



अरुणाचल प्रदेश ARUNACHAL PRADESH

007362

MEMORANDUM OF AGREEMENT (MoA)
BETWEEN GOVERNMENT OF ARUNACHAL PRADESH
AND

M/S SEW ENERGY LIMITED
FOR EXECUTION OF NYUKCHARONG CHU HYDRO ELECTRIC PROJECT (96 MW)
ON BOOT BASIS

I. This Memorandum of Agreement (MoA) (hereinafter referred to as the "Agreement") is entered on 21st day of February 2008 by and between:

The Governor of Arunachal Pradesh, represented by Secretary (Power) hereinafter referred as "GOAP" which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) of the first Part;

AND

M/s SEW Energy Ltd., a Company incorporated under the companies Act 1956 and having its Registered office at 6-7-871, Snehalata, Greenlands Road, Begumpet, Hyderabad - 500 016, Andhra Pradesh, India (hereinafter referred to as "Company" which expression shall, unless repugnant to the context or meaning thereof, include its successors, nominees and permitted assignees) of the second Part; GOAP and M/s SEW Energy Ltd. shall be individually referred to as "Party" and collectively as "Parties".



(Signature)
for SEW ENERGY LIMITED
(Y. BALAKRISHNA RAO)
DIRECTOR



(Signature)
Jayaprakash N.,
Business Associate

WHEREAS

- I) The Government of India ("Govt") has launched the "50,000 MW Hydro-electric Initiative" with the objective of increasing the hydro power capacity in India (Country) out of which more than half the capacity has been identified in the State of Arunachal Pradesh ("State") itself.
- II) GoAP has earmarked certain projects for allocation to private developers for development of hydropower projects in the State, which will generate economic activity in the State leading to its growth and will also serve as an engine to achieve the objective of promoting all round development of the State and the Country; and
- III) M/s SEW Energy Ltd. has expressed its interest vide letter No. SEL/TW/F.Jan./TaHEP/08/001 Dtd. 16/01/2008 in development of Power Generation, Transmission, and Distribution sectors in the State in general; and development of hydro power projects in particular; subject to establishment of feasibility; at their own cost.
- IV) Govt. of Arunachal Pradesh has approved the engagement of the Company to execute the 96 MW, Nyukcharong Chu Hydro Electric Project on Build, Own, Operate and Transfer (BOOT) basis.

NOW THEREFORE, it is agreed by and between the Parties hereto as under:
That

Article 1

INTERPRETATIONS AND DEFINITIONS.

1. INTERPRETATIONS.

- 1.1.1 The nomenclature of this Agreement, headings and paragraph numbers are only for the convenience of reference and shall be ignored in construing or interpreting this Agreement.
- 1.1.2 Reference to persons and words denoting natural persons shall include bodies, corporate, partnerships, joint ventures, statutory and other authorities and entities.
- 1.1.3 Reference to any enactment, ordinance or regulation or any provision thereof shall include any amendment thereof or any replacement in whole or in part.
- 1.1.4 Reference to Recitals, Articles, Clauses, or Sub-clauses shall unless the context otherwise requires, be deemed to include the Recitals, Articles, clauses, or Sub-clauses of this Agreement.
- 1.1.5 The words importing singulars shall include plurals and vice-versa, as the case may be.

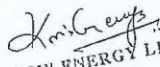
Handwritten signature
For SEW ENERGY LIMITED
(Y. BALAKRISHNA RAO)
DIRECTOR


Handwritten signature
Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 2 of 18

Business Associate

- 1.1.6 Terms beginning with capital letters and defined as per Clause 1.2 of this Agreement shall have the same meaning ascribed thereto.
- 1.1.7 Any reference at any time to any agreement, deed, instrument license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplement, modified or suspended at the time of such reference provided that this Clause shall not operate to increase liability or obligations of any Party hereunder or pursuant hereto in any manner whatsoever.
- 1.1.8 Any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effectual only if it is in writing and under the hands of duly authorized representatives of such Party in this behalf and not otherwise.
- 1.1.9 Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates.
- 1.2- **DEFINITIONS.**
- In this Agreement the following words and expressions and unless repugnant to the context or meaning thereof, shall have the meanings hereinafter respectively assigned to them :
- 1.2.1 "Agreement" means this agreement together with any amendments made thereto in accordance with the provisions herein contained;
- 1.2.2 "Agent" means the authorized representative or such other Authority as may be appointed by the State Government for the purpose of this Agreement;
- 1.2.3 "PFR" means the pre feasibility report pertaining to the project under this Agreement;
- 1.2.4 "Agreement period" shall have the meaning as specified in Article 3;
- 1.2.5 "Company" will mean a company i.e. M/s SEW Energy Ltd. incorporated under the companies Act, 1956 and having its Registered office at Hyderabad;
- 1.2.6 "SPV" means a body/organization to be constituted by the Company for implementation of the project while performing the obligations and duties under this agreement
- 1.2.7 "Central Govt." means the Government of India;
- 1.2.8 "CEA" means the Central Electricity Authority constituted under Section 3 of the Electricity (Supply) Act 1948 or its successors, administrators or assignees ;
- 1.2.9 "Detailed Project Report (DPR)" means the Detailed Project Report pertaining to the project under this Agreement to be submitted by the Company and to be approved by the competent authority of the State Government;
- 1.2.10 "Dispute" shall have the meaning as specified in Article 13;


For SEW ENERGY LIMITED
(Y. BALAKRISHNA RAO)
DIRECTOR


Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 3 of 18

- 1.2.11 "Financial Closure" means the date on which the Financing Agreements have been duly executed and the Company has access to such funding under the Financing Agreements;
- 1.2.12 "Financing Agreement" means the loan agreements, notes, indentures, security agreements, letters of credit equity arrangements and other documents relating to the financing (including refinancing) of the project and the capital cost or any part thereof, as amended, supplemented or modified from time to time and approved by the competent authority;
- 1.2.13 "Force Majeure" shall have the meaning as ascribed thereto in Article 11;
- 1.2.14 "GOI" means the Government of India;
- 1.2.15 "Evacuation System" means the network of power transmission lines and sub-stations for transmitting the electrical output from the Interconnection Point up to main load centre(s);
- 1.2.16 "Interconnection Facilities" means all the facilities which shall include without limitation, switching equipment communication, protection, control and metering devices etc. at the Interconnection Point(s) in the switchyard of the generating stations to be installed and maintained at the cost of the Company to enable evacuation of Power output from the Project in accordance with this Agreement;
- 1.2.17 "Law" means any act rule regulation, notification, order or instruction having the force of Law enacted or issued by any competent legislature, Government or statutory authority in India;
- 1.2.18 "Month" means the English Calendar month;
- 1.2.19 "Parties" mean the State Government and the Company collectively;
- 1.2.20 "Party" means the State Government and / or the Company individually;
- 1.2.21 "Power Purchase Agreement (PPA)" means a contractual agreement to be signed by the Company with an electricity consumer, trader or any other parties permitted under the statute to purchase the power;
- 1.2.22 "Project" means the Nyukcharong Chu Hydro Electric Project proposed to be established on Nyukcharong Chu river (FRL : 2485.00 m & TWL : 2232.00 m) in Tawang District of Arunachal Pradesh including complete hydroelectric power generating facility covering all components such as dam, intake works, water conductor system, power station, generating units, project roads, bridges, offices, residential facilities store, guest houses, security office and other connected facilities including the Interconnection Facilities;
- 1.2.23 "Commercial Operation" means the state of Unit/Project when Unit/Project is capable of delivering Active power and Reactive Power on a regular basis after having successfully completed the commissioning tests as per Prudent Utility Practices.
- 1.2.24 "Commercial Operation Date (COD)" means the date on which the commercial operation of Unit/Project as the case may be, is achieved by the Company.

[Signature]
For SEW ENERGY LIMITED

(Y. BALAKRISHNA RAO)
DIRECTOR

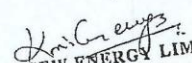
[Signature]
Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

- 1.2.25 "State Government" means the Govt. of Arunachal Pradesh;
- 1.2.26 "State" means the State of Arunachal Pradesh.
- 1.2.27 "Year" means the English Calendar year comprising of 365 days in a non-leap year and 366 days in a leap year.
- 1.2.28 "Site" means the site of the project appurtenances, generating plant including land, waterways, roads and rights acquired or to be acquired by the Company for the purposes of the project.
- 1.2.29 "Prudent Utility Practices" means those practices, methods, techniques and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring safe, efficient and economic design, engineering, construction, commissioning, testing, operation and maintenance of various component of the project of the type specified in this agreement and which practices, methods and standards shall be adjusted as necessary to take account of,
- I. Installation, operation and maintenance guidelines recommended by the manufacturers of the plant and equipments to be incorporated in the project.
 - II. The requirement of Indian Law.
 - III. Physical conditions at the site.
 - IV. Practices, methods, techniques and standards as changed from time to time that are generally accepted internationally for use in electric utility and for power generation in India.


Article 2

GENERAL TERMS AND CONDITIONS OF THE AGREEMENT.

- 2.1 The State Govt. hereby grants permission to the Company **M/s SEW Energy Ltd.** to undertake preliminary investigation for preparation of the Pre-feasibility Report, detailed investigation for DPR preparation and subsequent implementation of Nyukcharong Chu HEP (96 MW) in Tawang Distt., Arunachal Pradesh.
- 2.2 The project shall be implemented by **M/s SEW Energy Ltd.** on BOOT basis (Build, Own, Operate and Transfer) for a lease period of 40(forty) years from the Commercial Operation Date (COD). The project shall be reverted to the State Govt. on expiry of 40 years, free of cost, in good working condition. No extension of the lease period will be considered on expiry of the lease period of 40 (forty) years.
- 2.3 The entire cost of investigation, DPR preparation, project implementation and subsequent operation and maintenance of the project will be borne by **M/s SEW Energy Ltd.**


For **SEW ENERGY LIMITED**

(Y. BALAKRISHNA RAO)
DIRECTOR


Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 5 of 18

- 2.4 The project shall be developed in tune with the State Govt. policy to develop the project in the most environment, eco, and people friendly manner.
- 2.5 M/s SEW Energy Ltd. shall submit the Pre-Feasibility Report (PFR) within a period of 90 (ninety) days from the date of signing of the MoA. The DPR of the project shall be submitted by M/s SEW Energy Ltd., to the State Govt., prior to commencement of implementation of the project for their consent which shall not be unreasonably withheld.
- 2.6 All clearances required from the Central Govt. in connection with the project implementation shall be arranged by the Company itself. The State Govt. shall accord necessary clearances under its purview within a reasonable period. The Govt. shall extend all need based assistance in obtaining such clearances including licenses, approvals, sanctions, permits etc. as may be required for the project.
- 2.7 The Company shall make available information regarding water discharge regularly to the State Govt.
- 2.8 The State Govt. or its agents or a person authorized by the State Govt. in that behalf shall be free to investigate, survey and implement other projects of any nature either upstream or downstream of the project, provided that it shall not have any adverse impact on implementation, operation and maintenance of the Project.
- 2.9 The Company shall allow the State Govt., its officers/staffs or authorized agents to use the roads and facilities such as Post Office, School and Dispensary etc., that may be provided by the Company as part of the project. The State Govt. and its authorized agents shall be allowed to inspect the project and its site(s) upon advance notice.
- 2.10 The Company shall not incur any kind of financial liabilities in the name of the State Govt., in the execution and subsequent operation and maintenance of the project.
- 2.11 The Company will not be allowed to sell and transfer the power plant to any other party/parties without the prior permission of the State Govt. However, the Company shall be allowed to mortgage the power plant to the Lenders for availing financial assistance to meet the cost of the project with prior consent of the State Govt. Further, the Company shall not be permitted to transfer the project under this agreement to any third party (other than SPV formed by the Company for development of the project as permitted under this agreement) for development without prior concurrence of the State Govt.
- 2.12 The Company shall make available to the State Govt., for its use free of cost, an additional bay of suitable rating or other mutually acceptable arrangement.
- 2.13 The Company shall ensure that the execution, operation and maintenance of the project is in conformity with Prudent Utility Practices and the manufacturer's specifications.

For SEW ENERGY LIMITED
(Y. BADAKRISHNA RAO)
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
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- 2.14 The Company shall ensure proper quality control and safety measures during implementation of the project including any geological study, construction and testing at sites. The State govt. shall have the right to institute an appropriate mechanism to ensure the compliance by the Company in this regard.
- 2.15 The Company shall make suitable financial provision in the project cost, if required, for the catchments area treatment plans in consultation with the State Forest & Environment and Wild Life Management Department as approved by the Ministry of Environment & Forests, Govt. of India. The cost involved on this account shall be paid by the Company to the concerned authorities of the Govt.
- 2.16 The Company shall carry out Environmental Impact Assessment (EIA) in association with the State Environment & Forest Department and Wildlife Department as required under the Environment (Protection) Act, 1986 through consultant(s) drawn from a reputed organization and obtain the consent of State Pollution Control Board.
- 2.17 The Company shall be responsible for maintaining the ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of works. The Company shall take all reasonable measures to prevent any unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the works.
- 2.18 The Company shall ensure such minimum flow of water immediately downstream of the dam/barrage for downstream requirements as shall be specified in the environmental clearance. The Company shall take appropriate steps as may be required for the protection of fish culture as per environmental requirement.
- 2.19 The Company shall ensure that the water requirement for the construction of the project including potable drinking water shall be generally arranged and harnessed by them from the river source. The local sources of water supply may be utilized by the Company only to the extent it does not adversely affect the local people.
- 2.20 The Company shall ensure that the materials excavated from the site shall be dumped in the area duly approved by the State Pollution Control Board.
- 2.21 The Company shall ensure that the land is used only for the project and activities ancillary to the project.
- 2.22 The Company shall ensure that the taxes as per law are deducted at source from the payments made to the contractors and deposit the same to the State Govt.
- 2.23 As the capacity as well as the reach of the river mentioned in this agreement is tentative, it will be optimized while preparing Pre Feasibility Report / Detailed Project Report. Based on technical-economic considerations, if it is considered to be more economical & more viable to optimize the

For SEW ENERGY LIMITED
Rajakrishna Rao
RAJAKRISHNA RAO
DIRECTOR

[Signature]
Secretary (Power)
Govt. of Arunachal Pradesh
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power potential in the river, for such optimization of the capacity, formal approval of the State Govt. / Central Govt. if required, shall be obtained prior to implementation, if the project capacity exceeds 100 MW.

- 2.24 The Company shall be permitted to create a Special Purpose Vehicle (SPV) for implementation of this project under this agreement. The State Govt. agrees to transfer / issue all such permission / approvals relating to the project as may be required in the name of such Special Purpose Vehicle.
- 2.25 Since the project has been identified by the developer, as such the developer shall be totally responsible for proper identification of accurate site of the project, its viability and all other related issues including safety aspects for Implementation of the project. Further, the charge of the site subsequently shall not be permitted. In the event of the project found not viable in the process of formulation of the Detailed Project Report (DPR), the State Govt. shall not be responsible for the same or any expenditure incurred thereof by the Company. Allotment of other project in lieu of the project under consideration shall not be allowed.
- 2.26 The MoA shall be revised for installed capacity if necessary, as per the Pre Feasibility Report (PFR), which shall be further revised, if necessary, on finalization of the Detailed Project Report (DPR).
- 2.27 The Survey & Investigation activities should be started immediately and not later than 6 (six) months from the date of signing of the MoA, failing which the MoA signed will be canceled / withdrawn.
- 2.28 In the event of failure to implement the project for any reason by the Company, no other project will be allotted to the Company in lieu of the projects under consideration.

Article 3

LAND ACQUISITION AND PERIOD OF AGREEMENT / LEASE

- 3.1 The Site required for the construction, operation and maintenance of the project and for the associated works as will be assessed by the Company shall be transferred by the State Govt. to the Company on lease basis against payment of land revenue as per approved rate of State Govt. The period of lease will cease with the project getting reverted to the State Govt. on expiry of 40(forty) years. The Company shall be entitled to mortgage the land to the lenders/financers of the project with prior consent of the State Govt. subject to the condition that such period of mortgage shall not exceed the lease period. The State Govt. shall acquire for the Company under the Land acquisition Act, 1894 as in force and as per Bengal Eastern Frontier

For SEW ENERGY LIMITED
(S. BALAKRISHNA RAO)
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 8 of 18

Regulation, 1873 (5 of 1873) at the expense of the Company such private lands within the State of Arunachal Pradesh, as may be required from time to time by the Company for the construction, operation and maintenance of the project.

- 3.2 This agreement shall automatically expire on completion of 40 (forty) years of commercial operation.

Article 4

ADHERENCE TO REGULATIONS OF THE CENTRAL & STATE GOVT.

- 4.1 The Company shall strictly comply with the statutory regulations of the Central Govt. and the State Govt. while implementing the project.
- 4.1.1 The Company shall strictly comply with the provision of the Forest (Conservation) Act, 1980. The Company shall also pay the cost of raising the Compensatory Afforestation including payment of the Net Present Value (NPV) of the forest land being diverted for non-forest purpose under the Forest (Conservation) Act, 1980. The Company shall also pay the royalty on the forest produces such as timber, balfies, and all river bed materials etc as per prescribed rates of the State Govt. in force from time to time. If any precious and semi-precious minerals/stone etc is found from the river beds and/or from the land acquired for and transferred to or leased out to the Company for the purpose of construction and maintenance of the project or in case any object of archeological importance is found by the Company or any of its employees / contractors / sub-contractors during the course of construction/operation of the project, the Company shall hand over the same to the Govt. of Arunachal Pradesh.
- 4.1.2 The provision relating to labour welfare existing as in force under the labour Laws/Acts shall be strictly adhered to by the Company during the implementation/operation and maintenance of the project.
- 4.1.3 The provisions of the Electricity Act, 2003 will be diligently adhered to during implementation and subsequent operation and maintenance of Hydro-electric station.
- 4.2 The fishing, recreational and navigational rights, tourism prospects in the river, water channel, reservoir, lake, etc. shall remain vested in the Govt. of Arunachal Pradesh subject only to such restrictions as may be necessary for the operational requirements and safety and security of the project and the general guidelines of the Govt. of Arunachal Pradesh.

For SEW ENERGY LIMITED
(Signature)
(Y. BALAKRISHNA RAO)
DIRECTOR

(Signature)
Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

- 4.3 The Company shall comply with the Hydro Electric Power Policy of the Central / State Govt. as would be in force at the relevant point of time, during the course of implementation and subsequent operation and maintenance of the hydel station.

Article 5

FREE POWER TO THE STATE, EVACUATION & TRADING OF POWER

- 5.1 From the Commercial Operation Date (COD), the State Govt. shall be given free power @ 12 % in lieu of the distress caused. The free power shall be calculated at the bus bar and all taxes, duties, levies and costs in respect of the free power and towards its evacuation shall be borne by the State Government.
- 5.2 Over and above the free power, the State Govt. will have the first right to purchase the power generated from the project if the State Govt. so desire on mutually agreed terms and conditions. The State Govt. shall exercise its aforesaid right within 90 days of the receipt of such offer from the Company after the DPR is approved from all angles. A separate Power Purchase Agreement (PPA) will be entered into for such purchase of the power between the State Govt. and the Company on mutually agreed terms and conditions. In case the Company and the State Govt. do not arrive at a mutually agreed terms and conditions for the said PPA within 90 days of receipt of the offer, the Company shall be entitled to sell the power from the project to any other party at its discretion.
- 5.3 The Company shall be responsible for developing evacuation system for the project and liaise with the appropriate authorities for the evacuation of the power from the generating point. However, in the event of utilizing the infra-structure of the State Govt., necessary charges as mutually agreed shall be paid to the State Govt. The entire cost of grid interfacing, if so required, including cost of maintenance of the evacuation system will be the responsibility of the Company. However, in case the power generated from the project is purchased by the State Govt., the State Govt. shall be responsible for evacuation of power from the bus bar onwards at its own cost.
- 5.4 The Company shall allow the State Govt. to use its evacuation system and other infrastructures to the extent feasible, after accounting for the Company's requirements for evacuation of power generated from the project(s), if required by the State Govt. on payment of necessary charges. The State Govt. Such charges shall be mutually decided subsequently and a separate agreement entered into.

For SEW ENERGY LIMITED
Y. BALAKRISHNA RAO
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
Manager

- 5.5 It shall be the responsibility of the Company for the trading and sale of the power generated from the project. The State Govt. will not be in any manner responsible for the sale and trading of the power on behalf of the Company.

Article 6
SELF IDENTIFICATION OF PROJECT

- 6.1 The project is identified by the Company on its own. As such, the State Govt. shall not be responsible in any manner if the power potential gets reduced after the DPR is done.

Article 7
RECRUITMENT OF PROJECT PERSONNEL / AWARD OF WORK

- 7.1 The Company shall reserve the following categories of posts against the project to be filled up by the local tribal people, subject to the incumbents fulfilling the job requirements and considered suitable by the Company as per the criteria given below.
- | | | |
|----------------------------------|-----|-----|
| (a) Managerial/Professional post | ... | 25% |
| (b) Ministerial/Clerical post | ... | 50% |
| (c) Skilled jobs. | ... | 25% |
| (d) Unskilled jobs. | ... | 75% |
- 7.2 The Company shall give preference to the local contractors fulfilling the eligibility criteria in the award of the work except for the specialized jobs.

Article 8
REHABILITATION & RESETTLEMENT OF PROJECT AFFECTED FAMILIES

- 8.1 The Company shall earmark a reasonable amount for the social works in accordance with the National Policy on Rehabilitation & Resettlement - 2003 (NPRR - 2003). The Company shall also adhere/conform to the local laws of the State.

For SEW ENERGY LIMITED
(Signature)
(Y. BALAKRISHNA RAO)
DIRECTOR

(Signature)
Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 11 of 18

- 8.2 Rehabilitation & Resettlement plan if any, of the oustees from the project/project affected families shall be executed by the State Government as per the approved rehabilitation and re-settlement plan at the cost of the Company, keeping in view the latest guidelines issued by Govt. of India on the subject. The R&R plan shall in any case be not inferior to the National Policy on Rehabilitation & Resettlement-2003 of the Central Govt.

Article 9

LAW & ORDER

- 9.1 The State Government would make arrangement to maintain general law and order in and around project area for security and safety of properties of the project, protection of life of the workers and experts/ Engineers/Officers during execution, commissioning and subsequent operation and maintenance. However, if any special security arrangement is required by the Company within the project premises, such arrangements shall be made by the State Govt. at the cost of the Company.

Article 10

INDEMNITY

- 10.1 The Company shall be fully responsible for any damage or loss arising out of the construction, operation or maintenance of the project to any property or person and the Company also undertakes to indemnify the Govt. of Arunachal Pradesh on such account.
- 10.2 The widening, strengthening and construction of the National Highways, State Highways and Bridges and other roads, if required by the Company, shall be executed by the appropriate State Govt. or Central Govt. agency on payment of reasonable cost and departmental charges in advance by the Company as per the estimate to be prepared by the executing State / Central Govt. agency. However, if the Company so desires to do the above activities at its own cost and if permissible under rule, the Company shall be permitted to do so. If any damage to the road and other Govt. and/or public property is done for which only the Company is responsible, it shall be got repaired by the Company at its own cost.
- 10.3 The Company shall be liable and responsible for all its acts, neglects, omissions and commissions and for the neglects, omissions and commissions of its contractors and employees.

For SEW ENERGY LIMITED
(Signature)
(Y. BALAKRISHNA RAO)
DIRECTOR

(Signature)
Secretary (Power)
Govt. of Arunachal Pradesh
Manager

Article 11
FORCE MAJEURE

- 11.1 Either party shall not be responsible in any manner for the losses arising out of the Force Majeure situation such as earth quake, flood, fire, explosion, epidemic, cyclone, external invasion, civil commotion, riots, landslide etc., which are beyond the reasonable control of the affected party. However, the party so affected, upon serving notice thereof to the other party setting out therein particulars thereof shall be excused from performance of its obligations to the extent prevented, delayed or interfered with for the period Force Majeure conditions persist. The party so affected shall make its best efforts to remove such cause of Force Majeure as expeditiously as possible and shall continue performance hereunder with due dispatch whenever such causes) is removed.

Article 12
TERMINATION OF AGREEMENT AND TAKING OVER OF THE PROJECT

- 12.1 The Company shall achieve the financial closure within a period of 12 (twelve) months from the date of receipt of the Techno-economic Clearance (TEC), if required, from the Central Electricity Authority(CEA), approvals from Ministry of Environment and Forest (MoEF) and other statutory clearances. In the event that it is confirmed as impossible or impractical to achieve Financial Closure or if the Financial Closure is not achieved on or before the expiry of twelve months from the aforesaid date, for the reasons other than those attributable to the Government of Arunachal Pradesh, the Govt. of Arunachal Pradesh reserves the right to terminate the agreement.
- 12.2 In the event of stoppage of the construction works of the project by the Company, for a period of more than 12(twelve) months for reasons not covered under Force Majeure and for reasons attributable to the Company and/or abandonment of the project by the Company, the State Govt. shall, after giving due opportunity to the Company to resume the work, have the right to terminate the agreement. In the event of termination of the agreement under this clause, the Govt. of Arunachal Pradesh shall have the right to take over the project on "As is where is" basis and no claim of the Company shall be entertained. The Govt. of Arunachal Pradesh shall also have the exclusive right to re-allot such project to any other developer.

For SEW ENERGY LIMITED
(Y. BALAKRISHNA RAO)
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 13 of 18

- 12.3 In case the Company does not commence implementation of the project within a period of 2 (two) years from the date of signing of this agreement or within a period of 1 (One) year from the date of receipt of all the statutory clearances, such as Forest & Environment, Techno-economic clearance etc, whichever is earlier, the project shall be reverted to the State Govt. on "As is where is" basis alongwith all the reports, other documents etc., free of cost. However, the above time period shall be automatically extended by the aggregate of the period during which the Company could not take steps to commence implementation by reason of Force Majeure conditions. Thereafter, the State Govt. shall have the exclusive right to re-allot the project to any third party for further development of the project. The Company, if interested, on its own may take necessary steps for reimbursement of its expenditures from such third party without any involvement of the State Govt.

Article 13

RESOLUTION OF DISPUTES & ARBITRATION THEREOF

- 13.1 In the event of any difference / dispute arising between the Parties, the same shall be resolved in accordance with the provisions of the Arbitration and Conciliation Act, 1996, unless the same has not been resolved amicably by mutual consultations within 90(Ninety) days of the reference of dispute by either Party. The venue of the arbitration shall be Guwahati. The language of arbitration shall be English. The cost of arbitration shall be shared equally. In case of any litigation, the Gauhati High Courts shall have the sole Jurisdiction.

Article 14

CONFIDENTIALITY

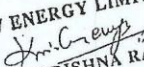
- 14.1 Each party hereto agrees that it shall not divulge any trade, commercial or technical secrets or confidential matters of one another to any third party, save and except for the purpose of implementation, operation and maintenance of the Project.


For SEW ENERGY LIMITED
(Y. BALAKRISHNA RAO)
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Article 15
PROCESSING AND UPFRONT FEES

- 15.1 The Company has deposited a sum of Rs. 38.40 Lakhs (Rupees Thirty Eight Lakhs Forty Thousand) only @ Rs. 40,000/- (Rupees Forty Thousand) per MW of the proposed installed capacity vide Demand Draft No. 155607 Dtd. 18/02/2008 drawn on State Bank of India, payable at Itanagar towards nonrefundable processing in favour of Secretary (Power), Govt of Arunachal Pradesh at the time of signing of the Memorandum of Agreement the receipt of which sum the State Govt. hereby acknowledges.
- 15.2.1 The Company has deposited the upfront payment of Rs. 48.96 Lakhs (Rupees Forty Eight Lakhs Ninety Six Thousand) only @ Rs. 51,000/- (Rupees Fifty One Thousand) per MW of the proposed installed capacity with the Govt. of Arunachal Pradesh at the time of signing of this Memorandum of Agreement vide Demand Draft No. 155609 Dtd. 18/02/2008 drawn on State Bank of India, payable at Itanagar, the receipt of which payment of the State Govt. hereby acknowledges and another installment of same amount i.e. Rs. 48.96 Lakhs (Rupees Forty Eight Lakhs Ninety Six Thousand) only @ Rs. 51,000/- (Rupees Fifty One Thousand) shall be deposited between the 36th (thirty sixth) and the 37th (thirty seventh) months from the date of signing of the MoA. This upfront payment shall be adjusted from the free power of the State Govt. in the first year of commercial operation which shall be non-interest bearing. The payment shall be made by demand draft drawn in favor of the Secretary (Power), Govt. of Arunachal Pradesh. In the event of the project becoming not viable after the DPR, such upfront payment shall be refunded to the Company without any interest on it but if the project is not taken up due to the fault of the Company, the State Govt. shall have the absolute right to forfeit the upfront payment.
- 15.3 In the event of reduction in the capacity of the project, the State Govt. shall not be bound to refund the proportionate reduction in the amount of the upfront premium including the processing fee. However, in the event of capacity addition in the installed capacity of the project, the Company shall deposit the processing fee and the upfront premium @ Rs. 40,000/- per MW and Rs. 51,000/- per MW respectively for the increased capacity of the project.
- 15.4 The upfront premium paid shall not form part of the project cost as the loading of the project will have a direct bearing on the cost of generation.

For SEW ENERGY LIMITED

(A. B. AKRISHNA RAO)
DIRECTOR


Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 15 of 18

- 15.5 The Company shall contribute an amount @ one paise per unit of electricity sold towards local area development fund. This contribution shall be subject to proportionate enhancement with increase in the rate of tariff.
- 15.6 The Company shall deposit 0.1% of the Project Cost as Project Monitoring, Evaluation and Coordination (both technical and financial) fee by Demand Draft in favour of the Secretary (Power), Govt. of Arunachal Pradesh, Itanagar within one month of the finalization of the Detailed Project Report

Article 16.

PENALTY.

- 16.1 The Company shall commission the project within a period of 6 (Six) years from the date of receipt of all statutory clearances from State/Central Govt. agencies/authorities, achieving of Financial Closure and availability of land required for the project. In the event of failure on the part of the Company to commission the project within the targeted period, the Company shall be liable to pay penalty @ Rs. 10,000/- (Rupees Ten Thousand) per MW per month to the Govt. of Arunachal Pradesh for the extended period of commissioning, except when such delay is caused by Force Majeure events.

Article 17

PROJECT MONITORING COMMITTEE

- 17.1 The State Govt. shall constitute a Project Monitoring Committee with the Secretary (Power), Govt. of Arunachal Pradesh or any other appropriate State Govt. authority as the Chairperson for the purpose of overseeing the progress of the project and sort out the difficulties and issues that could arise with respect to implementation of the project. The Company shall be represented by a senior executive of the Company or its associate companies.

Article 18

OBLIGATIONS OF THE STATE GOVT.

The Govt. of Arunachal Pradesh hereto recognizes that:

- 18.1 Nyukcharong Chu HEP shall utilize the flowing water of the river to generate electricity. Such right to utilize water available upstream of the project are granted by the Govt. of Arunachal Pradesh for non-consumptive use only without charging any royalty, duty, cess or levy of any kind of such use of water.

For SEW ENERGY LIMITED
(Signature)
(Y. BALAKRISHNA RAO)
DIRECTOR

(Signature)
Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

Page 16 of 18

- 18.2 The tariff for the energy generated at the project during pre-commissioning stage shall be fixed as per the specific guidelines of Govt. of India for such energy for hydro-electric projects.
- 18.3 The State Govt. shall provide due assistance to the Company to obtain, in accordance with the prevailing Law and regulations, necessary permits to install and use suitable radio communication systems including satellite communication equipment and walkie-talkies. Any system connecting with the national telecommunication system or any international telecommunication system will be subject to approval / license from the relevant authorities for the issuance of which the State govt. shall assist.
- 18.4 The State govt. shall provide due assistance to the Company under the Law and regulations, to obtain permission to procure, store and use such explosives which are required for the project; provided that the responsibility of obtaining such a clearance and making the necessary arrangements shall rest with the Company.
- 18.5 The State govt. shall provide due assistance to the Company in obtaining all necessary import licenses for the project from the relevant Central Govt. authorities to the extent permissible by Law. The Company shall submit a list of such equipments required to be imported for the project to the State govt. for approval. The State Govt. shall provide necessary need based assistance in obtaining the concessions and incentives given by the Central Govt. for setting up of projects in North Eastern States.
- 18.6 The State Govt. can impose an environment cess, according to the Law, which shall not be more than one paise per unit of electricity sold and shall be collected at the source by the Company and deposited with the State Govt. No other taxes/duties/cess will be levied on the sale of electricity by the Company within the State or outside the State.
19. Save and except as provided aforesaid none of the parties hereto shall assign their respective rights and obligations hereunder without prior consent in writing of the other party hereto.
20. The Company shall be governed and bound by the guidelines as may be notified by the Govt. of India or the State Govt. under the relevant Acts from time to time.
21. The Company hereby covenants that on demand from the Govt. of Arunachal Pradesh, it shall pay the amounts, if any payable hereunder by it to the Govt. of Arunachal Pradesh failing which the Govt. of Arunachal Pradesh may recover the same from the Company in any legal manner or as arrears of land revenue.

SECRETARY
NEW ENERGY
(Y. E. LAKSHNA RAO)
DIRECTOR

Secretary (Power)
Govt. of Arunachal Pradesh
Itanagar

22. The Company shall bear the stamp duty on the execution of this agreement.

IN WITNESS WHEREOF THE PARTIES THROUGH THEIR AUTHORISED REPRESENTATIVES
HAVE SIGNED THOSE PRESENTS ON THE DAY MONTH AND YEAR MENTIONED ABOVE.

FOR AND ON BEHALF OF THE
GOVERNOR OF ARUNACHAL PRADESH



4/12/09
[T. NORBU] Secretary (Power)
Secretary (Power), Govt. of Arunachal Pradesh, Itanagar

Signature with seal
Witness

FOR AND ON BEHALF OF
M/S SEW ENERGY LTD.

[Y. BALAKRISHNA RAO]
DIRECTOR

For SEW ENERGY LIMITED

Signature with seal
Witness

(Y. BALAKRISHNA RAO)
DIRECTOR

1/12/09
Jayaprakash N.,
Business Associate

