AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE ROYAL GOVERNMENT OF BHUTAN
REGARDING
THE PUNATSANGCHHU- I HYDROELECTRIC PROJECT

The Government of the Republic of India and the Royal Government of Bhutan:

Bearing in mind the friendly relations and the mutual trust existing between the two Governments and their peoples;

Appreciating the accomplishments achieved by cooperation in the successful commissioning of the Chukha, Kurichhu and the Tala Hydroelectric Projects;

Recalling the Agreement between the Government of the Republic of India and the Royal Government of Bhutan concerning cooperation in the field of hydroelectric power signed on 28th July 2006;

And taking note of the desire of the two Governments to develop additional hydropower potential for their mutual benefit and their willingness to cooperate in the construction and operation of hydroelectric projects to attain this objective;

Have, with respect to the Punatsangchhu-I Hydroelectric Project, agreed as follows:

Article 1

1. M/s Water and Power Consultancy Services Ltd. (WAPCOS), a Government of India Undertaking has prepared a Detailed Project Report on the Punatsangchhu-I Hydroelectric Project in Bhutan (hereinafter called "the Project"). The Project envisages the construction of the dam, head race tunnel, pressure shaft, power house, transmission lines, switchyard, etc. as per the approved DPR and such other works which may become necessary and are agreed upon between the two Governments.

2. The scope of the Project shall include all auxiliary, ancillary works and all activities necessary for the execution of the Project.

Article 2

The Project shall be owned solely by the Royal Government of Bhutan.

Article 3

The estimated cost of the Project arrived at on the basis of the approved DPR is Rs/Ngultrums 35,148.10 million at December 2006 Price Level. The Government of the Republic of India agrees to provide funds for the financing of the Project. For this purpose, the Government of the Republic of India will make available to the Royal Government of Bhutan:

a) a sum of Rs/Ngultrums 14,059.24 million equivalent to 40% of the estimated total cost of Rs/Ngultrums 35,148.10 million as grant; and

b) a sum of Rs/Ngultrums 21,088.86 million equivalent to 60% of the estimated total cost of Rs/Ngultrums 35,148.10 million as loan. The loan shall carry an interest rate of 10% per annum and be repayable in twelve equated annual installments, the first repayment commencing one year from the mean date of commercial operation;

The Government of Republic of India agrees to provide additional funds, as mutually determined, for the completion of the Project, in the same proportion and on the same terms and conditions.

Article 4

1. A "Punatsangchhu-I Hydroelectric Project Authority" (hereinafter called the Authority) shall be set up for the construction, operation and maintenance of the Project and for the evacuation of surplus power from the Project. The Authority will be constituted as an autonomous body. It shall have a Chairperson and seven Members. The Chairperson and four Members of the Authority shall be nominated by the Royal Government of Bhutan. Three Members of the Authority shall be nominated by the Government of the Republic of India. All powers of the Authority shall be vested in the Chairperson. The Members shall assist the Chairperson in the administrative, technical, financial and organizational matters of the Project. The Authority will frame its own rules of business. With the approval of the two Governments, the Authority shall appoint a Managing Director and Joint Managing Director of the Project. The Managing Director will function as the Secretary of the Authority.

2. The Ambassadors of Bhutan to India and India to Bhutan shall be permanent invitees at the meetings of the Authority.

3. The Managing Director will be assisted by a Joint Managing Director, Technical Director and a Finance Director who shall all be permanent invitees to the meetings of the Authority. Member(Hydro) of Central Electricity Authority and Member(D&R) of Central Water Commission of Government of India also shall be permanent invitees to the meetings of the Authority.

4. The Managing Director of the Project will be the overall in-charge of the Project under the supervision and guidance of the Authority. He will be vested with sufficient powers to enable him to function in an effective manner and implement and operate the Project as per schedule. There will be a suitable organization for the Project under the Managing Director to assist him.

Article 5

M/s Water and Power Consultancy Services Ltd. (WAPCOS), a Government of India Undertaking, will be the engineering and design consultant for the Authority. The terms of reference for the consultant shall be decided by the Authority.

Article 6

The requirement of funds for the construction of the Project will be worked out by the Authority in accordance with the programme and progress of the construction. The release of funds will be on the basis of the recommendations of the Authority and as per mutually agreed modalities between the two Governments based on the progress of work.

Article 7

The recruitment of labour force, technical, administrative and other personnel of the Authority or any contractor/supplier engaged on the Project will be confined to nationals of either country.

Article 8

1. The Authority will hand over the Project to the Royal Government of Bhutan within two years of completion of the Project, at which time, the Authority shall be dissolved.

2. After the dissolution of the Authority, the Royal Government of Bhutan will, if so required, continue to avail itself of the technical & managerial expertise of Government of the Republic of India through such arrangements as may be agreed from time to time.

Article 9

1. The Royal Government of Bhutan agrees that surplus power from the Project, that is, the power over and above that is required for use in Bhutan, shall be sold to the Government of the Republic of India. The Government of the Republic of India agrees to purchase all the surplus power from the Project.

2. The Government of the Republic of India shall make necessary transmission arrangements within their territory for evacuation of power from the Project.

3. The rate at which this power will be sold by Bhutan to India at the Bhutan-India border, shall be mutually determined by the two Governments at the time of commissioning of the Project. This shall be done by taking into account the cost of the Project, its financing costs, Operation and Maintenance charges, depreciation at rates applicable to similar projects in India and prevalent market conditions. To ensure predictability, this rate of power shall, thereafter, be reviewed by the two Governments, at the end of every three years, who shall be guided by the principles agreed upon for the Tala Hydroelectric Project in this regard.

4. No duty, surcharge or any other form of levy will be charged by Bhutan on the power sold by Bhutan to India.

Article 10

1. The Royal Government of Bhutan shall provide Government land free of cost for the Project. In case the Project authorities require private land for this purpose, the compensation as per norms of the Royal Government of Bhutan shall be paid by the Authority.

2. The Royal Government of Bhutan shall make necessary arrangements for the acquisition of land, building, the right of way where needed and cutting trees necessary in connection with the Project and resolve administrative and other difficulties, if any. The settlement of claims or disputes arising in connection with such arrangements shall be the responsibility of the Royal Government of Bhutan, but payment of compensation if any shall be made by the Authority.

3. The Authority shall ensure that the Project complies with all statutory environmental legislations of Bhutan. Any resettlement of people and compensation will be done at the cost of the Project and as per the norms of the Royal Government of Bhutan.

Article 11

1. The Royal Government of Bhutan shall receive from the Authority royalty for timber, boulders, aggregates and other construction materials required from Bhutan for the Project.

2. The Royal Government of Bhutan shall exempt taxes, levies/duties for plant, construction materials & equipments, machineries and services imported for direct use in the construction of the Project until the date of commercial operation. Any procurement

made under tax exemption basis shall be liable for tax payment as per the Tax Act of the Kingdom of Bhutan if disposed off in Bhutan.

3. The Royal Government of Bhutan shall not levy any income tax on any employee of the Government of India or a State owned enterprise of the Government of India employed directly or engaged in the Project. However, any other contractor, sub-contractor or consultants recruited in connection with the Project, will be liable for tax in Bhutan as per the Income Tax Act of the Kingdom of Bhutan, 2001. Further, such recruiting agency shall be responsible for deducting and remitting Tax Deducted at Source (TDS) as per the provision of the said Income Tax Act.

4. The Government of India shall exempt from central excise duty any material/equipment exported to Bhutan for the Project. Service tax that may be applicable on services provided by Indian agencies involved in the Project shall be reimbursed by the Government of India and will not be incorporated in the overall Project cost.

Article 12

1. The Royal Government of Bhutan will ensure supply of power at domestic rates during construction of the Project from the Western Grid of Bhutan according to the requirement of the Project. The required transmission lines and sub-station will be provided by the Authority.

2. The Government of the Republic of India and the Royal Government of Bhutan will facilitate the installation of communication lines, radio communications and construction of roads and other infrastructural facilities that are required for the construction and operation of the Project at the cost of the Project.

Article 13

The Royal Government of Bhutan shall facilitate the establishment by the Authority of an appropriate school, hospital and dispensaries in the Project area for the benefit of the officers and staff of the Project. These facilities shall be managed by the Royal Government of Bhutan at the cost of the Project.

Article 14

1. The selection and appointment of technical, administrative and other personnel shall be confined to nationals of either country. The Royal Government of Bhutan shall issue identity cards/permits, without payment of security deposits, to the concerned employees of the Authority and Government of India agencies engaged in connection with the Project and to the members of their families. However, such security deposits shall be payable for all labour and for staff appointed by other contractors.

2. The Royal Government of Bhutan shall issue/renew identity cards on payment of prescribed fee for personnel employed for the Project.

3. The two Governments shall permit the Authority to select and appoint officers, and staff on deputation directly from the concerned departments and Public Sector Undertakings of the Royal Government of Bhutan and from concerned departments, State Governments, State Electricity Boards and Public Sector Undertakings of the Government of the Republic of India, after inviting applications through the respective departments.

Article 15

1. The Royal Government of Bhutan shall issue on recommendations of the Authority licenses to Indian contractors engaged for the

construction of the Project. Such licenses shall be valid for the duration of the contract for which the contractor or supplier has been engaged.

2. Bhutanese & Indian firms or contractors, possessing the necessary competence, shall be eligible to bid for works and supplies of equipment and materials. Other considerations being equal, preference shall be given to Bhutanese firms in the allocation of works.

Article 16

The two Governments shall provide facilities to ensure free movement of men, materials and transportation of machinery & equipment required for the Project through their respective territories.

Article 17

The personnel of the Authority and the executing agency shall, at all times, respect the laws of the land. However, no suit, prosecution or legal proceedings shall be instituted against any person in the employment of the Authority or executing agency for anything which is done in good faith, or purported to be done in good faith for the Project.

Article 18

Both Governments shall develop the Punatsangchhu-I Hydroelectric Project under the Clean Development Mechanism (CDM) to generate carbon credits, in accordance with the provisions of Article 8 of the Agreement between the Royal Government of Bhutan and the Government of the Republic of India concerning cooperation in the field of hydroelectric power signed on 28th July 2006, which would be shared by the two governments.

Article 19

Any difference regarding the interpretation or application of any provision of this Agreement shall be resolved by mutual consultations between the two Governments.

Article 20

This Agreement shall enter into force upon signature and shall remain in effect until the two Governments, through a new agreement, adopt a decision that they deem convenient.

In witness whereof, We, the undersigned being duly authorized by our respective Governments, have signed the Agreement.

Signed in Thimphu on the Twenty Eighth Day of July Two Thousand and Seven, in two originals in English.

For the Government of the Republic of India	For the Royal Government of Bhutan
(Pranab Mukherjee) Minister of External Affairs	(Lyonpo Khandu Wangchuk) Minister for Foreign Affairs