duly approved by UPERC vide its Order dated----- ,a copy of which is annexed hereto as Annexure-1

NOW, THEREFORE, in consideration of the foregoing and respective covenants and agreements set forth in this PPA and other consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

- 1- The time period for fulfillment of conditions subsequent under Article-3.1 of PPA is now extended and shall now be 18 months with effect from the date of expiry of the previously extended period( 04-01-14) as per GO dated 08-06-12.
- 2- The additional IDC in the project cost due to this extension shall not be admissible in the cost.
- 3- The additional Bank guarantee equivalent to 50% of original Bank guarantee value shall be submitted. The validity of original Bank Guarantee earlier submitted and additional Bank guarantee shall kept equal to the presently extended period.
- 4- The commercial Operation Dates (COD) will be counted from the date of achieving financial closure or date of obtaining Coal linkage ( whichever is later).
- 5- In case, the generation from power project is not started by the time power evacuation system becomes ready, the seller will be legally responsible and liable to pay entire transmission tariff to transmission contractor and a legal agreement will be signed with your company / promoter separately to this effect.

All other terms and conditions of PPA dated 04-01-11 shall remain unaltered.

IN WITNESS WHEREOF the Parties have executed these presents through their authorized representatives at Lucknow.

For and on behalf of

For and on behalf of

[Procurers]

[THE Seller]

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Signature with seal

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Signature with seal

Witness:

1.

2.

Witness:

1.

2.

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION LUCKNOW

PETITION No.

In the matter of: Approval of Supplementary PPA for Mirzapur Thermal Power Project (1320 MW) under clause -126 of UPERC (Conduct of Business ) Regulation 2004.

In the matter of:

U.P Power Corporation Ltd

14 –Ashok Marg

Lucknow.....

Petitioner

**M/s Welspun Energy UP Private Limited**

Welspun House , 7th Floor ,

Kamala City Senapati Bapat Marg,

Lower Parel , Mumbai-400013 ..... Respondent

The undersigned is presently posted as Chief Engineer, Power Purchase Agreement Directorate, U.P Power Corporation Limited, Shakti Bhawan , Lucknow and has been authorized to file the present petition.

**It is most humbly prayed by the Petitioner :-**

- 1- That , in compliance to the GoUP Energy Policy -2009 , a MOU dated 31-12-10 was signed in between M/s Welspun Energy UP Private Limited and GoUP for setting up 1320 MW Thermal Project at Gazipur in Distt. Gazipur Subsequently as per the approval by UPERC vide its order dated 18-11-10, a Power Purchase Agreement for purchase of 90% power generated from this project was signed by UPPCL on behalf of DISCOM on 04-01-11.
- 2- That , the Cl. No. (3.1.2 ) of the aforesaid PPA provides certain conditions which are required to be fulfilled by the Developer within 18 months from signing of PPA unless such completion is affected due to Procurers failure to comply with their obligations or by Force Majeure event or if any of the activities is specifically waived by the Procurers. This clause further provides at Cl (3.3.4) that any extension/ increase in time period shall lead equal increase in the period of Bank Guarantee and new scheduled COD will be decided with the approval of the Commission.
- 3- That as per the request of M/s Welspun Energy UP Private Limited for change of the project location from Gazipur to Mirzapur and for extension of the above period to fulfill the conditions subsequent, GoUP vide order dated 8-6-12 have accorded permission on change of location and the extension of time limit for a further period of 18 months or as requested by the seller (whichever is lesser) with the condition that additional IDC on account of above extension shall not be admissible to the seller.
- 4- That subsequently, the extension for fulfillment of condition subsequent under Article 3.1 was again requested vide letter dated 30-09-13 mainly on the ground that important conditions like MOEF clearance and coal linkage for the project has not been granted.
- 5- GoUP vide its order dated 09-12-13( copy at Annexure-1) giving last chance have accorded permission on extension of time limit for a further period of 18 months or as requested by the seller (whichever is lesser) with the conditions given therein.
- 6- That the Developer has accepted the conditions stipulated in GO dated 09-12-13 and has submitted 50 % additional BG amounting to Rs 33 Cr on 02-01-14.
- 7- A draft Supplementary PPA containing the mutually agreed conditions as per GOUP order dated 09-12-13 is enclosed at Annexure -2 for UPERC approval.

In view of the foregoing paragraphs, the Commission is requested to approve the draft supplementary PPA and /or otherwise pass the appropriate directions so that the same may be finally signed with the Company.

Enclosure: As above

(S.P. Pandey)  
Chief Engineer (PPA)

**VERIFICATION**

I, the above deponent, do hereby verify that the contents of this affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed.

Signed and verified this \_\_\_\_\_

(S.P. Pandey)  
Chief Engineer (PPA)



