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LOAN NO.____TO_____ (Total Loan:___Nos.)
(Applicable to RTL to State/Central sector borrowers)

MEMORANDUM OF AGREEMENT

BETWEEN

POWER FINANCE CORPORATION LIMITED

AND

(Utility)

DATED

MEMORANDUM OF AGREEMENT

This agreement is made on this day of 2009 BETWEEN POWER FINANCE CORPORATION LIMITED, A Government Company, having its Registered Office at 'Urja Nidhi Building', 1, Barakhamba Lane, Connaught Place, New Delhi - 110001 (hereinafter referred to as "the Corporation") of the one part

AND

M/s (Name of Electricity Board) / Utility.....

having its Head/Registered Office at (hereinafter referred to "**the Borrower**") of the other part.

WHEREAS the Central Government has launched Restructured Accelerated Power Development & Reform Programme (hereinafter referred to as "**R-APDRP**") during the XI Five Year Plan with revised terms and conditions as a Central Sector Scheme to establish base line data system and reduce AT&C loss.

AND WHEREAS the Borrower intends to undertake execution of various distribution projects under R-APDRP on the terms & conditions contained in the Order dated 19.09.2008 and Guideline for R-APDRP issued by Ministry of Power on 22.12.2008

AND WHEREAS the Borrower has undertaken implementation of Projects under Part-A of R-APDRP (Loan Nos..... to.....) as per the list attached herewith as **Annexure-I** (hereinafter collectively referred to as "**the Project**") AND WHEREAS the Borrower by its letter datedmade an application to the Corporation for grant of total loan of Rs.....(Rupees only) to be utilised for executing the Project (list of individual loan amount sanctioned for the project is listed in Annexure-I).

AND WHEREAS (a) the Ministry of Power, Government of India, (b) Corporation, (c) State Government and (d) the Borrower has entered into a Memorandum of Agreement

(Quadripartite Agreement) dated (hereinafter referred to as the “**R-APDRP Quadripartite Agreement**” which forms a part and parcel of this Agreement)

AND WHEREAS, the Corporation acting as a Nodal Agency has agreed to disburse the funds on behalf of the Ministry of Power, Govt. of India as financial assistance to the Borrower to implement the ‘Project’ on the terms and conditions set out therein.

AND WHEREAS the Corporation has sanctioned total loan of Rs.....(Rupees only) to the Borrower for the purpose of the execution of the said Project towards Loan Nos..... to on the terms and conditions contained in the Corporation’s Sanction Letter dated *and any amendments thereof* to the Borrower and hereunder written (list of individual loan amount sanctioned for the project is listed in **Annexure-I**).

AND WHEREAS the Borrower by its Resolution dated day of passed at the meeting of its Board on theday of2009 has agreed to accept the said terms and conditions of the Loan Nos. to

AND WHEREAS according to one of the conditions of the loans the Borrower is required to ensure timely debt service for which the state government shall make necessary annual budgetary allocation for payment of principal, interest and other charges as applicable [**Applicable in case of Electricity or Power departments**].

AND WHEREAS according to one of the conditions of the loans the Borrower is required to ensure timely debt service for payment of principal, interest and other charges as applicable. In the event of default, the entire sum released directly to the Borrower for implementation of Project under R-APDRP shall be deemed to have been released out of Central Plan Assistance to the State Government [**Applicable in case of Power Utility/ SEB**].

AND

the Borrower shall ensure that the State Government shall furnish a Government Guarantee, in terms of the ‘R-APDRP Quadripartite Agreement’, with a provision that *in case of default by the Borrower, the Corporation shall be entitled to receive/recover all outstanding dues from the Borrower* on account of principal, interest including penal interest, commitment charges, fees, other charge/costs and any other money due and payable by the Borrower to the Corporation, from the Central Plan Assistance due to the State. *The State Government Guarantee in the form of recovery from Central Plan Assistance due to State may be invoked after invoking the escrow account and the pari-passu charge on assets.*

AND

the Borrower shall ensure to open an Escrow Account in the bank to ensure debt servicing of principal, interest and other charges for the entire pendency of the loan to the satisfaction of the nodal agency.

AND

the Borrower shall ensure first charge, in favour of the Corporation (on pari-passu basis, if in syndication) shall be taken by way of hypothecation on the newly financed assets under the Project as securities for loans both present and future, as per details enclosed. Wherever this is not possible or value of such assets is not adequate, charge can be taken on / extended to other assets of the Borrower. Existing assets shall be valued on depreciated replacement cost basis.

Security shall be determined by applying coverage factor of 1.1 times of value of asset(s). Thus, where the assets financed under the loan do not cover the said factor, the Borrower shall have to provide other assets to meet the said factor within a period of to the satisfaction of the Corporation.

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

1. The Corporation will lend and advance to the Borrower the total sum of Rs.....(Rupees only) on the terms and conditions set out in the Corporation's Sanction letter dated *and any amendments thereof* and on the terms and conditions herein set out. The list of loans sanctioned w.r.t. each of the approved projects is enclosed as Annexure-I. The said letters shall form an integral part of this Agreement as Annexure-II 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. due and payable to the Corporation in accordance with the terms and conditions set out in that behalf in the said letter of the Corporation dated *and any 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 loan sanction and to the satisfaction of the Corporation or the Consultant appointed by the Corporation to review the Project as per the R-APDRP Quadripartite Agreement.
5. The Borrower has represented to and assured the Corporation that the loans 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 fulfillment of the obligations of the Borrower in terms of the R-APDRP Quadripartite Agreement, with a provision that in case of default by the Borrower, the Corporation shall be entitled to receive all outstanding dues of the Borrower from the Central Plan Assistance due to the State of _____. The state Government Guarantee in the form of recovery from Central Plan Assistance due to State may be invoked after invoking the escrow account and the pari-passu charge on assets.

The Borrower agreed to create charge on assets by way of :

- (a) FIRST charge by way of hypothecation in favour of the Corporation (on pari-passu basis if in syndication) on the newly financed assets under the project as securities for each of the loans on 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. Wherever this is not possible or value of such assets is not adequate, charge can be taken on / extended to other assets of the Borrower's Existing assets shall be valued on depreciated replacement cost basis.;

Security shall be determined by applying coverage factor of 1.1 times of value of asset(s) of individual projects. Thus, where the assets financed under the each of the individual loans do not cover the said factor, the Borrower shall have to provide other assets to meet the said factor within days to the satisfaction of the Corporation.

AND

- I* The Borrower shall make out good marketable title to its properties to the satisfaction of the Corporation and keep the said properties in marketable and good condition and insure the same in the manner provided for and covering the risks mentioned in the Deed of Hypothecation/Indenture of Mortgage 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 each 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.
- 6(b) The Borrower shall open and maintain an Escrow Account with a scheduled bank as acceptable to the Corporation to escrow the funds, loans and any other monies receivable during the tenor of the Project.
The Borrower shall ensure that an amount equivalent to the (...) installment of the Principal amount along with interest and other charges shall be maintained for ensuring debt servicing for the loans under Part-A of R-APDRP.
7. The Borrower shall furnish to the Corporation such periodical reports of the utilisation of the amount of the loans 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 or a consultant appointed by the Corporation in terms of the APDRP Quadripartite Agreement shall have the right to inspect the project and all the books of accounts, records and documents relating thereto at any time without any objections from the Borrower.

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, for 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 must be and continue to be the owner and in physical possession of the Project at the time of disbursement of each installment of loan amount and till all the money due to the Corporation are fully liquidated by the Borrower.
11. 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 (e.g. 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.
12. 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.
13. The Corporation shall without prejudice to its other rights and remedies are entitled to recall the loan at any time before the due date for repayment thereof, if the Borrower fails to fulfill 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 Chairman & 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.
14. 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/Speed Post) or by Email 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 Email, the 2nd day (excluding Saturday, Sunday and other closed days) following the date of transmission. The mailing address, Email Id of the Borrower and the Corporation for purposes shall respectively be :

for the Borrower,

for POWER FINANCE CORPORATION LTD

‘Urja Nidhi Building’,
 1, Barakhamba Lane,
 Connaught Place,
 New Delhi-110001

or such other mailing or Email Id as to which the Borrower or the Corporation may, for itself, from time to time notify the other as aforesaid.

15. This Agreement is executed in New Delhi and the loans as per Annexure-I will be advanced by the Corporation to the Borrower in New Delhi. The Agreement shall be governed by the Indian laws and civil Courts in Delhi/New Delhi alone shall have jurisdiction to entertain any suit or matter/or proceedings arising out of or in relation to 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

SCHEDULE ABOVE REFERRED TO(Change as per case to case)

The whole of the movable properties of the Borrower's _____ of the Borrower, consisting its movable plant & machinery, machinery spares, tools and accessories, plant turbine and other various equipments etc. including associated balance of plant equipment/items) and other movables, both present and future whether installed or not and whether now lying loose or in cases or which are not lying or stored in or about or shall hereafter from time to time during the continuance of the security of these presents be brought into or upon or be stored or be in or about the borrower's factories, premises and godowns situated at "_____" or wherever else the same may be or be held by any party to the order or disposition of the borrower or in the course of transit or on high seas or on order, or delivery, howsoever, and wheresoever in the possession of the borrower and either by way of substitution or addition.

ANNEXURE-I

List of individual loan amount sanctioned for the Part-A Projects under R-APDRP in(Name of State)

(Amount in Rs. Crore)

Sl. No.	Name of Town/Project Area	Loan No.	Project Cost	Loan Amount

ANNEXURE-II

Sanction Letter along with Terms and Conditions

(On Borrower's Letter Head)

No. _____

Date: _____

To

Power Finance Corporation Ltd.
"URJANIDHI",
1, Barakhamba Lane,
Connaught Place,
New Delhi-110001

Sub: Loan Nos. _____ to _____ (Total loan _____ Nos.) regarding implementation of projects under Part-A of R-APDRP by _____ (Utility) of _____ (State).

Sir,

_____ (Utility) is pleased to convey its acceptance of the Loan from the Ministry of Power, Government of India under Part-A of R-APDRP to be released through Power Finance Corporation Ltd. on the terms and conditions indicating in their letter dated _____ and shall agree to the amendments etc. subsequently if any issued by the Corporation in respect of above loan.

Yours faithfully,

For and on behalf of _____

(Authorized Signatory)

Name: _____

(On Borrower's Letter Head)

No. _____

Date: _____

To

Power Finance Corporation Ltd.
"URJANIDHI",
1, Barakhamba Lane,
Connaught Place,
New Delhi-110001

Sub: Loan Nos. _____ to _____ (Total loan _____ Nos.) regarding implementation of projects under Part-A of R-APDRP by _____ (Utility) of _____ (State).

Sir,

In terms of delegation of power approved by the Board, following officers have been authorised to sign the loan agreements, deeds and other documents as required by PFC for the purpose of above loan. The specimen signatures of the above officials are given below:

Name of Official	Designation	Specimen Signatures of authorised officials

(Company Secretary)

Name.....

Seal.....

(Certificate as per the prescribed format by the Borrower certifying that the borrower shall continue to be the owner and in physical possession of the Project till the loan outstanding is fully liquidated.)

(On Borrower's Letter Head)

No.: _____

Date: _____

To

Power Finance Corporation Ltd.
"URJANIDHI",
1, Barakhamba Lane,
Connaught Place,
New Delhi-110001

Sub: Loan Nos. _____ to _____ (Total loan _____ Nos.) regarding implementation of projects under Part-A of R-APDRP by _____ (Utility) of _____ (State).

Sir,

Pursuant to clause of terms of sanction of loan in question, it is certified that _____ is the owner and in physical possession of _____ (present project). It is further certified that _____ shall continue to be the owner and in physical possession of project at the time of disbursement of each installment of loan amount and till all the moneys due to the Power Finance Corporation Ltd. under the said loan no. _____ are fully liquidated by us.

Yours faithfully,

For and on behalf of _____

(Authorized Signatory)

Name _____

Designation _____

Department _____

(To be submitted by the borrower at the time of execution of MOA as per the terms of the sanction letter . The schedule shall be duly endorsed by the concerned State In-Charge of the APDRP Unit.

(On Borrower's Letter Head)

DRAWL – SCHEDULE

(A loan wise detail of drawl should be annexed)

Financial Assistance for implementation of projects under Part-A of R-APDRP

To

Power Finance Corporation Ltd.
"URJANIDHI",
1,Barakhamba Lane,
Connaught Place,
New Delhi-110001

Sub: Loan Nos. _____ to _____ (Total loan _____ Nos.) regarding implementation of projects under Part-A of R-APDRP by _____ (Utility) of _____ (State).

Sir,

The summary of loan drawl schedule is as under. Also details of loan wise schedule are annexed herewith.

Sl. No.	Year Of Drawl	Total Amount (Rs.in lakhs)	Quarters			
			Ist.	IInd.	IIIrd.	IVth.
			April to June	July to Sept.	Oct. to Dec.	January to March.
1						
2						
3						
Total (Rs.)						

Signature.....

Authorized Signatory

Acceptance

Project Division

Signature.....

Name.....

(On Borrower's Letter Head)

No.: _____

Date: _____

To

Power Finance Corporation Ltd.
"URJANIDHI",
1, Barakhamba Lane,
Connaught Place,
New Delhi-110001

Sub: Loan Nos. _____ to _____ (Total loan _____ Nos.) regarding implementation of projects under Part-A of R-APDRP by _____ (Utility) of _____ (State).

Sir,

It is certified that the loan of Rs. _____ applied for by _____ (Utility) and sanctioned by Ministry of Power, GoI, under Part-A of R-APDRP to be released through Power Finance Corporation Ltd. is within the borrowing powers of the _____, and is in accordance with the laws and bye laws applicable to it, and all formalities required by or under the laws and bye-laws and rules regulating the work and conduct of the _____ in respect of the borrowing of loan no. _____, have been fully complied with.

Yours faithfully,

For and on behalf of _____

(Company Secretary)

Name _____

Seal:.....

(On Borrower's Letter Head)

**CERTIFICATE BY COMPANY SECRETARY REGARDING BORROWING
LIMIT OF THE BOARD OF DIRECTORS**

1. It is certified the Extra Ordinary General Meeting of share Holder's of the Company at their Meeting held on has authorized the Board of Directors of the company to Borrow up to a total sum of Rs. (Rupees only). A copy of the said resolution Certified to be true copy by the secretary of the Company is annexed here to.

2. Particulars of the capital structures and reserves of the company As on 31st March, . are as under: - (Rs. in Lacs)

Particulars	Equity	Preference
Authorized Capital		
Issued Capital		
Subscribed Capital		
Paid up Capital		
Free reserves i.e. reserves not		
Set apart for any specific purpose		

3. We certify that the company has following outstanding loans to various financial institutions on dt. as per details mentioned below: -

(Rs. in Lacs)

Name of Lender	Amount Lent	Amount outstanding as on	Description of Security provided (as per loan wise)
Total			

4. The company has also availed of Rs. as temporary loans from its Bankers in the ordinary course of business.

5. We certify that the company's borrowings aggregating Rs. as mentioned above (excluding temporary loans from its bankers in ordinary course of business) together with the proposed borrowings from Ministry of Power, GoI, under Part-A of R-APDRP to be released through Power Finance Corporation Ltd. to the extent of Rs. (Loan No.to. (total loan.... Nos.) and those to be taken from other sources will be well within and will not exceed the total borrowing limit of Rs. (RS. only), specified in the aforesaid resolution passed as on

6. This Certificate is issued for the availing assistance by the company from Power Finance Corporation Ltd..

Yours Faithfully,
**For and on behalf of
Borrower**

(.....)
Company Secretary
Name: _____
Seal _____

(Certificate U/s 293(1) (a) of the Companies act).

True Extract of the resolution passed by the s Shareholders of the company at its
_____ Annual general Meeting held on _____.

It was informed the provision of section 293(1)(a) of the Companies Act,1956 to the members.

It was also inform to the members that their consent is required to the Board of Directors to borrow moneys form Banks, Financial Institutions, Non-banking financial companies by creating mortgages/charges on movable/immovable assets and proposed the following resolutions as an ordinary resolution.

“RESOLVED THAT the consent of the company be and is hereby accorded pursuant to the provision of section 293(1)(a) and other applicable provisions, if any of the Companies Act,1956, to the Board of Directors of the Company to mortgage and/or create charge on all immovable and movable properties or such assets of the Company wherever stipulate, present and future and/or with power to enter upon and take possession of the assets of the Company in certain events on such terms and conditions and at such time or times and in such form or manner as it may think fit, to or in favour of the financial institutions, Banks, both Indian and Foreign trustees for the Debenture holders, Trustees for convertible Bonds and/or Bonds proposed to be issued for an aggregate nominal value not exceeding Rs._____ Crores (Rupees_____) to secure the Term Loans, Debentures, Convertible Bonds, Charges, expenses and other monies including premium, payable in the above connection in terms of the Agreements to be entered into between the Company and the financial institutions, Bank’s ,Trustees for the holders of Debentures, Trustees of Convertible Bonds, such security to rank pari passu with or second or subservient to the mortgage and / or charges already created or to be created by the Company or in such manner as may be agreed to between the concerned parties and as may be thought expedient by the Board and further that the Board be and is hereby authorised to finalize and execute the documents and any other documents, papers and writings for creating the aforesaid mortgages and/ or charges and to do all such acts, deeds, and things as may be necessary or expedient for implementing this resolution.

“Resolved further that the Board of Directors of the Company be and is hereby authorised to do and execute all such acts, deeds, and things as may be necessary for giving effect to the above resolution”.

Certified True Copy

For _____

(Company Secretary)

Name: _____

Seal: _____

(Certificate U/s 293(1) (d) of the Companies act)

Extract from the Minutes of the _____ Annual general meeting of the Shareholders of the company held on _____.

“RESOLVED THAT in the super session of the ordinary resolution _____ Passes at the Annual/Extraordinary General Meeting of the Shareholders of the company held on _____ and pursuant to sub-section (1)(d) of section 293 of the Companies Act.1956 and Article _____ of the Articles of the Association of the Company be and the same is hereby, granted and accorded to the Board of Directors to their borrowing for and on behalf of the company monies in any manner from time to time and without prejudice to the generality thereof way of loans ,advances, credits, acceptances of deposits, banking and person or persons and whether the same be unsecured or secured and if secured whether by way of mortgage, charge hypothecation, pledge, or otherwise in any way whatsoever on ,over or in respect of all or any of the company’s assets, effects and properties including uncalled capital, stock-in trade (including raw materials, parts and components in stock or in transit) notwithstanding that the monies so borrowed, together with the monies, if any, already borrowed by the company (a part from temporary loans obtained from the company’s Bankers in the ordinary course of business) may exceed the aggregate of the paid – up capital of the purpose, provided that the total amount which may be so borrowed by the Board of Directors (Rupees _____ only)”. And Directors are hereby further authorised to execute such deed of mortgage, charge, hypothecation, lien, promissory notes, deposit receipts and other deeds and instruments or writings as they may be think fit and containing such conditions and covenants as the directors may think fit.

Certified True Copy

For _____

(Company Secretary)

Name: _____

Seal: _____

EXTRACT PROCEEDINGS OF _____ MEETING OF THE BOARD OF DIRECTORS OF _____ LTD., HELD ON _____ AT _____ .
AGENDA NO. _____ -

RAISING LOAN OF RS. _____ FROM POWER FINANCE CORPORATION LTD.

“Resolved that the Company do accept the offer of Power Finance Corporation Ltd. (PFC) to provide to the Company financial assistance of Rs. _____ in terms of its sanction letter No. _____ and formally convey the same to PFC”.

“Resolved further that the Company do execute the agreements, Power of Attorney, undertakings, deeds of hypothecation (draft copies of which have been initialed hypothecation (draft copies of which have been initialed by the Chairman for the purpose of identification and as token of documents having been circulated to the Board), and also any further agreements, documents, deeds and/or undertakings as may be necessary for availing of the said financial assistance and any disbursement (s) interim disbursement(s)”.

“Resolved further that Shri _____ and Shri _____ of _____ be and are hereby severally authorized to agree to and accept any changes and modifications in the terms and conditions contained in the said letter of sanction and Memorandum of Agreement and to accept and execute any amendments to any deeds, documents and other writing including the Agreement as and when necessary”.

“Resolved further that the company do accept to secure the loan by crating a charge on assets (Movable/immovable) situated/located at of the company in favour of PFC”.

“Resolved further that Shri _____ and Shri _____ Directors be and are hereby authorized severally to execute such deeds, documents and other writings as may be necessary or required for the purpose aforesaid”.

“ Resolved further that the loan sanctioned by PFC shall be secured by creation of charge in favour of PFC on the assets(Movable/immovable) of the Company situated at _____/ by Guarantee to be issued by the State of _____.

“Resolved further that _____ *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.*

- i. _____ *shall not sell/transfer or abandon the project at any stage in any manner whatsoever without prior written consent of the Corporation.*
- ii. In case of sale/ transfer/ abandonment of the project or assets, _____ shall pay to the Corporation, the entire outstanding dues in one installment or in a manner as may be agreed between the Corporation and the Borrower before such transfer is effected.
- iv. The loan from PFC shall be in addition to the state’s budgetary support committed for the project as per the approved annual plan provision.

“ Resolved further that the Common Seal of the company be affixed on the , security documents, and any other documents, as may be required by PFC in the presence of _____and _____(Directors and the Company secretary shall sign the same in token thereof.”

“Resolved further that the Company do specifically note and confirm that unless and until the Memorandum of Agreements is/are entered into by the Company with PFC after compliance by the Company of all the requisite formalities and conditions to the satisfaction of PFC, the letter of sanction does not give rise to any binding obligation on the part of the PFC nor is PFC under any obligation or commitment to advance any moneys to the Company”.

Certified True Copy

For _____

(Company Secretary)

Name: _____

Seal: _____

(Format for Guarantee deed to be submitted after execution of MOA)

State Government Undertaking

LOAN NUMBERS -----

This Deed of Undertaking (hereinafter referred to as this “**Deed**”) is executed on this the

_____ day of _____, 2009 at _____:

BY

Governor of the State of _____

IN FAVOUR OF

POWER FINANCE CORPORATION LIMITED, Government of India company incorporated under the Companies Act, 1956 having its registered office at Urja Nidhi, 1 Barakhamba Lane, Connaught Place, New Delhi-(hereinafter referred to as “**The CORPORATION**”, which expressions shall, unless it be repugnant to the subject or context thereof, include its successors and assigns).

WHEREAS

- (A) The Central Government has launched Restructured Accelerated Power Development & Reform Programme (hereinafter referred to as “**R-APDRP**”) during the XI Five Year Plan with revised terms and conditions as a Central Sector Scheme to establish base line data system and reduce AT&C loss and the Funds required for the same shall be disbursed through Corporation which has been appointed as Nodel Agency for the same.
- (B) **(Name of Utility) a Company incorporated under the Companies Act, 1956 having its Corporate office/ State Electricity Board of -----incorporated under Electricity Act 1948 having its Head Office at -----(hereinafter referred as “Borrower”)**, intends to undertake execution of various distribution projects under R-APDRP (hereinafter referred to as the “Project”) on the terms & conditions contained in the Order dated 19.09.2008 and Guideline for R-APDRP issued by Ministry of Power on 22.12.2008.
- (C) The Borrower has undertaken implementation of project under R-APDRP and the Corporation has agreed to extend the Loan (Loan Nos.....)for the same vide its sanction letter dated
- (D) By a Quadripartite **Agreement** dated.....signed between Government of India through Secretary (Power), Corporation, Borrower and State Government. Borrower has agreed to implement the same in letter and spirit. The Central Government has agreed to monitor implementation of the conditions agreed upon in the Quadripartite Agreement through Corporation being the Nodal Agency.

(E) WHEREAS by a Memorandum of Agreement dated ----- executed between the borrower and the Corporation , the Corporation has agreed to lend to the Borrower a sum of Rs. ----- (Rupees -----
----- only)(Loan) for -----
-----project/scheme , but only on the condition that the State Government provides an Undertaking in respect of such loan as hereinafter provided ;

Now this Deed witnesses as follows:

1. The Governor of the State of _____ hereby irrevocably and unconditionally undertakes and agrees as follows:
 - (i) That in case of breach by the Borrower of any terms and conditions of MOA or default by borrower to service its obligations as detailed in the MOA dated....., all outstanding dues of the Borrower pertaining to aforesaid loans under R-APDRP shall be recovered from the Central Plan Assistance due to the State.”
 - (ii) That undertaking herein given shall remain in full force and effect during the period that would be taken for the repayment of the loan which includes of principal, interest, interest-tax as may be applicable from time to time, service charges, commitment fee/charges, penal interest, interest on penal interest, costs, charges, expenses, losses and other moneys, if any and/or any additional amount(s) in terms of the said MoA and that it shall continue to be enforceable till the terms and conditions as contained in the said MoA have been fully and properly carried out by the said borrower.
 - (iii) That it shall not revoke this undertaking during the currency of the Loan except with the previous consent of the Corporation in writing
2. This Deed shall be governed by and construed in accordance with laws of India and the courts of Delhi shall have the exclusive jurisdiction in relation to any dispute arising in connection therewith.

Yours faithfully

For and on behalf of State Govt. of _____

(Governor)

DEED OF HYPOTHECATION

THIS DEED OF HYPOTHECATION executed at _____ on this _____ day of _____ Two Thousand _____ by _____, a company within the meaning of the Companies Act, 1956 (1 of 1956) having its Registered/Head Office at _____, (hereinafter referred to as "the Borrower" (which expression shall, unless it be repugnant to the subject or context thereof, include its successors and assigns) in favour of **Power Finance Corporation Limited**, a company incorporated under the Companies Act, 1956 and having its Registered Office at Urjanidhi, 1, Barakhamba Lane, Connaught Place, New Delhi-110 001 (hereinafter referred to as "the Corporation" (which expression shall, unless it be repugnant to the subject or context thereof, include its successors and assigns)

WHEREAS :

1. By a Memorandum of Agreement dated _____ day of _____, between the Borrower and the Corporation along with ANNEXURE thereto (hereinafter referred to as "the Memorandum of Agreement"), the Corporation have agreed to lend and advance to the Borrower and the Borrower has agreed to borrow from the Corporation on the terms and conditions contained in the Memorandum of Agreement a sum of Rs. _____ (Rupees _____) Only (hereinafter referred to as "Loan")
2. One of the conditions of the said Memorandum of Agreement is that the Loan together with interest, penal interest, premia on prepayment or on redemption, costs, charges, expenses and all other monies as stipulated in the said Memorandum of Agreement shall be secured, inter alia by - a first charge by way of hypothecation of all the Movable Assets of the Borrower's _____, as fully described in the schedule hereunder written.
3. The Corporation has called upon and required the Borrower to execute these presents which the Borrower has agreed to do in the manner hereinafter expressed :

NOW THEREFORE THESE PRESENTS WITNESSETH that :

- 1 In pursuance of the Memorandum of Agreement and in consideration of the Corporation having lent and advanced and/or agreed to lend and advance to the Borrower the Loan for the purposes and subject to the terms and conditions set out in the Memorandum of Agreement and in consideration of the premises, the Borrower doth hereby covenant with the Corporation that it shall repay to the Corporation and shall pay all interest at the respective agreed rates, interest tax (if applicable), interest on unpaid interest, penal interest, premia on prepayment or on redemption etc. thereon and costs, charges, expenses, losses and all other moneys as stipulated and in the manner set out in the Memorandum of Agreement and shall duly observe and perform all the conditions of the Memorandum of Agreement.

2. In pursuance of the said Memorandum of Agreement and for the consideration aforesaid, all the Movable Assets comprising of all machinery, equipment, accessories, plant turbine and other various equipments etc. (including associated balance of plant equipment/items) of the Borrower's _____ (hereinafter collectively referred to as "the said Materials" short particulars whereof are given in the Schedule hereunder written) are hereby hypothecated as and by way of first charge to the Corporation as security for and be charged with the repayment to the Corporation of Principal amount of the Loan and repayment or payment of other moneys including interest, penal interest, premia on prepayment or on redemption, costs, charges and expenses and all other moneys due to the Corporation under the Memorandum of Agreement
3. In further pursuance of the said Memorandum of Agreement and for the consideration aforesaid, the Borrower doth hereby further agree, declare and covenant with the Corporation as follows :-
- i) The Borrower shall at its expense keep the said Materials in marketable and good condition and insure the same in the joint names of the Borrower and the Corporation as provided in the Memorandum of Agreement against any loss or damage by theft, fire, lightning, earthquake, explosion, riot, strike, civil commotion, storm, tempest flood, marine risk, erection risk, war risk and such other risks as the Corporation shall from time to time require with an insurance company or companies. The Borrower shall deliver to the Corporation the relevant policy or policies of insurance duly assigned to the Corporation and maintain such insurance throughout the continuance of the security of these presents and deliver to the Corporation the renewal receipts thereof and shall duly and punctually pay all premia and shall not do or suffer to be done or omit to do or be done any act which may invalidate or avoid such insurance. In default, the Corporation may but shall not be bound to keep in good condition and render marketable the said Materials and take out/renew such insurance. Any premium paid by the Corporation and any costs, charges and expenses incurred by the Corporation shall within 15 days of receipt of a notice of demand from the Corporation, be reimbursed to the Corporation together with interest thereon at the same rate as specified in the Memorandum of Agreement with quarterly/half yearly rests from the date of payment and until such reimbursement by the Borrower the same shall be debited to the Borrower's Loan account in accordance with its usual practice and be a charge on the said Materials.
 - ii) The nominee of the Corporation shall, without any notice and at the risk and expense of the Borrower be entitled at all times to enter any place where the said Materials may be and inspect, value, insure superintend the disposal of and/or take particulars of all or any part of the said Materials and check any statement, accounts, reports and information.
 - iii) In the event of any breach or default by the Borrower in the performance of its obligation hereunder or any of the terms, covenants, obligations and conditions stipulated in the Memorandum of Agreement and the related security documents and the deeds executed or that may hereafter be executed by the Borrower in favour of the Corporation or in the event of the Borrower failing to pay either the interest or any installment(s) of the principal amount of the Loan due to the Corporation or in the event of the charge and/or the security created in favour of the Corporation

having become enforceable for any reason whatsoever, the Corporation or their nominees shall, in case such breach or default is not remedied by the Borrower to the satisfaction of the Corporation, within a period of fifteen days from the date of intimation by the Corporation of such breach or default or such extended time as may be granted by the Corporation in writing, without any notice and without assigning any reason and at the risk and expenses of the borrower and if necessary as attorney and in the name of the Borrower, be entitled to take charge and/or possession, or seize, recover, receive, appoint receiver of and remove them and/or sell by public auction or by private contract, dispatch or consign for realization or otherwise dispose of or deal with all or any part of the said material and to enforce, realize, settle, compromise and deal with any rights or claims relating thereto, without being bound to exercise any of these powers or be liable for any losses in the exercise or non-exercise thereof and without prejudice to the Corporation's rights and remedies of suit or otherwise and notwithstanding that there may be pending any suit or other proceedings, the Borrower undertakes to give immediate possession to the nominee of the Corporation on demand of the said Materials and to transfer and to deliver to the Corporation all relative bills, contracts, securities and documents and the Borrower hereby agrees to accept the Corporation's account of sales and realization and sufficient proof of amounts realized and relative expenses and to pay on demand by the Corporation any shortfall or deficiency thereby shown provided however that the Corporation shall not be in any way liable or responsible for any loss, damage or depreciation that the said Materials may suffer or sustain on any account whatsoever whilst the same are in possession of the Corporation or by reason of exercise or non-exercise of rights and remedies available to the Corporation as aforesaid and that all such loss, damages or depreciation shall be wholly debited to the account of the Borrower howsoever the same may have been caused.

- (iv) The Corporation any time after the security hereby constituted has become enforceable and whether or not the Corporation shall then have entered into or taken possession of and in addition to this powers hereinbefore conferred upon the Corporation after such entry into taking possession of, may have a receiver or receivers appointed of the said Materials or any part thereof. The following provisions shall also apply such Receivers:-
- (a) Unless otherwise directed by the Corporation, such Receiver shall have and exercise all powers and authorities vested in the Corporation;
 - (b) Such Receiver shall, in the exercise of the powers, authorities and discretions, conform to the regulation and direction from time to time made and given by the Corporation;
 - (c) The Corporation may from time to time fix the remuneration of such Receiver and shall direct payment thereof out of the sale realization of the said Materials, but the Borrower alone shall be liable for the payments of such remuneration;
 - (d) The Corporation may from time to time and at any time require such Receiver to give security for the due performance of his duties as such Receiver and may fix the nature and amount of the security to be given to the Corporation but the Corporation shall not be bound to require such security in any case;
 - (e) The Corporation may pay over to such Receiver any monies constituting part of the securities to the intent that the same may be applied for the purpose hereof by

such Receiver and the Corporation may from time to time determine what funds the Receiver shall be at the liberty to keep in hand with a view to the performance of his duties as such Receivers;

- (f) Every such Receiver shall be the agent of the Borrower for all purposes and the Borrower alone shall be responsible for his acts and defaults, loss or misconduct and liable on any contract or engagement made or entered into by him and for his remuneration and the Corporation shall not incur any liabilities or responsibility therefore by reason of their making or consenting to his appointment as such Receivers;
 - (v) All the said Materials and all sale realizations and insurance proceeds thereof and all documents under this security shall always be kept distinguishable and held as the exclusive property of the Corporation specifically appropriated to this security and to be dealt with only under the directions of the Corporation, and the Borrower shall not create any charge, mortgage, lien or other encumbrance upon or over the same or any part thereof except in favour of the Corporation nor suffer any such charge, mortgage, lien or other encumbrance or any attachment or distress to affect the same or any part thereof nor do or allow anything that may prejudice this security and the Corporation shall be at liberty to incur all costs or expenses as may be necessary to preserve this security and to maintain the same undiminished and claim reimbursement thereof as mentioned in Sub-clause (i) hereof Provided that except to the extent specifically permitted by the Corporation, the Borrower shall not sell all or any of the said Materials Provided further that the Borrower shall on any and every such sale pay to the Corporation if so required by the Corporation the net proceeds of the sale or disposal in satisfaction so far as the same shall extend, of the moneys, due and payable by the Borrower to the Corporation. Provided further that the Borrower may without payment to the Corporation, if Corporation so agrees, replace the outmoded equipment by an equipment of equivalent or greater value.
 - (vi) The Borrower shall, whenever required by the Corporation give full particulars to the Corporation of all the assets of the Borrower and of the said Materials and shall furnish and verify all statements, reports, returns, certificates and information from time to time and as required by the Corporation and make, furnish and execute all necessary documents to give effect to this security.
4. This security shall be a continuing security for repayment of the Loan together with interest, penal interest, premia on prepayment or on redemption, cost, expenses, guarantee fee and all other moneys due to the Corporation under the Memorandum of Agreement and shall not affect, impair or discharge the liability of the Borrower by winding up voluntary or otherwise, or by any other company or take over of the management of the Borrower.
 5. The Borrower hereby declares that the said Materials are and will at all times be the absolute property of the Borrower at the sole disposal of the Borrower and subject to the charge or charges created and/or to be created with specific permission of the Corporation, free from any prior charge trust, pledge, lien, claim or encumbrance with full power of disposition over the same.

6. The Borrower hereby appoints the Corporation as its attorney and authorises the Corporation to act for and in the name of the Borrower to do whatsoever the Borrower may be required to do under these presents and generally to use the name of the Borrower in the exercise of all or any of the powers by these presents conferred on the Corporation and the Borrower shall bear the expenses that may be incurred in this regard.
7. Nothing herein shall prejudice the rights or remedies of the Corporation in respect of any present or future security, guarantee obligation or decree for any indebtedness or liability of the Borrower to the Corporation.
8. The provisions contained herein shall be read in conjunction with the provisions of the Memorandum of Agreement and to the extent of any inconsistency or repugnance the latter shall prevail to all intents and purposes.
9. The Borrower shall have the particulars of charge registered with the Registrar of Companies (ROC) as per Section 125 of Companies Act, and shall submit a certificate from the ROC certifying the registration of charge.

SCHEDULE ABOVE REFERRED TO(change as per case to case)

The whole of the movable properties of the Borrower's _____ of the Borrower, consisting its movable plant & machinery, machinery spares, tools and accessories, plant turbine and other various equipments etc. including associated balance of plant equipment/items) and other movables, both present and future whether installed or not and whether now lying loose or in cases or which are not lying or stored in or about or shall hereafter from time to time during the continuance of the security of these presents be brought into or upon or be stored or be in or about the borrower's factories, premises and godowns situated at " _____ "or wherever else the same may be or be held by any party to the order or disposition of the borrower or in the course of transit or on high seas or on order, or delivery, howsoever, and wheresoever in the possession of the borrower and either by way of substitution or addition.

IN WITNESS WHEREOF the Borrower hath caused its common seal to be hereunto affixed the day, month and year first hereinabove written.

SIGNED AND DELIVERED BY

The common seal of the within named Gujarat State Electricity Corporation Limited has been hereunto affixed pursuant to a Resolution of its Board of Directors/Board passed on the _____ in the presence of Shri. _____ and Shri. _____ Company Secretary/Secretary of the Borrower who has subscribed their signatures hereto in token thereof.

Dated this ____ day of _____

**TO BE EXECUTED ON STAMP PAPER OF REQUISITE VALUE AND ATTESTED
BY NOTARY PUBLIC (AFFIXING NOTARIAL STAMPS)**

**DECLARATION IN THE MATTER OF HYPOTHECATION OF MOVABLES IN
FAVOUR OF POWER FINANCE CORPORATION LIMITED (PFC)**

I, ____ son of _____, Designation, name of the borrower company, aged ____ years at present residing at (residential address), do hereby solemnly declare and say as follows :

1. I _____, _____ Designation, name of the borrower company., a Company within the meaning of the Companies Act, 1956, (I of 1956) having its Registered Office at _____, in the State of _____ (hereinafter referred to as “the Company) and I am duly authorized by the Board of Directors of the Company to make this declaration for and on behalf of the Company.
1. I say that the Company is absolutely entitled to the whole of the Borrower’s (mention property to be charged/ all the movable assets) of the Company mentioned in the Schedule hereto and that the same or any of them are not hypothecated or charged by the Company in favour of any person except as mentioned herein (hereinafter referred to as “the said movable properties”).
2. I further say that the said movable properties both present and future, listed at Schedule-I hereto, are now proposed to be hypothecated and charged on first charge basis to PFC of its credit facility of Rs. _____ Crores (Rupees _____ only) together with interest, penal interest, premium on prepayment or on redemption, cost, charges, expenses and other moneys payable by the company to PFC under the Memorandum of Agreement dated ____ day of _____.”
3. I say that the said movable properties of the Company are free from all encumbrances or charges (statutory or otherwise) claims and demands except as mentioned herein and that the same or any of them or any part thereof are/is not subject to any lien/lispendens, attachment or any other process issued by any court or Authority and that the Company has not created any trust in respect thereof and that the said movable properties are in the exclusive uninterrupted and undisturbed possession and enjoyment of the Company since the date of purchase/acquisition thereof and no adverse claim has been made against the Company in respect of the said movable properties or any of them or any part thereof and the same are not affected by any notice of acquisition or requisition and that no proceedings are pending or initiated against the Company under Income Tax Act, 1961, Public Demand Recovery Act or under any other law in force in India for the time being and that no notice has been received or served on the Company under Rules 2,16,21 and 51 of the Second Schedule to the Income Tax Act, 1961 and/or under any other law and that there is no pending attachment whatsoever issued or initiated against the said movable properties or any of them or any part thereof.

4. The Company has duly paid all rents and royalties and all public demands, including PF dues, Gratuity dues, employees state insurance dues, income-tax, sales-tax, Corporation tax and all other taxes and revenue payable to the Government of India or Government of any State or to any local authority and that at present there are no arrears of such dues, rents, royalties, taxes and revenues due and outstanding and that no attachments or warrants have been served on the Company in respect of sales tax, income tax, government revenue and other taxes in respect of the said movable properties.
5. I also agree and undertake on behalf of the Company to give such declarations, undertaking and other writings in such form as may be required by PFC or their solicitors and satisfactorily comply with all other requirements and requisitions as intimated or on behalf of the PFC.
6. I further undertake that no mortgage/charge, lien or other encumbrances whatsoever will be created on the properties comprised in the hypothecated security save and except with the prior written permission of the PFC.
7. I am not aware of any act, deed, matter or things or circumstances which prevent the company from charging/further charging in favour of the PFC (the said movable properties and the unfixed plant, machinery and all other movable assets of the company).

AND I make aforesaid declaration for and on behalf of the Company solemnly and sincerely believing the same to be true and knowing fully well that on the faith thereof the PFC has agreed to complete the said transaction of hypothecation of movable properties as aforesaid.

SCHEDULE ABOVE REFERRED TO(Change as per case to case)

The whole of the movable properties of the Borrower's _____ of the Borrower, consisting its movable plant & machinery, machinery spares, tools and accessories, plant turbine and other various equipments etc. including associated balance of plant equipment/items) and other movables, both present and future whether installed or not and whether now lying loose or in cases or which are not lying or stored in or about or shall hereafter from time to time during the continuance of the security of these presents be brought into or upon or be stored or be in or about the borrower's factories, premises and godowns situated at "..... (town)" or wherever else the same may be or be held by any party to the order or disposition of the borrower or in the course of transit or on high seas or on order, or delivery, howsoever, and wheresoever in the possession of the borrower and either by way of substitution or addition.

Solemnly declared at _____
as aforesaid
this __ day of _____.

(AUTHORISED SIGNATORY)