

To be executed on Non-Judicial Stamp Paper of requisite value applicable in the state

FORM-PFC-PL3

LOAN NO. _____

(Applicable to Rupee Term Loans to State sector borrowers)

MEMORANDUM OF AGREEMENT
BETWEEN
POWER FINANCE CORPORATION LIMITED
AND

DATED2007

MEMORANDUM OF AGREEMENT

made the day of2007 BETWEEN
POWER FINANCE CORPORATION LIMITED, A Government Company, having its
Registered Office at Urjanidhi, 1, Barakhamba Lane, Connaught Place, New Delhi –
110001 (hereinafter referred to as “the Corporation” which expression shall, unless it be
repugnant to the subject or context thereof, include its successor and assigns)) of the one
part and

having its Head/Registered Office at (hereinafter
referred to “the Borrower” which expression shall, unless it be repugnant to the subject
or context thereof, include its successor and assigns)) of the other part.

WHEREAS the Borrower has undertaken execution of

..... (hereinafter referred to as “the Project”) AND

WHEREAS the Borrower by its letter dated made
an application to the Corporation for grant of a loan of Rs..... (Rupees
..... only)
to be utilised for putting through the Project.

AND WHEREAS the Corporation has sanctioned a loan of Rs.....
(Rupees only) to the
Borrower for the purpose of the execution of the said project on the terms and conditions
contained in the Corporation’s letter dated day of 2007 *and
amendments thereof* to the Borrower conveying sanction of the loan and on the terms and
conditions set out in the said letter and hereunder written.

AND WHEREAS the Borrower has by its Resolution dated day of
.....2007 passed at a meeting of its Board on theday
of 2007 by circulation*, has agreed to accept the said loan on the said terms.

AND WHEREAS according to one of the conditions of the loan the Borrower is required to

* furnish a Guarantee from the Government of the State of/
from the State Bank of India or its subsidiaries or any nationalised Bank for due repayment by the Borrower of the loan and payment of interest, interest tax, as may be applicable from time to time, commitment charges and penal interest, other expenses etc. thereon and/or any additional amount(s) that become payable under the agreement.

AND/OR

* a) first charge, by way of mortgage, in favour of the Corporation in a form satisfactory to the Corporation of all the Borrower's immovable properties/ other assets (name of the properties), as per details enclosed, both present and future;

And /or ;

* b) a first charge by way of hypothecation in favour of the Corporation of all the Borrower's movable assets (save and except book debts), including movable machinery, machinery spares, tools and accessories, fuel stock, spares and material at project site, present and future, **

save prior charges created and/or to be created :-

- i) in favour of the Borrower's Bankers on the Borrower's stocks of raw materials, semi-finished and finished goods, consumable stores and such other movables as may be agreed to by the Corporation for securing the borrowings for working capital requirements in the ordinary course of business ; and
- ii) On specific items of machinery as permitted by the Corporation purchased and/or to be purchased by the Borrower under the deferred payment facilities granted to the Borrower by _____ to the extent of Rs. _____ decided by the Corporation.

*** The mortgage and charge referred to above shall rank pari-passu with the mortgages and charges created and/or to be created in favour of _____ ;*

*(** Wherever applicable)*

* (retain as applicable)

AND WHEREAS the Government of the State of/..... (Bank) has agreed to execute an irrevocable Guarantee guaranteeing due payment by the Borrower of the loan and interest, interest tax, commitment charges, penal interest, other expenses, etc. in the form prescribed by the Corporation.

* *The clause may be amended as per terms of sanction approved in each case*

NOW IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO as follows:-

1. The Corporation will lend and advance to the Borrower the sum of Rs..... (Rupees only) on the terms and conditions set out in the Corporation's said letter dated the day of 2007 *and amendments thereof* and on the terms and conditions herein set out. The said letters shall form part of this Agreement as Annexure-I as if fully set forth hereunder and all the terms and conditions set out in the said letter *and amendments thereof* will be binding on the Borrower.
2. The Borrower shall repay to the Corporation the amount of the said loan with interest, interest tax, commitment charges, penal interest, etc. thereon and costs, charges, expenses, losses and other moneys, etc. in accordance with the terms and conditions set out in that behalf in the said letter of the Corporation dated the day of2007 *and amendments thereof*. The Borrower shall make all payments of principal, interest, interest tax, commitment charges, penal interest, etc. other expenses etc. to the Corporation at its Registered Office at New Delhi.
3. The Borrower shall implement the said project and shall also adhere to and comply with all such amendments thereto as are approved by the Corporation.
4. The Borrower agrees and undertakes to complete the work in the manner and according to the time schedule envisaged in terms and conditions of sanction loan.
5. The Borrower has represented to and assured the Corporation that the loan applied for and being granted by the Corporation to the Borrower is within the borrowing powers of the Borrower in accordance with the laws and bye-laws applicable to it and all formalities, required by the laws and bye-laws and rules regulating the work and conduct of the Borrower in respect of such borrowing have been fully complied with.
6. * The Borrower has further agreed to furnish to the Corporation a guarantee from the Government of the State of for due fulfilment of the obligations of the Borrower in terms of this Agreement and for due repayment of the principal amount and the interest , interest tax, commitment charges, penal interest, etc. thereon and costs, charges, expenses, losses and other

moneys etc. and the Borrower hereby declares that it has obtained approval of the said Government/..... for the purpose of furnishing of such guarantees in such form as the Corporation may require for the purposes aforesaid.

AND/OR

The borrower has agreed to secure the loan by way of

a) * a first charge, by way of mortgage, in favour of the Corporation in a form satisfactory to the Corporation of all the Borrower's immovable properties/ other assets (name of the properties), as per details enclosed, both present and future; **

And /or ;

b) * a first charge by way of hypothecation in favour of the Corporation of all the Borrower's movable assets (save and except book debts), including movable machinery, machinery spares, tools and accessories, fuel stock, spares and material at project site, present and future,

subject to prior charges created and/or to be created :-

i) in favour of the Borrower's Bankers on the Borrower's stocks of raw materials, semi-finished and finished goods, consumable stores and such other movables as may be agreed to by the Corporation for securing the borrowings for working capital requirements in the ordinary course of business ; and

ii) On specific items of machinery as permitted by the Corporation purchased and/or to be purchased by the Borrower under the deferred payment facilities granted to the Borrower by _____ to the extent of Rs. _____ decided by the Corporation.

** The mortgage and charge referred to above shall rank pari-passu with the mortgages and charges created and/or to be created in favour of _____ ;

(** Wherever applicable)

* *(retain as applicable)*

The Borrower shall make out good marketable title to its properties to the satisfaction of the Corporation and comply with all such formalities as may be necessary or required for the said purpose.

II Creation of additional security: The Borrower undertakes that if, at any time during the subsistence of this Agreement, the Corporation is of the opinion that the security provided by the Borrower has become inadequate to cover the balance of the loans then outstanding, the Borrower shall provide and furnish to the Corporation additional security as may be acceptable to the Corporation to cover such deficiency.

III. *Registration of charge : The Borrower shall have the particulars of charge registered with the Registrar of companies (ROC) as per the Companies Act within stipulated time, and shall submit a certificate from the ROC certifying the registration of charge.

And/or

The borrower shall have the particulars of charge registered with the Sub-Registrar of Assurances in case of English Mortgage wherever executed.

* *The clause may be amended as per terms of sanction approved in each case*

7. The Borrower shall furnish to the Corporation such periodical returns of the workings and with regard to the utilisation of the amount of the loan and the progress of the project as may be required by the Corporation.
8. The Borrower shall make available for the inspection of the Corporation all its books of account and other books and documents maintained by it and/or required to be maintained by it under any law, bye-laws or rules of the Borrower and allow all facilities to the Corporation or any persons authorised by it for the purpose of carrying out such inspection. The Corporation shall have the right to inspect the project and all the books of accounts, records and documents relating thereto at any time.
9. The Borrower agrees and undertakes to execute, sign, seal and deliver all documents, papers, acknowledgements and other writings as may be required by the Corporation at any time during the pendency of this Agreement, more fully and effectively securing the moneys due and payable or to become due and payable by the Borrower to the Corporation in terms of these presents.
10. The Borrower undertakes that
 - i. It shall not make/adjust the payment of interest or repayment of state govt loan due to it until such time that the liability in regard to payment of interest and repayment of loan due upto date to the Corporation is fully paid.
 - ii. It shall not sell/transfer or abandon the project at any stage in any manner whatsoever without prior written consent of the Corporation.
 - iii. In case of sale/ transfer/ abandonment of the project or assets, it shall pay to the Corporation the entire outstanding dues in one installment before such transfer is effected.
 - iv. The loan from the Corporation shall be in addition to the State's budgetary support committed for the Project as per the approved annual plan provision.
11. The Borrower must be and continue to be the owner and in physical possession of the project at the time of disbursement of each instalment of loan amount and till all the money due to the Corporation are fully liquidated by the Borrower.

12. The Borrower shall not transfer or abandon the project at any stage without written consent of the Corporation. In case at any stage or on a future date, the project is proposed to be transferred to any other organisation or to be abandoned, the entire outstanding (eg. principal, interest, interest tax, commitment charges, penal interest, etc.) due from the Borrower shall be paid to the Corporation before any such transfer is affected.
13. In the event of a default on the part of the Borrower or any breach of the terms and conditions of these presents, the Borrower shall be liable to pay to the Corporation all costs, charges and expenses incurred/to be incurred by the Corporation in connection with the negotiations for the Agreement and in respect of the Agreement including legal expenses incurred for realisation/recovery of the outstanding dues.
14. The Corporation shall without prejudice to its other rights and remedies be entitled to recall the loan at any time before the due date for repayment thereof, if the Borrower fails to fulfil its obligations under this Agreement and/or in the event of its committing a breach of any of the terms thereof. The decision of the Managing Director of the Corporation as to whether a breach of the terms of this Agreement has been committed by the Borrower or not shall be final and binding on the Borrower.
15. Every notice, demand, request, consent, approval, waiver or agreement to be given or made hereunder shall, save as otherwise herein specifically provided, be in writing and in the English Language and shall be delivered by hand or sent by mail (Registered Post) or by telex or cable and shall be deemed to have been given and received, if delivered by hand, upon delivery, if sent by mail, the 3rd day (excluding Saturday, Sunday and other closed days) following the date of mailing, and if sent by telex or cable, the 2nd day (excluding Saturday, Sunday and other closed days) following the date of transmission. The mailing address, telex number and cable address of the Borrower and PFC for purposes shall respectively be :

for **the Borrower**,

for **POWER FINANCE CORPORATION LTD**

“Urjanidhi”
1, Barakhamba Lane
Connaught Place,
 New Delhi – 110001
 Phone: 011- 23456000
 Fax: 011- 23412545

or such other mailing or cable address or telex number as to which the Borrower or PFC may, for itself, from time to time notify the other as aforesaid.

15. This Agreement is executed in _____ and the loan will be advanced by the Corporation to the Borrower in New Delhi, Civil Courts in Delhi/New Delhi alone shall have jurisdiction to entertain any suit or matter arising out of this Agreement.

IN WITNESS whereof the parties hereto have executed these presents the day, month and year first herein written.

SIGNED AND DELIVERED BY
(on behalf of POWER FINANCE CORPORATION LIMITED)

Signature

Name & Designation
.....

Address
.....

in the presence of

Signature

Name & Designation
.....

Address
.....

SIGNED AND DELIVERED BY
(on behalf of Electricity Board/borrower)

Signature

Name & Designation
.....

Address
.....

in the presence of

Signature

Name & Designation
.....

Address
.....

Note: The above clauses are standard clauses in the loan agreement and are subject to modification in line with sanction terms and lending policies of the Corporation