

PROJECT AGREEMENT

(Power Transmission Enhancement Investment Program – Tranche 1)

between

ASIAN DEVELOPMENT BANK

and

NATIONAL TRANSMISSION AND DESPATCH COMPANY

DATED 16 JANUARY 2007

PROJECT AGREEMENT

PROJECT AGREEMENT dated 16 January 2007 between ASIAN DEVELOPMENT BANK (hereinafter called ADB) and NATIONAL TRANSMISSION AND DESPATCH COMPANY (hereinafter called NTDC).

WHEREAS

(A) by a Loan Agreement of even date herewith between Islamic Republic of Pakistan (hereinafter called the Borrower) and ADB (hereinafter called the Ordinary Operations Loan Agreement), ADB has agreed to make to the Borrower a loan (hereinafter called the Ordinary Operations Loan) of two hundred twenty-six million Dollars (\$226,000,000) on the terms and conditions set forth in the Ordinary Operations Loan Agreement;

(B) by a Loan Agreement of even date herewith between the Borrower and ADB (hereinafter called the Special Operations Loan Agreement, and together with the Ordinary Operations Loan Agreement, the Loan Agreements), ADB has agreed to make to the Borrower a loan (hereinafter called the Special Operations Loan, and together with the Ordinary Operations Loan, the Loans) of six million seven hundred ninety three thousand Special Drawing Rights (SDR6,777,000) on the terms and conditions set forth in the Special Operations Loan Agreement;

(C) ADB has agreed to make the Loans only on the condition that the proceeds of the Loans be made available to NTDC and that NTDC agree to undertake certain obligations towards ADB as hereinafter set forth; and

(D) NTDC, in consideration of ADB entering into the Loan Agreements with the Borrower, has agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreements and in the Loan Regulations (as so defined) have the respective meanings therein set forth, except that for the purposes of the Project Agreement, the term "Project" means the Project as defined in the Ordinary Operations Loan Agreement together with the Project as defined in the Special Operations Loan Agreement. In addition, the term "Onlending Agreements" means the Onlending Agreement as defined in the Ordinary Operations Loan Agreement together with the Onlending Agreement as defined in the Special Operations Loan Agreement.

ARTICLE II

Particular Covenants

Section 2.01. (a) NTDC shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, electrical transmission, and environmental practices.

(b) In the carrying out of the Project and operation of the Project facilities, NTDC shall perform all obligations set forth in the Loan Agreements to the extent that they are applicable to NTDC and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. NTDC shall make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the Loans, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, NTDC shall employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loans shall be procured in accordance with the provisions of Schedule 4 to the Loan Agreements. ADB may refuse to finance a contract where Goods, Works or consulting services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. NTDC shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. NTDC shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) NTDC shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of the Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, NTDC undertakes to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loans against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. NTDC shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services and other items of expenditure financed out of the proceeds of the Loans, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to

reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and NTDC shall cooperate fully to ensure that the purposes of the Loans will be accomplished.

(b) NTDC shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement or the Onlending Agreements, or the accomplishment of the purposes of the Loans.

(c) ADB and NTDC shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, NTDC and the Loans.

Section 2.08. (a) NTDC shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loans and the expenditure of the proceeds thereof; (ii) the Goods, Works and consulting services and other items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of NTDC; and (v) any other matters relating to the purposes of the Loans.

(b) Without limiting the generality of the foregoing, NTDC shall furnish to ADB quarterly reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, NTDC shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by NTDC of its obligations under this Project Agreement and the accomplishment of the purposes of the Loans.

Section 2.09. (a) NTDC shall (i) maintain separate accounts for the Project and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than six months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the proceeds of the Loans, compliance with the covenants of the Loan Agreements and the management letter from the auditors to NTDC), all in the English language. NTDC shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) NTDC shall enable ADB, upon ADB's request, to discuss NTDC financial statements and its financial affairs from time to time with the auditors appointed by NTDC pursuant to Section 2.09(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of NTDC unless NTDC shall otherwise agree.

Section 2.10. NTDC shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loans, all other plants, sites, properties and equipment of the NTDC and any relevant records and documents.

Section 2.11. (a) NTDC shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its business.

(b) NTDC shall at all times conduct its business in accordance with sound administrative, financial, electrical transmission, and environmental practices, and under the supervision of competent and experienced management and personnel.

(c) NTDC shall at all times operate and maintain its plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, electrical transmission, engineering, environmental, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, NTDC shall not sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, NTDC shall apply the proceeds of the Loans to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreements and this Project Agreement, and shall ensure that all Goods, Works and consulting services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, NTDC shall duly perform all its obligations under the Onlending Agreements, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Onlending Agreements.

Section 2.15. NTDC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its charter or license and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any action thereon.

ARTICLE III
Effective Date; Termination

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreements shall come into force and effect. ADB shall promptly notify NTDC of such date.

Section 3.02. (a) This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Special Operations Loan Agreement shall terminate in accordance with its terms.

Section 3.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreements.

ARTICLE IV
Miscellaneous

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or radiogram to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444
(632) 636-2428

For National Transmission and Despatch Company

Muhammad Shabbir Chaudhry
Chief Executive Officer

Facsimile Number:

042-9202053

Section 4.02. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

ASIAN DEVELOPMENT BANK

By *H. Kuroda*
HARUHIKO KURODA
President

NATIONAL TRANSMISSION AND
DESPATCH COMPANY

By *Muhammad*
MUHAMMAD NAEEM KHAN
Authorized Representative

SCHEDULE
Execution of Project;
Financial Matters

FFA

1. As the Project Executing Agency, NTDC shall carry out the Project in accordance with the FFA and all the Schedules (including Annexes) attached thereto.

Financial Performance

2. (a) Except as ADB shall otherwise agree, NTDC shall not incur any debt unless a reasonable forecast of the revenues and expenditures of NTDC shows that the estimated net revenues of NTDC for each fiscal year shall be, commencing from 2010, at least 1.2 times the maximum estimated debt service requirements of NTDC in such year on all debt of NTDC, including the debt to be incurred.

(b) For the purposes of this paragraph:

- (i) The term "debt" means any indebtedness of NTDC maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (a) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (b) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "net revenues" means the difference between:
 - (A) the sum of revenues from all sources related to operations and net non-operating income, after making adequate provisions for uncollectible debts; and
 - (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt. Lease payments under finance leases must also be included.
- (iv) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations, and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (iv)(a) above.

(v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on debt.

(vi) The term "reasonable forecast" means a forecast prepared by NTDC not earlier than nine months prior to the incurrence of the debt in question, which both ADB and NTDC accept as reasonable and as to which ADB has notified NTDC of its acceptability.

(vii) The terms "operations" or "operating" refer to the operations of NTDC.

(viii) Whenever for the purposes of this paragraph it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is at the time of such valuation obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

3. (a) Except as ADB shall otherwise agree, NTDC shall maintain a self financing ratio of at least 20% for each fiscal year from 2010.

(b) Except as ADB shall otherwise agree, NTDC shall produce, for each of its fiscal years after its fiscal year ending on 30 June, cash from internal sources equivalent to not less than 20% of the annual average of NTDC's capital expenditures incurred, or expected to be incurred, for that year, the previous fiscal year and the next two years following fiscal years.

(c) Before (date/month) in each of its fiscal years, NTDC shall, on the basis of forecasts prepared by NTDC and satisfactory to ADB, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to ADB a copy of such review, upon its completion.

(d) If any such review shows that NTDC would not meet the requirements set forth in paragraph (b) for its fiscal years covered by such review, NTDC shall promptly take all necessary measures including without limitation, filing applications with the National Electric Power Regulatory Authority seeking a tariff/rate increase to meet such requirements.

(e) For the purposes of this Section:

(i) The term "cash from internal sources" means the difference between:

- (A) the sum of cash flows from all sources related to operations, plus cash generated from consumer deposits and consumer advances of any kind, sale of assets, cash yield of interest on investments, and net non-operating income; and
 - (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends paid and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.
- (ii) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations, after making adequate provisions for uncollectible debts; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (a) above.
- (iii) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (iv) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and prepaid expenses properly chargeable to operating expenses within the next fiscal year.
- (v) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements taxes and payments in lieu of taxes, and dividends.
- (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments if any) of, and interest and other charges on, debt, excluding interest charged to construction and financed from loans.
- (vii) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.

- (viii) The terms "operations" or "operating" refer to the operations of NTDC.
- (ix) Whenever for the purposes of this Section it shall be necessary to value, in terms, of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

Land Acquisition and Resettlement

4. NTDC shall ensure that: (a) all land and rights-of way required by the Project as defined in the Ordinary Operations Loan Agreement are made available in a timely manner; (b) the provisions of the resettlement plans (RPs) are implemented promptly and efficiently in accordance with their terms, all applicable laws and regulations of Pakistan, ADB's *Policy on Involuntary Resettlement, 1995*, and the Land Acquisition and Resettlement Framework attached to Schedule 5 of the FFA (LARF); (c) the RPs are updated based on the detailed designs, prepared in full consultation with the affected persons and disclosed to them prior to submitting the RPs to ADB; (d) the commencement of civil works or a similar milestone is subject to ADB's review and approval of the relevant RPs; (e) the contractors' activities are in compliance with requirements of the RPs, the LARF, applicable domestic laws and regulations, and ADB's *Policy on Involuntary Resettlement, 1995*; (f) an independent monitor acceptable to ADB is engaged to carry out monitoring and evaluation and report to ADB in accordance with the requirements of the RPs.

Environment

5. NTDC shall ensure that (a) the Project, as defined in the Ordinary Operations Loan Agreement, is constructed and operated in accordance with national and local environmental procedures and guidelines and with ADB *Environment Policy, 2002*; (b) the Project, as defined in the Ordinary Operations Loan Agreement, is designed, constructed and operated in accordance with the Environment Management Plans (EMPs) as reflected in the Initial Environment Examinations and the Environment Assessment Review Framework attached to Schedule 5 of the FFA; (c) the EMPs will be incorporated in bidding documents and civil work contracts and implemented; (d) environmental performance reports will be submitted to ADB twice annually during the construction period, including progress made on the mitigation measures, monitoring data, problems encountered, enforcement plan, and any violations.