

**SCHEDULE 1**  
**TARIFF, INDEXATION AND ADJUSTMENT**

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## PART I: GENERAL

### 1. Introduction

- 1.1 This Schedule 1 is attached to and constitutes an integral part of the Energy Purchase Agreement dated \_\_\_\_\_ 2016 (the “EPA” or the “Energy Purchase Agreement”) by and between the Purchaser and the Seller. This Schedule 1 specifies the methods for calculating:
- (a) the monthly Energy Price for Energy Payments to be made to the Seller by the Purchaser under Section 9.1 of the EPA (*Energy Payments*), calculated in the manner provided in Part II consistent with the Tariff Determination;
  - (b) the Pass-Through Item(s) to be paid to the Seller by the Purchaser under Section 9.2 (a) of the EPA (*Pass-Through Item(s)*) stated in Part IV;
  - (c) the Supplemental Tariffs to be paid to the Seller by the Purchaser under Section 9.2 (b) of the EPA (*Supplemental Tariffs*), calculated in the manner provided in Part III;
  - (d) the liquidated damages to be payable by the Seller to the Purchaser under Section 2.9(b) and Section 9.3 of the EPA (*Liquidated Damages*) stated in Part II;
  - (e) The procedure for indexation and adjustments for price index changes (local and foreign), for foreign exchange rate variations and interest rate variations against the reference values are set forth in Part V; and
  - (f) The values for the Degraded Annual Benchmark Energy for the Term are set forth in Annex 2.
- 1.2 The billing and payment procedures as set forth in Article IX of the EPA shall apply to all payment obligations referred to in this Schedule 1, unless otherwise specified in this Schedule 1.

### 2. Definitions

Capitalised terms used but not defined in this Schedule 1 shall have the meaning given to them in the body of the Energy Purchase Agreement. Wherever the following terms appear in this Schedule 1, they shall have the meanings stated below:

“Debt Servicing Component – (Debt<sub>(REV)</sub>)” has the meaning ascribed to it under Section 4.1 of this Schedule 1 as determined by NEPRA from time to time.

“Exchange Rate” means the TT&OD selling rate for Dollars expressed in Rupees, as published by the National Bank of Pakistan prevailing at the close of Wednesday that is also a Business Day, and with respect to any Wednesday that is not a Business Day, the TT&OD selling rate for Dollars expressed in Rupees, as published by the National Bank of Pakistan prevailing at the close of the last preceding Business Day prior to such Wednesday.

“Insurance Component – (Ins<sub>(REV)</sub>)” has the meaning ascribed to it under Section 4.1 of this Schedule 1 as determined by NEPRA from time to time.

“Interest Charges Component – (I<sub>(REV)</sub>)” is the rate expressed in Rs. / kWh for “Annual

Interest” in the debt service schedule of the Tariff Determination for the relevant Month, as determined by NEPRA from time to time.

“O&M Component – (OM<sub>(REV)</sub>)” has the meaning ascribed to it under Section 4.1 of this Schedule 1 as determined by NEPRA from time to time.

“Principal Repayment Component – (P<sub>(REV)</sub>)” is the rate expressed in Rs. / kWh for “Annual Principal Repayment” in the debt service schedule of the Tariff Determination for the relevant Month, as determined by NEPRA from time to time.

“Return on Equity Component – (ROE<sub>(REV)</sub>)” has the meaning ascribed to it under Section 4.1 of this Schedule 1 as determined by NEPRA from time to time.

“Pass-Through Items” comprises of the items identified under Section 6 of this Schedule 1.

“Quarter” means each three (3)-Month period of a calendar year, being 1 January through 31 March, 1 April through 30 June, 1 July through 30 September, or 1 October through 31 December, as the case may be, and the period commencing on the Commercial Operations Date and ending at the beginning of any such three (3)-Month period.

### **3. Construction**

- 3.1 This Schedule 1 (including the Annexes) shall be read in conjunction with and subject to Article IX of the Energy Purchase Agreement. To the extent that any provision of this Schedule 1 is inconsistent with Article IX or any other article or section of the Energy Purchase Agreement, the provisions of Article IX or the other relevant article or section of the Energy Purchase Agreement, as the case may be, shall prevail unless otherwise specified.
- 3.2 This Schedule 1 (including the Annexes) shall be read in conjunction with and subject to the Tariff Determination. To the extent that any provision of this Schedule 1 is inconsistent with the Tariff Determination, the provisions of the Tariff Determination shall prevail.
- 3.3 References to Parts and Sections in this Schedule 1 are to Parts and Sections of this Schedule 1, unless indicated otherwise. References to Tables and Annexes in this Schedule 1 are to the Tables and Annexes of this Schedule 1, unless indicated otherwise. References to Articles and Sections of the Energy Purchase Agreement are to articles and sections contained in the body of the Energy Purchase Agreement.

## PART II: ENERGY PRICE AND LIQUIDATED DAMAGES

### 4. Energy Price

- 4.1 From and after the Commercial Operations Date, the Energy Price ( $EPr_{cm}$ ) for the Energy Payment for the relevant Month, expressed in Rs. /kWh, shall be calculated as follows:

$$EPr_{cm} = OM_{(REV)} + Ins_{(REV)} + ROE_{(REV)} + Debt_{(REV)}$$

Where:

$EPr_{cm}$  = Energy Price for the relevant Month

$OM_{(REV)}$  = the rate expressed in Rs. / kWh for “O&M” in the Tariff Determination for the relevant Quarter which includes the Month “m”, as determined by NEPRA from time to time.

$Ins_{(REV)}$  = the rate expressed in Rs. / kWh for “Insurance” in the Tariff Determination for the relevant Quarter which includes the Month “m”, as determined by NEPRA from time to time.

$ROE_{(REV)}$  = the rate expressed in Rs. / kWh for “ROE” or “Return on Equity” in the Tariff Determination for the relevant Quarter which includes the Month “m”, as determined by NEPRA from time to time.

$Debt_{(REV)}$  = the rate expressed in Rs. / kWh for “Debt Servicing” in the Tariff Determination for the relevant Quarter which includes the Month “m”, as determined by NEPRA from time to time

- 4.2 The payment obligations of the Purchaser towards the Seller in relation to Reference Tariff and each component thereof, are limited to the extent of tariff payment by the Purchaser to the Seller, whether or not such tariff payments actually compensate the Seller for the cost(s) actually incurred by the Seller in relation to each of the components of the Reference Tariff.

### 4.3 Liquidated Damages

a) Delay in Commissioning

In the event the Complex is not Commissioned on or before the Required Commercial Operations Date, then the Seller shall pay to the Purchaser pursuant to Section 9.3(b) of the Energy Purchase Agreement, Monthly in arrears, as liquidated damages as calculated hereunder for delays in the occurrence of the Commercial Operations Date at the rate of US\$ 2.5 per kW of the Contract Capacity per month prorated daily until the Commercial Operations Date:

$$LD_M = \frac{US\$2.5 \times \text{Contract Capacity in MW} \times 1,000}{\text{Number of days in the Month}} \times \text{No. of Days delayed in a Month}$$

$LD_M$  = liquidated damages due to delay in Commissioning in any Month

b) Liquidated damages due to reduction of Contract Capacity

Pursuant to Section 2.9 of the Energy Purchase Agreement in the event the reduction in the Contract Capacity elected by the Seller is greater than 5% and less than or equal to 10% of the Contract Capacity, then the Seller shall pay to the Purchaser liquidated damages for such shortfall in Contract Capacity as per the following formula:

$$LD_M = SF_{CC} \text{ in MW} \times US\$ 350,000$$

Where

$LD_M$  = Liquidated damages due to reduction in Contract Capacity

$SF_{CC}$  = The reduction in Contract Capacity elected by Seller pursuant to Section 2.9 (b) of the Energy Purchase Agreement (i.e. > 5% and  $\leq$  10% of the Contract Capacity)

c) Liquidated damages for Shortfall Energy

Pursuant to Section 9.3(c) of the Energy Purchase Agreement, in the event of Shortfall Energy, the Seller shall pay to the Purchaser liquidated damages for the Shortfall Energy per the formula stated in the definition of Shortfall Energy.

### PART III: SUPPLEMENTAL TARIFFS

#### 5. Supplemental Tariff Payment for Pakistan Political Event or Change in Law

5.1 If, due to a Pakistan Political Force Majeure Event (“**PPFME**”) or a Change in Law Force Majeure Event (“**CLFME**”), a Supplemental Tariff Payment is due and payable to the Seller from the Purchaser as provided in Sections 15.8 (b) and 15.8 (c) of the Energy Purchase Agreement, the Purchaser shall, following the completion of the Restoration, pay to the Seller the Supplemental Tariff Payment, until the recoverable costs of a Restoration have been received in full by the Seller from the Purchaser, subject to NEPRA determination and notification in official gazette, as applicable. The Supplemental Tariff Payment (which shall be structured to allow the Seller to recover the reasonable and necessary costs of a Restoration net of insurance proceeds, if any, over the remainder of the Term, as provided in this Section 5) shall be calculated in accordance with Section 5.2. Each Pakistan Political Force Majeure Event or Change in Law Force Majeure Event, that may be unrelated to each other, may lead to a separate Supplemental Tariff Payment.

5.2 The Supplemental Tariff Payment for a Month arising from a Restoration (“**Monthly Supplemental Tariff Payment**”) shall be calculated as follows:

$$\mathbf{STP}_m = \mathbf{RRR}_{\text{fixed}} * \mathbf{ME}_m$$

where:

**STP<sub>m</sub>** = the Supplemental Tariff Payment for a Restoration, in Rs. /kWh, for a Month;

**RRR<sub>fixed</sub>** = the **Restoration Recovery Rate**, in Rs./kWh, which rate shall be calculated one time following the agreement by the Parties on the Restoration costs, as determined by NEPRA and shall remain fixed thereafter, and which rate shall be equal to:

$$\frac{R_t}{[(ARE_y/8760) \times H_{term}]}$$

where:

**R<sub>t</sub>** = the total cost of the Restoration in accordance with Section 15.6 of the Energy Purchase Agreement as determined by NEPRA;

**ARE<sub>y</sub>** = the annual energy production in kWh corresponding to the relevant Degraded Annual Benchmark Energy appearing in column 2 of the table at Annex-2;

**H<sub>term</sub>** = the total number of hours remaining in the Term from time *t* divided by two (2); and

**t** = following the Day the Parties agree on Restoration costs to be recovered by the Seller, as per NEPRA determination;

**ME<sub>m</sub>** = Monthly Energy for the relevant Month.

Provided however that such payments (Supplemental Tariff Payment) shall be made only upto the energy (kWh) equivalent to the energy production based on the Degraded Annual Benchmark Energy (appearing in column 2 of the table at Annex-2) over the remaining Term of this Agreement i.e.  $(ARE_y / 8760) \times H_{term}/2$ .

- 5.3 Unless NEPRA approves an alternate cost of capital (including debt and equity), the Seller shall be entitled to receive in accordance with Section 15.8 (d) of the Energy Purchase Agreement cost of capital (including debt and equity) of LIBOR plus 4.5% on the scheduled unpaid portion of the total cost of the restoration as the case may be, through the period of cost recovery. The applicable LIBOR shall be the rate prevailing on the date the Complex returns to operation or if the Complex did not seize operation, the date on which the restoration is completed. Any delay in Supplemental Payment invoice will attract delay payment rate until paid.
- 5.4 At any time after the first (1<sup>st</sup>) Business Day of each Month, the Seller may submit an invoice to the Purchaser stating in Rupees for the Supplemental Tariff Payment, inclusive of returns thereon, for the previous Month together with supporting information as may reasonably be necessary to substantiate the amounts claimed in the invoice.
- 5.5 The Purchaser may seek to verify the calculation of a Supplemental Tariff Payment for a Restoration inclusive of return thereon and may require the Seller to provide to it copies of its calculations, with reasonable supporting information, which the Seller shall provide within twenty (20) Business Days of such request. Within one (1) year following the commencement of such payments, the Purchaser shall have the right to engage, at its own cost, an independent auditor to audit and examine the costs claimed by the Seller, and the Seller shall make all of its relevant books and records available to the Purchaser and its auditors in connection with such audit or examination, provided however if such Restoration cost is submitted to and approved by NEPRA, no such audit shall be conducted.

## PART IV: ADDITIONAL PAYMENTS

### 6. Pass-Through Item(s)

- 6.1 Pass-Through Items shall be payable after Commercial Operations Date by the Purchaser to the Seller on the basis of the actual costs reasonably incurred by the Seller to satisfy the requirements of the Energy Purchase Agreement or to the extent that the Seller is obligated pursuant to the Laws of Pakistan to make payment for such Pass-Through Item.
- 6.2 The Seller may present an invoice(s) to the Purchaser for Pass-Through Items at any time on or after the first (1st) Day of the Month following the Month in which the cost(s) was incurred by the Seller.
- 6.3 The following items shall be Pass-Through Items:
- (a) payments by the Seller into the Workers' Welfare Fund and the Workers' Profit Participation Fund for its employees required to be paid in relation to the Project pursuant to the Laws of Pakistan;
  - (b) Sales tax, excise duty or any other taxes, duties, levies, charges, surcharges, or other governmental impositions (including without limitation export tax, octroi, rawangimahsool etc.) wherever and whenever payable on the generation, sale, exportation or supply of electricity or electricity generating capacity by the Seller during the Term, provided that the Seller has not been previously compensated fully for any such item by the Purchaser or by the GOP;
  - (c) the cost of the Metering System if not procured by the Purchaser, as provided in Section 7.1 (b) of the Energy Purchase Agreement;
  - (e) any upgrade to the protective devices of the Complex required by the Purchaser pursuant to Section 6.6 (c) of the Energy Purchase Agreement; and
  - (f) the cost of the DPLC or Fiber Optic System including OPGW/ADSS, SDH/PDH unit along with all the related in-door and out-door equipment, as provided in Section 7.7(a)(iii) of the Energy Purchase Agreement.

For avoidance of doubt, if particular type of Tax is stated to be a Pass-Through Item in this Section 6 then any change in Tax rate for such Tax upwards or downwards shall be treated as a Pass-Through Item.



## **PART V: INDEXATION AND ADJUSTMENT FACTORS**

### **7. Indexation and Adjustment Factors**

- 7.1 Indexations and adjustment factors shall be determined by NEPRA as the Tariff Determination.
- 7.2 At the beginning of each Quarter following the Commercial Operation Date (COD) the Seller shall on or before the fifth (5<sup>th</sup>) Business Day or the date of notification by NEPRA, following the end of a Quarter, deliver to the Purchaser the current indices and values determined by NEPRA and notified in the official Gazette of the Government of Pakistan relevant for the determination of the Energy Price. The Purchaser may request the Seller to provide to the Purchaser reasonable supporting information, and the Seller shall do so within ten (10) Business Days of such request.
- 7.3 If any index used herein ceases to be available, the Parties shall request NEPRA to determine an alternative index, which determination when made shall be binding on the Parties for all purposes of such index hereunder. Pending the determination by NEPRA, the last available value of such index shall be used for all relevant purposes hereunder. Upon the determination of such index by NEPRA, all payments made by either Party during the period of unavailability of a current value of the relevant index, shall be recomputed using the applicable value of the replacement index, and the differences, if any, shall be paid by the owing Party without any interest / mark-up.

**ANNEX 1 TO SCHEDULE 1**

[•]

Tariff Determination

REFERENCE # [•], dated [•]

**ANNEX 2 TO SCHEDULE 1**

Contract Capacity (MW)	[•]
Hours in a Year	[•]
Capacity Utilization Factor	[17] / [18] %
Annual Benchmark Energy	[•]
Degradation (annual)	0.50%
<b>End of Agreement Year</b>	<b>Degraded Annual Benchmark Energy (kWh)</b>
1	[•]
2	[•]
3	[•]
4	[•]
5	[•]
6	[•]
7	[•]
8	[•]
9	[•]
10	[•]
11	[•]
12	[•]
13	[•]
14	[•]
15	[•]
16	[•]
17	[•]
18	[•]
19	[•]
20	[•]
21	[•]
22	[•]
23	[•]
24	[•]
25	[•]