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DOMESTIC & EXPORT SALES

**[_____] HYDROELECTRIC POWER PROJECT
CONCESSION AGREEMENT**

BETWEEN

**THE GOVERNMENT OF THE
LAO PEOPLE'S DEMOCRATIC REPUBLIC**

AND

[_____] POWER COMPANY LIMITED

[_____] 20[__]

CONCESSION AGREEMENT

INITIALING RECORD

Persons initialling this Agreement:

_____ Name	_____ Acting for	_____ Initials
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_____ Name	_____ Acting for	_____ Initials
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CONCESSION AGREEMENT

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HYDROELECTRIC POWER PROJECT

CONCESSION AGREEMENT

THIS [_____] HYDROELECTRIC POWER PROJECT CONCESSION AGREEMENT (the “Agreement”) is entered into in Vientiane, Lao People’s Democratic Republic (the “Lao PDR”) as of the [____] day of [_____] 20__ by and between:

- (1) THE GOVERNMENT of the Lao People’s Democratic Republic, represented by the Ministry of Planning and Investment (the “GOL”); and
- (2) [_____] POWER COMPANY LIMITED, a company incorporated under the Laws of the Lao People’s Democratic Republic, whose office is at [_____], Vientiane, Lao PDR, represented by its authorized directors (the “Company”).

(The GOL and the Company are each a “Party” and jointly the “Parties”).

WHEREAS:

- A. All natural resources, including water, within the Lao PDR are the Lao PDR's national wealth. The GOL seeks to advance the economic and social development of the Lao PDR by promoting the sustainable use and development of Lao natural resources through private investment (both foreign and domestic), including the development of water resources into hydroelectric power.
- B. The GOL has included the [_____] Hydroelectric Power Plant Project (the location and other details of which are specified in greater detail at Annex A (the “Project”)) into the Lao PDR power development plan. The GOL signed a memorandum of understanding (the “MOU”) on [_____] with [_____] Company Limited (the "Sponsor"). The MOU provided for the Sponsor and the GOL to cooperate on Project preparation and implementation, including the formation of a limited liability company to plan, design, finance, construct, operate and maintain the Project. Under the MOU, the Sponsor has carried out Project development work such as the completion of a feasibility study and an environmental and social impact assessment.
- C. The Sponsor and the GOL entered into a project development agreement on [_____] (the “PDA”) setting out the Sponsor's further commitments to develop the Project.
- D. In establishing the Company, the Sponsor has executed a shareholders agreement dated [_____] (the “Shareholders Agreement”) and articles of association with [_____] and [Electricite du Laos (“EDL”) / Lao Holding State Enterprise (“LHSE”) / [_____] (“_____”), as the case may be] (being the State company designated by the GOL to act as the GOL's shareholder in the Project) to govern the management and activities of the Company.

NOW, THEREFORE, the Parties hereby agree as follows:

Clause 1: Project Arrangement

1.1 Implementing Body

- (a) The Ministry of Planning and Investment represents the GOL in executing this Agreement, issuing and/or amending, as the case may be, the Project concession license under this Agreement, granting any extension of the Concession Period in accordance with the provisions of this Agreement, issuing any Notice of Termination of this Agreement on

behalf of the GOL, and otherwise exercising such powers of the GOL as are specifically reserved to the Ministry of Planning and Investment.

- (b) Other than any powers specifically reserved to the Ministry of Planning and Investment, the Ministry of Energy and Mines (“MEM”) acting through the Department of Energy Business (“DEB”) is the Implementing Agency in exercising the GOL’s rights as contemplated in this Agreement and in performing the GOL’s obligations herein (including without limitation, where the GOL may deem appropriate on a case by case basis, coordinating with any other agency, department or office of the GOL and facilitating and / or expediting the performance of various responsibilities of such other agency, department or office with respect to matters as provided in or required in connection with the performance of this Agreement, for the GOL’s timely and effective implementation of this Agreement) and has full power and authority to implement this Agreement and to make any and all decisions expressly indicated or otherwise contemplated in this Agreement to be made by the GOL.

1.2 Nominated Representatives

- (a) Each Party shall appoint one person (a “Nominated Representative”) to be its representative for the purposes of this Agreement, and may also appoint an alternate Nominated Representative. Except as expressly provided herein, a Nominated Representative shall have no power to bind or commit the Party it represents.
- (b) The GOL has appointed the Director General of the Department of Energy Business of the Ministry of Energy and Mines as its Nominated Representative. The Company has appointed its [Chief Executive Officer / Managing Director] from time to time as its Nominated Representative.
- (c) Each Nominated Representative appointment shall continue until the appointing Party notifies the other Party that such authority has been revoked. A Party may change its Nominated Representative at any time with notice.

1.3 Joint Steering Committee

The Parties shall set up a joint steering committee (the “Joint Steering Committee” or “JSC”) comprising representatives of the Company, the GOL and concerned ministries and agencies of the Lao PDR having administrative jurisdiction over the Project, to oversee, coordinate and collaborate on all matters in connection with the Project (including communications and activities between the GOL and the public with regard to the Project, and other responsibilities set forth in Annex B) as follows:

The GOL shall designate the chairman and secretary of the Joint Steering Committee (the “Secretariat”). The JSC and its secretariat shall organize its permanent office as the secretariat deems appropriate to facilitate Project implementation. The JSC shall become active within one (1) month of the Agreement Date and shall continue in existence and with the authority provided herein until one (1) year after the Commercial Operation Date, or such later date (if any) that the Parties may agree to in order to ensure that the Joint Steering Committee has carried out its responsibilities to the Project and to the Parties. The Company shall be responsible for paying all costs associated with meetings and work of the Joint Steering Committee in accordance with the budgeted expense allocations as reasonably advised or required by the GOL. The agreed expense allocations from the Budget for the Joint Steering Committee during the period prior to the Commercial Operation Date are set out in Annex B.

1.4 Resettlement Committee; Resettlement Management Unit

The Resettlement Committee (“RC”) and Resettlement Management Unit (“RMU”) shall be set up under Annex C to oversee resettlement issues and livelihood development for PAPs. The RC shall commence operation from the date of its establishment and continue until five (5) years following COD or such later date on which the livelihoods of PAPs have become stable as contemplated in this Agreement. The Company shall be responsible for the operating budgets and costs of the RC and RMU in accordance with the budget plan which has been approved in advance and in writing by the RC as set out in Annex C.

Clause 2: Rights of the Parties

2.1 Company Rights

The GOL hereby grants to the Company, and the Company accepts from the GOL, the Concession Rights. The Concession Rights shall remain in effect only for so long as this Agreement has not expired or been terminated. Neither the grant of Concession Rights hereunder nor any Authorization shall be applied or interpreted in any manner which would impair any legally recognized third party's rights already in existence as at the Agreement Date. The Concession Rights comprise:

- (a) the rights and, subject to due application therefor, Authorizations necessary to implement the Project and to engage in Project Management,
- (b) the lease of (and easements or other rights of way for) the Site, including rights of occupation, access, use and possession of land within the Site and the waterways thereon, and the use of public roads, all as necessary to implement the Project and to engage in Project Management,
- (c) the rights:
 - (i) to register and operate the Company;
 - (ii) to design, finance, construct, own, maintain and operate the Project Facilities on the Site;
 - (iii) to sell electricity generated by the Project to the Primary Offtaker in accordance with the Primary PPA [and to the Secondary Offtaker in accordance with the Secondary PPA] and to any other GOL-approved offtaker;
 - (iv) subject to this Agreement, to enter the Site, to carry out necessary surveys, excavations, investigations and preliminary work (such as Access Road construction and maintenance) and to commence Project-related construction at the Site;
 - (v) to procure, possess and use property and assets for Project Management and to receive and enjoy benefits from the Project, all as provided in this Agreement;
 - (vi) to exercise, enjoy and otherwise utilize the rights to water as contemplated herein, including without limitation the right to divert, dam, retain, store, and use the waters of the River in the immediate area of the Site, solely to the extent required for the purposes of the Project, in accordance with the provisions hereof, and subject to the River System Coordination Plan, if any, applicable to the River, and provided that the Company shall provide the necessary facility to allow environmental release from the reservoir at all times (the “Water Rights”). Such environmental release

shall be not at any time be less than the greater of: (A) fifteen percent (15%) of the average mean outflow of the Project projected (over the entire Concession Period) to occur in the month during each year having the lowest total outflow; and (B) such other higher number as may be specifically established under Annex C, and provided, further, that no such use shall affect or interfere with the operation or economics of any other hydropower project which has been granted any Pre-Existing Concession Rights including without limitation during Project Construction, impoundment of the Reservoir, and Project Operation, unless such affected hydropower project has agreed thereto in writing;

- (vii) subject to Clause 11.7 of this Agreement, to use at the Site such soil, rock, sand, gravel and limestone as are required for Project Construction;
- (viii) subject to compliance with applicable Laws, the prior issuance by Relevant Authorities of any required Authorizations and Clause 11.7 of this Agreement, to cut and remove non-commercial timber, overburden and other obstructions from the Site (including the sites of any Ancillary Facilities) as required for Project Construction and Project Management and to ensure that Contractors and Subcontractors are provided with timely access to the Sites in accordance with the Master Schedule and the Construction Contracts;
- (ix) subject to compliance with applicable Laws and the payment of all relevant fees and charges, to install and operate communications systems required for Project Management;
- (x) subject to compliance with applicable Laws and the payment of compensation required by any affected third party, necessary access to and from the Site;
- (xi) to import into and re-export from the Lao PDR those Equipment and Materials required for the Project, in accordance with this Agreement;
- (xii) to declare and pay dividends and distributions to Shareholders as provided in the Shareholders Agreement and Articles of Association;
- (xiii) to operate bank accounts, to receive, disburse and transact business, and to receive and maintain financial assets, all in accordance with this Agreement;
- (xiv) to grant security in the Project Assets and the Company's rights and obligations in and under this Agreement to foreign Lenders [and to execute and register the Primary Offtaker Security Documentation with Relevant Authorities];
- (xv) [to non-exclusive joint access to and use of the Shared Substation and Shared Transmission Facilities in accordance with Annex Y];
- (xvi) for Shareholders to pay in registered capital in the manner, amount and timing provided by applicable Laws, subject to the availability of any required Exemption.

2.2 GOL Rights

- (a) The GOL has the right to receive, and the Company shall pay, Royalties, Corporate Income Taxes, other Taxes and Charges, lease rent and other fees as provided in this Agreement and Annex T (the “Financial Benefits”).

- (b) In addition to its monitoring and inspection rights under Clause 4.36, the GOL shall have the right, at all times to monitor and inspect the Project and the Company's compliance with its obligations under this Agreement and applicable Laws, including with respect to health, safety, environmental and social issues, public health and national security. The monitoring and inspection by the GOL, or any failure to do the same, shall not be construed as a waiver of any of the GOL's rights under this Agreement and shall not release the Company from any of its obligations hereunder.
- (c) Subject to Clause 2.2(d) below, if the GOL at any time during the Concession Period has reason for concern as to the quality of design, construction, operation, maintenance, other work or other aspects of the Project that could jeopardize health or safety or result in harm or damage to the Project Facilities or impair the ability of the Company to meet its material obligations (for example: quality of construction, efficiency of the power plant and Economic Operating Life of the Project) provided in this Agreement, then the GOL shall have the right to require the Company, at the sole cost and risk of the Company and for so long as it is necessary to rectify the relevant circumstance, to suspend Project Construction and / or operation of the Project Facilities (such right being a "Suspension Right"), as the case may be, and to remedy such circumstance.
- (d) Prior to its exercise of a Suspension Right the GOL shall:
 - (i) in respect of an Emergency, provide written notice of the relevant circumstance to the Company, prescribing a brief but reasonable period of time within which the Company must remedy such circumstance; or
 - (ii) in all other circumstances, following a reasonable period of consultation with the Company in relation to the relevant circumstance of not less than thirty (30) days, to provide written notice of such circumstance to the Company in reasonable detail and prescribing a reasonable period of time being, in any event, not less than sixty (60) days, within which the Company must remedy such circumstance.
- (e) The GOL also reserves the right to step in directly and remedy any such circumstance described in Clause 2.2(c) above, for so long as may be necessary in order to remedy such circumstance (such right being a "Step-in Right"). The exercise of such Step-in Right by the GOL shall be made at the sole cost and risk of the Company.
- (f) The Company acknowledges and agrees that the GOL has the right not to allow the Company to commence any impoundment of any Project reservoir if the Company has failed to meet the criteria specified in Clause 4.8.
- (g) Subject to Clause 5.2(a), the Company acknowledges and agrees that it is assuming the risk that there will be sufficient water for the generation of electricity and the operation of the Project during the entire Concession Period and agrees that it shall not have any claims against the GOL if such supply of water is inadequate for any reason.

2.3 Land Use Rights

- (a) The GOL hereby grants to the Company, subject to Pre-existing Concession Rights, such land use rights over the Site as are necessary for the Project and Project Management for the Concession Period (the "Land Use Rights"). The Company agrees to pay the Rent in accordance with Clause 3.3. The Company's Lease rights are subject to the Company's continuing payment of the Rent.

Land Use Rights are either:

- (i) exclusive rights, free and clear of all third party rights, for the areas indicated in the Lease in the form set forth in Annex D1 as being exclusive (the “Exclusive Land Use Rights”); or
 - (ii) non-exclusive rights, for the areas indicated in Annex D2 as being non-exclusive (“Non-Exclusive Land Use Rights”), granted subject to the rights of third parties to access that land for uses that do not materially and adversely affect the Company or interfere with the Company’s activities on such land.
- (b) On the Effective Date, the Lease shall come into full force and effect. If at any time the GOL grants additional lease rights to the Company, the Parties shall modify this Agreement or the Lease (as applicable) to the extent necessary for the purpose of granting and issuing such additional lease rights to the Company.
- (c) Non-Exclusive Land Use Rights include rights of the Company:
- (i) to transfer or assign some or all of the Non-Exclusive Land Use Rights, as required for the Project, to any entity not related to the Company, with the GOL's prior written approval;
 - (ii) as required for the Project and subject to applicable Laws and any required Authorizations, to assign or transfer some or all of its assets, rights and properties at the Site;
 - (iii) to access to and vacant possession of the Site as provided herein;
 - (iv) peacefully to possess, hold, and exercise its rights hereunder over all of the lands comprising the Site in accordance with this Agreement for the Concession Period;
 - (v) to exercise its Non-Exclusive Land Use Rights in accordance with applicable Laws and to use its assets, rights and properties at the Site as collateral or security under the Financing Documents [and / or to the Primary Offtaker in accordance with the terms of the Primary Offtaker Security Documentation];
 - (vi) to manage and protect the Site by taking appropriate measures to avoid landslides and collapses and to maintain the quality of land; and
 - (vii) to grant to Contractors and Subcontractors access, use and possession of any or all of the Site for such uses and purposes as are permitted by this Agreement and for a period of time no greater than that applicable to the Company hereunder.
- (d) If, for Project purposes, the Company requires the right to use additional land beyond that encompassed within the Site, the Company shall request and the GOL shall grant such additional Land Use Rights as are demonstrated to the reasonable satisfaction of the GOL to be necessary, provided, however, that: (i) the Company shall assist the GOL to confirm that such additional land is available for the Company's intended use; (ii) any costs incurred by the GOL in acquiring and making available such additional land shall be reimbursed by the Company to the GOL promptly upon demand; (iii) the Company shall complete all studies and obtain all Authorizations required by applicable Laws regarding the use of such additional areas of land; (iv) the Company shall bear all resettlement costs and obligations relating to the relocation of any persons therefrom; and (v) the Parties shall promptly amend

the Lease, this Agreement and any relevant Annex if and to the extent necessary to reflect such further grant. If any person has any rights (other than Pre-existing Concession Rights) in such additional land which would be incompatible with the Company's rights hereunder, the GOL shall assist the Company to resolve such conflict at the Company's expense.

- (e) Under this Agreement, the Company shall not own any land nor have the right to grant any security interest in land ownership. The Company's land rights are limited to rights and interests in land by lease, license, and permission or otherwise as provided in this Agreement, and the right to grant security interests therein in accordance with applicable Laws.
- (f) As required during the Concession Period in order to install, inspect, maintain, repair or replace the Transmission Network, the Company shall have the rights specified in Annex D(2) to the land underlying the Transmission Route, subject to the Company's obligation to compensate any private landowner for damage arising from the Company's exercise of such rights. The Company's rights over the land underlying the Transmission Network include:
 - (i) use rights for the land at each pole plot as delineated in Annex D(2), free and clear of any claims, rights and encumbrances of third parties, provided that the Company has met its obligations under Annex C in respect of any rights over such parcels of land; and
 - (ii) for the land underlying the Transmission Network as delineated in Annex D(2), the Company's use rights, subject to: (a) the Company's compliance with its resettlement and compensation obligations under Annex C concerning such land, and (b) the rights of third parties to access that land for uses that do not have a material adverse impact on and which are not in conflict with the Company's activities on such land.

2.4 Authorizations; Registrations; Notarizations

- (a) The Company shall ensure that it and all Contractors and Subcontractors shall duly and timely apply to the Relevant Authorities for all Authorizations required for the Project and from time to time any renewals thereof, and shall pay all applicable fees and charges therefor in accordance with applicable Laws. Following such due application, the GOL will grant, or procure that the Relevant Authorities grant, the applicable Authorizations to the Company and, as relevant, to Contractors and Subcontractors in accordance with such Relevant Authorities' ordinary procedures and timing.
- (b) When applying for Authorizations, the Company, Contractors and Subcontractors shall take into account the requirements of Laws as well as the ordinary practices and procedures and typical periods of time associated with the performance by the GOL of its responsibilities in projects of this type.
- (c) The Company shall bear sole responsibility for all Project delays and other difficulties arising from the late issuance of Authorizations attributable to the late, incomplete or otherwise defective submission of any application for any Authorization. Except where the issuance or renewal of an Authorization is delayed due to a failure or delay by the GOL, the Company shall be responsible for any failures to obtain as and when required any Authorizations and any renewals thereof. For the avoidance of doubt, any such failure shall not constitute Lao Political Force Majeure.

- (d) In accordance with applicable Laws and as otherwise required by the Financing Documents and the Primary PPA, the Company shall apply for the registration and / or notarization of Project Documents with the Relevant Authorities and pay all applicable fees and charges therefor, subject to any Exemption that is provided. The GOL shall reasonably assist the Company in regard to such registrations as are required to give effect to this Agreement.

2.5 Legal Opinion(s)

Promptly following: (i) the Agreement Date; (ii) the grant of Exemptions; (iii) the execution of the Primary PPA; and (iv) the execution of all Project Documents to which the GOL is party, the GOL shall cause the Minister of Justice to issue a legal opinion to confirm the validity and enforceability of the Project Documents to which the GOL is a party.

Clause 3: Financial Benefits to the GOL

3.1 Royalty Payments

- (a) In each Fiscal Year, the Company shall pay to the GOL as royalties (the “Royalties”) an amount equal to the Gross Operating Revenue for that Fiscal Year multiplied by:
 - (i) during the First Royalty Period, [_____] percent (___%);
 - (ii) during the Second Royalty Period, [_____] percent (___%); and
 - (iii) during the Third Royalty Period, [_____] percent (___%).
- (b) Subject to Clause 3.1(c) below, Royalties will: (a) accrue with the first sale of any test energy by the Company to any offtaker; (b) be computed monthly in arrears for each month thereafter in each Fiscal Year of the Concession Period; (c) be paid on or before the [_____]th (___th) day of the month following the month with respect to which such Royalties have been computed, and in the currency(ies) and proportions in which the Gross Operating Revenues for that month were received; and (d) be paid in priority ahead of any repayment of principal or payment of interest or other amounts to Lenders, and otherwise subject to conditions specified in the Financing Documents.
- (c) Any Royalty in relation to the sale of energy (whether test energy or otherwise) prior to COD shall be computed monthly in arrears and calculated by multiplying the Gross Operating Revenue for the relevant year (each year being a period from the 1st January through the 31st December or, if earlier, through to, but excluding, COD), by the Royalty rate applicable to the First Royalty Period, provided, however, that the first payment shall not be required to be made until the date falling [_____] (___) days after COD has been achieved.

3.2 Taxes

The Company shall pay to the GOL, in accordance with Clause 11 and Annex T, all Taxes for which it is responsible under this Agreement.

3.3 Rent

The Company shall pay to the GOL, annually in advance during the first month of each year during the Concession Period, the Rent for the areas of Exclusive Land Use Rights.

3.4 Fees and Charges

The Company shall pay to the GOL and / or to each Relevant Authority, any and all fees and charges in accordance with applicable Laws in effect from time to time, unless a specific Exemption therefrom has been duly obtained.

3.5 Sharing Benefits

In addition to the payment of Royalties and Taxes as provided above, the Company shall share the Project's economic benefits with the GOL in accordance with Clause 12 where the economic benefits of the Project are substantial.

Clause 4: Key Obligations and Undertakings of the Company

During the Term, and in addition to all other Company obligations set out in this Agreement and its Annexes, the Company undertakes to the GOL to do the following:

4.1 Build, Operate and Transfer

The Company shall design, build, finance, operate, maintain and transfer the Project and all Project Assets to the GOL (or its designee), and otherwise implement the Project and engage in Project Management, all in accordance with the provisions of this Agreement. The Company shall not engage in any unrelated activities.

4.2 Compliance

The Company shall strictly comply with the provisions of this Agreement including all Annexes hereto, all applicable Laws, and the conditions of all Authorizations issued to the Company or concerning the Project.

4.3 Finance; Deadline

- (a) The Company shall provide or obtain all financing needed for the Project, on the basis of “limited recourse” debt financing secured by the Project Assets, provided that [state-owned enterprise] shall be required to provide only the Shareholder equity investment and shall not be required to provide any Shareholder credit support to such “limited recourse” debt financing. In no event shall [state-owned enterprise] have any obligation to assume any liability in respect of or to guarantee any part of the financing for the Project other than in connection with any financing which it may obtain for its equity investment in the Company (which may require [state-owned enterprise] to pledge its shares in the Company).
- (b) The Company shall be responsible to achieve the Financial Close Date no later than the Scheduled Financial Close Date and to complete Project Construction in accordance with the Master Schedule. If the Company achieves Financial Close on a date that is later than the Scheduled Financial Close Date, and provided that the GOL has not exercised its right to terminate this Agreement for reason of failure to meet the Scheduled Financial Close Date, no adjustment to the Scheduled Commercial Operation Date shall be allowed or made.

4.4 Project Costs and Risks

Unless otherwise provided in this Agreement, the Company shall at all times bear all Project costs and risks, including those related to design, construction, completion, operation and maintenance of the Project Facilities, and shall ensure that all such costs are within the Agreed Cap.

4.5 Principal Obligations

- (a) Throughout the Concession Period, the Company shall, subject to any Exemptions, fully comply with applicable Laws, LEPTS, applicable IEC standards, the provisions of this Agreement and the Material Project Documents to which it is a party, any vendor or manufacturer's recommended operating practices and, when and to the extent not otherwise specified, Prudent Utility Practices and the standards and parameters adopted by ICOLD; in each case consistent with hydroelectric power plant facilities with a useful life of not less than the Economic Operating Life.
- (b) Throughout the Concession Period, the Company shall have sole control over and bear sole responsibility for the implementation of the Project and Project Management. The Company shall implement the Project and engage in Project Management in accordance with the requirements of this Agreement, using the diligence and care of a prudent manager acting in accordance with Prudent Utility Practices and generally accepted international standards with respect to the activities involved.
- (c) The Company undertakes to the GOL: (i) prior to the Effective Date, to complete a comprehensive review of all relevant Project design criteria and calculations with respect to their compliance with applicable Laws, LEPTS, applicable IEC design standards, Prudent Utility Practices, ICOLD and all other relevant requirements of this Agreement, and to provide the GOL with a written summary of the results of that review (including identifying for the GOL any instances of non-compliance of such Project design criteria and calculations, the reasons for such non-compliance, and the steps the Company will take to rectify such non-compliance; and (ii) not later than sixty (60) days after the Effective Date, to submit to the GOL a letter, issued by the engineering design firm responsible for the Project's overall design, and in form and substance reasonably satisfactory to the GOL, certifying that the design and construction of the Project Facilities, including the construction methodology employed and the Equipment and Materials anticipated to be used in such construction, will enable the Project Facilities to achieve a useful life of no less than the Economic Operating Life.
- (d) The Company shall ensure: (i) that the Project management structure of the Company with respect to the Project shall conform to the requirements of Annex I, as it may be updated from time to time with the GOL's approval; and (ii) that all management personnel, staff and other employees encompassed within the Company's organization chart included in Annex I, shall be employees of the Company validly working full-time in the Lao PDR.
- (e) the Company shall promptly within thirty (30) days from the signing of any Material Project Documents, including any amendment thereof, provide the GOL with the certified and completed copies of all Material Project Documents and their amendments (whether material or otherwise) to the GOL.

4.6 Master Schedule

The Company shall design, finance, construct, supply and erect, complete, commission and achieve commercial operation of the Project in accordance with the milestones and deadlines set forth in the Annex J.

4.7 Project Plan and Project Implementation

The Company will implement the Project in phases:

(a) Development

The Company shall be responsible for the timely development and financing of the Project up to Financial Close.

(b) Economic Operating Life

The Company shall ensure that all design and engineering, procurement, and construction of the Project and all parts thereof are planned and implemented in such manner, with such skill, materials and equipment, and at such standards as may be necessary to enable the Project Facilities to achieve a useful life no less than the Economic Operating Life. The Company shall also ensure that the EPC Contract executed by the Company and the EPC Contractor contains the binding legal obligation and commitment on the part of the EPC Contractor to carry out all design, engineering, procurement and construction work in regard to the Project in a manner that will enable the Project Facilities to achieve a useful life of no less than the Economic Operating Life.

(c) Engagement of Principal Project Contractors; Subcontracting

The Company shall engage Principal Project Contractors on the basis of international competitive bidding or otherwise demonstrate to the reasonable satisfaction of the GOL that such Principal Project Contractors have been engaged on an arm's length basis and on commercially reasonable terms. Where necessary, and with the Company's approval, Principal Project Contractors may subcontract parts of Project Construction to Subcontractors or suppliers consistent with the Principal Project Contracts and this Agreement.

(d) Project Construction Components and Requirements

Project Construction shall include design, engineering, procurement and construction as follows:

- (i) Component 1: Civil Works and Permanent Infrastructure, comprising: Preparation Works; River Diversion; Dam(s); Spillway; Intake and Power Waterways; Powerhouse and Tailrace; Switchyard (Civil Structure); Access Roads; Operator Village and Infrastructure; and Miscellaneous Work.
- (ii) Component 2: Hydro-Mechanical Equipment comprising: Power Intake Gates; Draft Tube Gates; Spillway Radial Gates and Stop Logs; River Diversion Stop Logs; Steel Penstock; and Miscellaneous Equipment.
- (iii) Component 3: Electro-Mechanical Equipment comprising: Turbines, Governors and Main Inlet Valves (if required); Generators and Excitation System; and Power Station Equipment and Power Station Crane.
- (iv) Component 4: Transmission Network comprising: the Transmission Network from the Hydroelectric Power Station up to the [Shared Substation / interconnection point].

All of the structures comprising each of these components shall be designed, engineered, procured, built and installed in accordance with construction standards, LEPTS and Prudent Utility Practices for power facilities.

(e) Construction Period

- (i) The construction period includes the period during which work shall be performed by or on behalf of the Company in respect of Project design, engineering, procurement and construction, but excluding minor punch-list items to be finalised after COD (as adjusted pursuant hereto, the “Construction Period”), as set forth in Annex J. The Construction Period allowed for the Project shall be [_____] (____) months, commencing from the Agreement Date. Except where delay in achieving the Commercial Operation Date either: (A) results from an event of Force Majeure; or (B) is directly attributable to a breach by the GOL of a material obligation under this Agreement, no extension of the Construction Period shall be allowed unless with the prior written agreement of the Parties.
- (ii) Except as provided in Clause 4.7(e)(iii) below, the Company shall complete the Construction Works, including carrying out the testing and commissioning in accordance with the Commissioning Programme, but excluding only minor punch-list items to be finalised after COD, on or prior to: (A) the Scheduled Commercial Operation Date; and (B) the GOL CA Completion Date.
- (iii) The Company shall be entitled to an extension of the time for completion of the Construction Works under Clause 4.7(e)(ii) above if and to the extent that the achievement of the Scheduled Commercial Operation Date or the GOL CA Completion Date, as the case may be, is or will be delayed by any of the following events or circumstances: (A) a Breach of Contract by the GOL; or (B) prior to the Commercial Operation Date, the occurrence of a Force Majeure event. Any delay in achieving the Commercial Operation Date by the Scheduled Commercial Operation Date for any other reason not directly attributable to a Breach of Contract by the GOL or a Force Majeure event occurring prior to the Commercial Operation Date shall result in the Concession Period being deemed to have commenced on the Scheduled Commercial Operation Date irrespective of the date on which Commercial Operation was actually achieved. For the avoidance of doubt, the Parties agree that no breach of any obligation by the Secondary Offtaker under the Secondary PPA or elsewhere shall constitute a Breach of Contract by the GOL.
- (iv) Within thirty (30) days after the occurrence of a delay attributable to a Breach of Contract by the GOL either has become known to or should reasonably have become known to the Company, the Company shall give to the GOL a notice: (A) claiming an extension of the time for completion of the Construction Works; (B) describing the event giving rise to the claim; and (C) demonstrating that the Company has taken all reasonable steps to minimize the delay; provided, always, that the Company shall not be entitled to any extension of time to the extent any delay is attributable to a Breach of Contract by the Company under this Agreement. If the Company fails to give notice of a claim for extension of time within such thirty (30) day period, no extension of time shall be allowed.

(f) Commencement of the Construction Works

The Company shall commence construction of the Project Facilities in accordance with the Master Schedule and shall issue an unlimited notice to proceed under the EPC Contract by the date that is no later than forty five (45) days after the Financial Close Date. For the construction and operation of the Project, the Company shall comply with the provisions of this Agreement, all applicable Lao PDR Laws, LEPTS, and all obligations applicable to the Company and the activities contemplated under this Agreement set forth in Annex C.

(g) Completion of the Construction Works

- (i) The Company shall provide the GOL with advance notice of the detailed schedule and associated relevant procedures for: (A) any diversion of water; (B) any impounding of water; (C) the commencement of commissioning; and (D) the expected achievement of the Commercial Operation Date, in each case not less than ninety (90) days prior to the planned occurrence thereof.
- (ii) The GOL shall have the right to send its own staff to participate in and to attend such milestones, in addition to instructing attendance thereat by the Contract Engineer. The Company shall take due consideration of, and shall reflect in its actions any and all inputs, comments and suggestions of the GOL and the Contract Engineer, as the case may be.
- (iii) The carrying out and satisfying by the Company of the commissioning procedure and acceptance criteria of the Commissioning Programme under the Primary PPA and / or the Secondary PPA and in accordance with LEPTS, obliging the relevant offtaker to consent to the Project Facilities commencing commercial operation, shall be deemed to oblige the GOL simultaneously to consent to the Project Facilities commencing commercial operation under this Agreement, provided, always, that the Company shall have first provided the GOL with: (A) a certificate of the Company that the commissioning has occurred and that all applicable criteria therefor have been met to the satisfaction of the relevant offtaker(s); and (B) a facsimile copy the written consent of the relevant offtaker(s) to the Project Facilities commencing full commercial operation issued in accordance with the terms of the relevant PPA.

(h) Compliance Parameters for Commissioning and Achieving Commercial Operation

The Company shall comply with LEPTS, the PPA and all other applicable requirements, standards and procedures not in conflict with the foregoing for the testing and commissioning of the Project and the achievement of commercial operation.

(i) Commissioning Notices and Information

- (i) The Company shall provide to the GOL, at least ninety (90) days prior to the planned commencement of the carrying out of the Commissioning Programme: (A) one (1) electronic copy and two (2) hard copies of the Commissioning Programme; (B) a copy of the survey and copies of all completed inspection reports, test sheets, check lists, the equipment specifications required for the purposes of the Commissioning Programme (with all such items prepared wholly in the English language); and (C) any other items required under the Commissioning Programme or reasonably requested by the GOL.
- (ii) The Company shall provide the GOL with: (A) at least ten (10) days' notice of the specific time at which it intends to commence carrying out any stage of the Commissioning Programme; and (B) such information and other items required for that stage of the Commissioning Programme as may be reasonably requested by the GOL.
- (iii) The GOL shall at least forty-eight (48) hours before each stage of the Commissioning Programme, give to the Company notice of the GOL's intention to attend and of the number of persons who will witness that stage not exceeding ten (10) persons. The Company shall bear all costs and expenses for such inspection.

- (iv) If the GOL does not attend at the notified time and place, the Company may proceed with the Commissioning Programme, which shall be deemed to have been carried out in the presence of the GOL.

- (j) GOL Right to Inspect and Review During Commissioning and Otherwise
 - (i) In addition to the GOL's normal rights of inspection in accordance with LEPTS and as provided elsewhere in this Agreement, the GOL shall also be entitled to: (A) inspect and review any part of the Construction Works and the Project Facilities, contemporaneously with, and whether as part of or independently from, the Commissioning Programme; and (B) be present at and review the carrying out of any tests and commissioning under the Commissioning Programme, at the Company's cost.
 - (ii) The Company shall provide, at its cost, office, accommodation and other reasonable support at the Company's project offices at the Site to the Liaison Officers carrying out inspection and review as referred to herein, provided that the GOL through the Implementing Agency shall inform the Company not less than two (2) days prior to such inspection mission taking place, and such mission shall be subject to the rights and obligations of the GOL under this Agreement.

- (k) Compliance Certificate
 - (i) The Company shall issue a compliance certificate in the form of the checklist set out in Annex AA (the "Compliance Certificate") to the GOL which: (i) is issued in accordance with, and confirms the Company's compliance with, LEPTS procedures and requirements in respect of the commissioning of the Project Facilities; (ii) confirms that the Construction Works have been completed in accordance with this Agreement and that the Project Facilities have been completed in compliance with all other applicable technical requirements, standards and procedures; and (iii) confirms that the Company has fully satisfied all of its other undertakings and obligations under this Agreement that are required to be performed by the Company (or otherwise in respect the Project Facilities) on or before the date on which the Company issues such Compliance Certificate (and in any event prior to the achievement of the Commercial Operation Date).
 - (ii) The GOL shall have a period of fifteen (15) days following the receipt of a Compliance Certificate to verify the correctness and completeness of that Compliance Certificate, to identify any non-compliant work, any failed performance of an obligation under this Agreement or any error, defect or omission in the Compliance Certificate and to reject the Compliance Certificate if the GOL identifies any materially non-compliant work, any failed performance of a material obligation under this Agreement or any material error, defect or omission in the Compliance Certificate. The Company shall promptly remedy any inaccuracy or omission in the Compliance Certificate, and, following completion of any materially non-compliant work on the Project Facilities or rectification of any failed performance of a material obligation under this Agreement, shall then issue a revised Compliance Certificate to the GOL. For purposes of verifying compliance, the GOL may use a compliance certificate checklist in the form of the checklist provided under Annex AA (the "Compliance Certificate Checklist").
 - (iii) Notwithstanding the completion of any materially non-compliant work on the Project Facilities or rectification of any failed performance of a material obligation

under this Agreement, the Company shall still be under an obligation to remedy any other non-compliant work, any other failed performance of an obligation under this Agreement or any other error, defect or omission in the Compliance Certificate within the Final Defects Retention Period.

(l) CA Completion Certificate

- (i) Following receipt by the GOL of the Compliance Certificate (which has been duly revised if so required in accordance with Clause 4.7(k)(ii) above), accompanied by a compliance report in the form set out in Annex AA which covers such relevant information and material as the GOL may request to enable it to independently confirm the completeness and correctness of the Compliance Certificate, the GOL shall within fifteen (15) days following such receipt issue a completion certificate (the “CA Completion Certificate”).
- (ii) [If the GOL does not (i) notify the Company within the period provided for under Clause 4.7(k)(ii) above of any materially non-compliant work, any failed performance of a material obligation under this Agreement or any material error, defect or omission in the Compliance Certificate or (ii) issue the CA Completion Certificate in accordance with Clause 4.7(l)(i) above, then the GOL CA Completion Date shall be deemed to occur on the first day after the conclusion of the period allowed.]

(m) Achievement of the Commercial Operation Date

- (i) The Commercial Operation Date shall occur in accordance with the provisions of the PPA. The Company shall have the right to begin to sell commercial (non-test) electricity to the Offtaker as from the Commercial Operation Date regardless of whether the GOL CA Completion Date has occurred, provided, however, that if the GOL CA Completion Date occurs after the SCOD (other than for reason of a Breach of Contract by the GOL or a Force Majeure event) then the Company shall, notwithstanding the occurrence of the Commercial Operation Date be responsible to pay, as from SCOD, liquidated damages to the GOL in accordance with Clause 4.7(n) and Royalties to the GOL in accordance with Clause 3.1.
- (ii) From the achievement of the Commercial Operation Date and throughout the Concession Period, the Company shall maintain at the Site, a permanent plaque or other marker confirming the date of achievement of the Commercial Operation Date.

(n) Delay in the Commercial Operation Date; Delay in the GOL CA Completion Date -- Damages Payable

- (i) Delay in Achieving COD. If the Commercial Operation Date occurs after SCOD (other than for reason of a Breach of Contract by the GOL or a Force Majeure event), then the Company shall pay liquidated damages to the GOL in respect of each such day of delay, in an amount equivalent to the amount of deemed Royalty that would have been payable to GOL if the COD had occurred at SCOD.
- (ii) Delay in Achieving GOL CA Completion Date. If the Commercial Operation Date has occurred (whether before, on, or after SCOD) and the GOL CA Completion Date occurs more than [_____ (___)] days after the Commercial Operation Date (other than for reason of Breach of Contract by the GOL or a Force Majeure

event), the Company shall pay liquidated damages to the GOL in respect of each such day of delay, in the amount set out below (such amount has been agreed by the Parties to be equivalent to the amount of liquidated damages that would be chargeable for delay in achieving COD): United States Dollars [_____ Thousand (US\$ _____)] per day for each day of delay in achieving the GOL CA Completion Date.

- (iii) The Company shall pay any and all such liquidated damages to the GOL in full within thirty (30) days of the date of the GOL's written demand therefor. The Parties agree that any liquidated damages payable pursuant to this provision do not constitute Fines or penalties as contemplated in this Agreement and in any event are not included within the Agreed Fines and Penalties Cap.

(o) No Waiver

Neither the GOL's review nor inspection of all or any part of the Construction Works, nor the issuance of the CA Completion Certificate or any other action taken or not taken by the GOL shall relieve the Company of its obligations or liability of any type for defects or delay in the design or construction of the Project Facilities.

(p) Disputes affecting Issuance of the CA Completion Certificate

Any dispute arising between the GOL and the Company in respect of testing, review or inspection hereunder or the completion of any Construction Works required for the issuance of a CA Completion Certificate shall be resolved as provided in this Agreement.

(q) Operating Period

The operating period (the "Operating Period") shall consist of the period commencing on the Commercial Operation Date and, unless earlier terminated in accordance with this Agreement, continuing until the [_____ (___)] anniversary of the [Agreement Date/Commercial Operation Date].

(r) Operation and Maintenance

- (i) The Company shall either: (A) operate and maintain the Project itself, or (B) enter into an Operation and Maintenance Contract with an Operation and Maintenance Contractor.
- (ii) The Company shall ensure that the Project is operated and maintained so as to enable the Project Facilities to achieve a useful life no less than the Economic Operating Life and, throughout the Concession Period, the operating standards set out in the Primary PPA and / or the Secondary PPA (whichever contains the more rigorous operating standards), and shall spend all necessary amounts in order to fully meet that obligation.
- (iii) At all times the Company shall, or shall cause the Operation and Maintenance Contractor to, operate and maintain the Project in accordance with and subject to the requirements of this Agreement, Prudent Utility Practices and one or more of the technical codes and standards set out in Annex P, and, in the event that the Company has engaged an Operation and Maintenance Contractor to carry out the operation and maintenance of the Project, shall be responsible to ensure that all Operation and Maintenance costs and expenses under the Operation and

Maintenance Contract shall not exceed the amounts budgeted therefor (as previously advised to and accepted by the GOL). In order to ensure that the Project Facilities are fully operational and in good working order at the expiry of the Concession Period, the Company shall carry out the works described in and fulfil its other obligations pursuant to Annex H.

- (iv) The Company will, following consultation with the GOL, implement any and all changes to Project operation and maintenance requested by the GOL that do not materially and adversely affect the ability of the Company to perform its obligations under the Primary PPA, the Secondary PPA and the other Project Documents or result in a material increase in costs or reduction in revenues.
- (v) The Company shall be responsible to regularly maintain and to keep in good repair, at the Company's sole cost: (i) any part of the Access Roads which the Company has constructed as part of the Project; and (ii) any part of the Access Roads which is otherwise dedicated to Project use. Following the handover of the Access Roads to the GOL and throughout the Term, the Company shall be financially responsible to the GOL, and shall reimburse the GOL upon demand for the cost of repair of any and all damage suffered by any Access Road not included in items (i) and (ii) of this sub-clause, where such damage is attributable to the Project, including without limitation damage caused by the Company or any Contractor or Subcontractor.

(s) Feasibility Study Report

The GOL acknowledges receipt of the Feasibility Study Report. The Company confirms that as of the Agreement Date there have not been any material changes to the assumptions or conclusions contained in the Feasibility Study Report which have not been provided in writing to the GOL; provided that the cost assumptions and the dates in the schedule, including the Scheduled Commercial Operation Date, as set forth in the Feasibility Study Report have been superseded by the cost assumptions contained in the Financial Plan and by the dates in the Master Schedule, each of which is attached to this Agreement.

(t) Analysis of and Responsibility for the Feasibility Study Report

- (i) The Company has determined from the Feasibility Study Report, which: (A) contains investment plans, conceptual planning, data and information; and (B) includes environmental impact studies relating to the effects of the operation of the Project on the Environment, that the Project is feasible.
- (ii) The Company shall bear sole and full responsibility for the quality, accuracy, comprehensiveness and reliability of the Feasibility Study Report and for all technical and commercial conclusions and all decisions and actions it has based thereon, including without limitation: (A) the dependable capacity of the Project Facilities to be designed and constructed; (B) the projected energy that the Company will be able to generate from the Project Facilities throughout the Concession Period and in any given year, season, month or other period comprising the same; (C) projections as to the amount of sediment that will be trapped in the reservoir over the life of the Project and at the end of the Concession Period; and (D) all other technical, commercial or financial considerations as could have an adverse effect on the success of the design, construction and / or operation of the Project.
- (iii) The Company shall also bear sole and full responsibility for the proper design of the Project taking into account all relevant factors and considerations necessary to

ensure that the environmental impact has been minimized insofar as possible (e.g., if the Project is intended to serve peak demand, that it comprise a regulating dam, or if the Project is a diversion project, that it maintain continual environmental release from the reservoir at all times, etc.). The Company confirms that it has investigated and researched the environmental and social impacts of the Project and those impacts can be avoided, reduced, remedied, and compensated by the Company in accordance with Annex C.

- (iv) Based on the Feasibility Study Report, the Company confirms its desire to proceed with the Construction Works.
- (u) Final Overhaul Reserve
 - (i) The Parties have considered the complete scope of work to be completed by the Company under Annex H prior to the expiry of the Concession Period. The Parties agree that their current good faith estimate of the cost that would be required to be expended to carry out such work, based on all relevant factors and without adjusting for inflation, is US\$ [_____].
 - (ii) Not later than six (6) years prior to the expiry of the Concession Period, the GOL, through a reputable engineering consulting firm appointed by the GOL (in consultation with the Company and at the Company's expense), shall in good faith determine: (A) the work to be completed under Annex H; (B) the period of time needed to complete such work; and (C) the budget needed to complete such work.
 - (iii) Not later than five (5) years prior to the expiry of the Concession Period, the Company shall deposit twenty five percent (25%) of the final overhaul budgeted amount into a special reserve account (the "Final Overhaul Reserve Account") to be held (in the names of the Company and a GOL agency to be nominated at that time by the GOL, but subject to the withdrawal and application of funds restrictions described in Clause 4.7(u)(iv) below) at a bank in the Lao PDR as agreed by the GOL, and shall continue annually to make corresponding deposits without interruption until the entire budgeted amount has been so deposited.
 - (iv) Subject to Clause 4.7(u)(v) below, the conditions for the withdrawal of funds from such account shall be as follows:
 - (a) no funds shall be withdrawn from such account except in connection with the performance of the works specified in Annex H;
 - (b) the Company shall have the right to withdraw funds from the account from time to time to carry out the overhaul work or in reimbursement of funds already applied to overhaul work, subject, in either case, to obtaining the authorization signature of the GOL;
 - (c) if: (i) the Company has failed to carry out the overhaul work in accordance with this Agreement and Annex H, (ii) the GOL has notified the Company of such failure, and (iii) the Company has not remedied such failure within thirty (30) days after receipt of such notice, then the GOL shall have the right to withdraw funds from the account and apply all such withdrawn funds toward the overhaul without obtaining any authorization signature of the Company.

- (v) All interest earned on amounts deposited into the Final Overhaul Reserve Account shall be for the account of the Company. The Company may, at any time, request the GOL to authorise and assist with arranging the payment of any such interest to the Company.

4.8 Biomass Clearance and Impoundment

- (a) The Company shall not begin to impound water until: (i) all biomass has been cleared from the Project's reservoir and impoundment areas in accordance with Annex C; and (ii) all Company obligations under Annex C which are required to have been completed by such date, including the physical resettlement of all PAPs and the Company's payment of all compensation due or owing under this Agreement and/or Annex as at such date, have been satisfied. The GOL shall have the right to cut and extract any and all commercial timber in and from such areas sufficiently prior to impoundment to permit the Company to commence impoundment on the date specified in the Master Schedule or, to the extent the GOL does not wish or is unable to complete such extraction, it shall cause the Relevant Authorities to grant all relevant Authorizations to permit the Company to do so.
- (b) If the Company fails fully to clear the biomass prior to impounding in accordance with the standards set forth in Annex C, the Company shall pay to the GOL upon demand an amount equivalent to two (2) times the cost of complete clean up and removal of all biomass from the Project's reservoir and impoundment areas, as quoted in writing by an independent contractor and confirmed by the GOL, and regardless of whether the Company may have been allowed by the GOL not to fully carry out such biomass removal.
- (c) The Company shall bear sole responsibility for any delay to the commissioning or operation of the Project and for any adverse effect on the Company's revenues, any obligation to pay damages to the Primary Offtaker or Secondary Offtaker, any liability to meet debt service obligations and all other circumstances resulting from any delay or failure of the Company in satisfying the obligations set out in this Clause.
- (d) The Company shall comply with the following impoundment criteria:
 - (i) confirm to the GOL in writing that all dam safety conditions and recommendations proposed by the Dam Safety Review Panel and / or the Contract Engineer have been satisfied or, where not yet satisfied, provide a detailed explanation of why and an analysis of the risks of commencing impoundment where such condition or recommendation remains outstanding;
 - (ii) stationing one or more qualified civil engineers at the dam to monitor the progress of impoundment and the impoundment-related stresses on the dam and other relevant components and structures comprising the Project Facilities;
 - (iii) prepare and submit to the GOL on a daily basis a report updated each day to indicate the progress of impoundment and any impoundment-related concerns or issues (and in particular the safety and integrity of the dam structure and the safety of all persons involved including PAP's and Company personnel) that have arisen since the previous report, together with the Company's plan for resolving or otherwise addressing such concerns and issues; and
 - (iv) notify the GOL in writing immediately upon the completion of the impoundment, advising the MASL level reached at the conclusion of impoundment.

- (e) In the event of any dispute between the Parties as to whether impoundment of the reservoir may proceed in accordance with this Agreement, the Parties, together with the Owner's Engineer, a GOL engineer and the Contract Engineer shall meet to discuss and seek amicably and promptly to resolve the matter pursuant to this Agreement. In respect of any technical matter, if the Owner's Engineer, the GOL engineer and the Contract Engineer reach a consensus view as to whether impoundment can proceed and any conditions that should be applied to that impoundment, then the Parties shall concur with that consensus view. In respect of any other matter, including the proper interpretation and application of this Agreement, impoundment shall not occur until and unless the Parties have reached agreement or, failing such agreement, the matter in dispute has been resolved in accordance with the dispute resolution provisions of Clause 19.

4.9 Storage and Release; River System Coordination Plan

- (a) The Company shall properly notify and coordinate the storage and release of water during the Concession Period with all other power projects that could be affected by such storage or release, in accordance with applicable Laws and the policies of MEM then in effect (including the MEM Policy). The Company shall be liable to compensate for any adverse effect of such storage or release on any other power project. Notwithstanding the foregoing, if a release of water is necessary to maintain the safety and security of the Project Facilities or a release is required under Clause 2.1(c)(vi), Annex C or the terms of the PPA, then such release may be made by the Company taking into account the adverse impacts of such release on any third parties or other projects and subject to compliance by the Company with the Emergency Plan, the provision of timely and effective warnings and compliance with applicable mitigation measures to limit any resulting damage, and timely and effective coordination between the Company and the GOL. When negotiating and finalizing drafts of the Primary PPA and the Secondary PPA, the Company shall take all necessary steps to ensure that the operation of the Project in accordance with the terms and conditions of the Primary PPA and the Secondary PPA, including without limitation all permitted dispatch scenarios and will not adversely affect or otherwise cause damage to the banks of the River downstream of the Project powerhouse.
- (b) The Parties recognize the potential hydrologic dependencies of hydroelectric power projects currently being developed in the Lao PDR, including projects that have been, or may in future be, developed upstream and/or downstream of the Project. In order to prevent conflicts from arising over water rights and water usage across multiple hydropower projects and/or other water users, and in order to optimize EDL system operation and maximize the value of water as a key natural resource for the people of the Lao PDR, the GOL has indicated its intention to establish, in consultation with relevant stakeholders, a river system coordination plan encompassing the Project (the "River System Coordination Plan"). The River System Coordination Plan will focus on River basin optimization, and may take into consideration, among other things, the anticipated number, types and locations of hydropower projects on the River, the specific circumstances of the Project and other projects, hydrologic boundaries, streamflow of the River (variability, extreme conditions, flow velocity and timing), potential non-power uses and priorities for water (such as flood control and irrigation), and economic factors and legal rights and obligations of stakeholders including project owners and the GOL.
- (c) In developing the River System Coordination Plan, the GOL may undertake hydrology and operations modeling with the participation of the Company and other project owners. In this connection, the Company agrees to provide the GOL with the Company's model for the Project operating on a stand-alone basis (i.e., operating independently of any other project

on the River or which is encompassed within the River System Coordination Plan). The GOL may also implement a review of existing water rights and obligations granted by the GOL in concession agreements and reflected in applicable power purchase agreements, to ascertain generation obligations and pricing.

- (d) Consultations among the GOL, the Company and other project owners shall consider, and the River System Coordination Plan shall, where appropriate address, the possibility of joint or coordinated generation and reservoir management and operations that offer increased total generation, greater power generation value, and/or non-power benefits over stand-alone operations, and the appropriate sharing of any increased benefits among relevant stakeholders. Factors to be considered shall include operating rule curves (stipulation of reservoir management, flow releases, and ramp rates for real time operations, seasonal or annual operations, emergency situations, extreme water conditions and non-power operations), maintenance planning, information sharing (including seasonal and short-term forecasting), and communication protocols (including emergency warning systems). The River System Coordination Plan will also address such matters as contractual obligations, consultation and coordination meetings, benefits sharing and/or compensation mechanisms (e.g., water storage services and energy-in-lieu of generation), monitoring and reporting.

4.10 Overburden; Debris

The Company shall not begin the Construction Works until and unless it has advised the GOL as to the specific locations, dimensions and physical constraints or conditions affecting the areas in which the Company or any Contractor or Subcontractor intends to dispose of any overburden, any construction materials not wholly used in the Project, and any debris arising during the course of the Construction Works, and provided that the Company: (i) has obtained all necessary Authorizations in respect of such matters; (ii) shall carry out such disposal in compliance with applicable environmental Laws; (iii) shall ensure that such disposal areas, to the extent located on the Site, have been identified in the maps in Annex D(2) and (iv) shall not adjust or change its approved disposal plan other than in compliance with this Agreement (including Annex C) and any applicable Laws.

4.11 Contractor Warranties

The Company shall ensure that all Contractor warranties are transferable to Lenders and, following an early termination where there is a transfer of the Project Assets to the GOL, to the GOL, and that all Project Facilities are kept always in full compliance with all warranty requirements.

4.12 Health and Safety

- (a) The Company shall at all times take all necessary precautions to protect the health and safety of all persons involved in the Project or otherwise present at or on the Site or downstream of the Project in accordance with the requirements set forth in Annex C and in applicable Laws, including Prudent Utility Practices.
- (b) As a Condition Precedent to the Effective Date pursuant to Clause 6.2(b), the Company shall prepare and submit to the GOL a comprehensive health and safety plan (the "Health and Safety Plan") meeting the requirements of Clause 4.12(a) above and covering all aspects of the Project construction and operation which have the potential adversely to impact health and / or safety. The GOL shall have the right to provide recommendations and comments to the Company on the Health and Safety Plan. The Company shall revise the Health and Safety Plan to reflect any recommendations or comments of the GOL. The Company shall implement the Health and Safety Plan and ensure that its Contractors and Subcontractors do so as well.

- (c) The GOL shall have the right to suspend, at no cost to the GOL and for so long as the GOL may reasonably deem to be necessary, any or all Project construction or operation activities during the Concession Period, if the GOL reasonably contemplates that such activity poses a danger to health or safety.

4.13 Impact on Pre-Existing Concession Rights

- (a) If any project located in the vicinity or downstream or upstream of the Project is implemented pursuant to Pre-existing Concession Rights and advises either Party that it has suffered any adverse impacts from the Project, and if the GOL is obliged (pursuant to such Pre-existing Concession Rights or applicable Laws) to compensate such project in respect of such losses, then the Company shall be financially responsible to the GOL for all costs arising from the Project's adverse impacts. If the Parties fail to agree on the costs within thirty (30) days of their discussion, then the GOL may in good faith appoint an independent consultant at the Company's cost.
- (b) The Company shall not be liable to the GOL in respect of the Project's impacts on other projects arising subsequent to the Project, provided, however, that the Company is in compliance with permitted water levels, environmental flow and other relevant environmental and social obligations of the Company under this Agreement including Annex C.

4.14 Environmental and Social Matters: Environmental Protection Fund

- (a) The Company shall implement the Project and engage in Project Management in compliance with applicable Laws concerning social and environmental matters (subject to any Exemptions), the Company's integrated environmental and social obligations set forth in Annex C and the GOL-approved environmental and social impact assessments, Environmental Management Plan, Social Development Plan and Resettlement Action Plan.
- (b) The Company shall budget for and shall make annual contributions to the Environmental Protection Fund in the amount(s) specified in Annex C in respect thereof.
- (c) The Company shall make and implement all arrangements necessary or advisable at any time during the Concession Period to compensate and / or resettle any Persons who occupy or inhabit the Site as of the date hereof. The Company acknowledges and agrees that, irrespective of whether the Company contracts work or services (such as compensation, resettlement, or livelihood restoration) to any other entity, the Company nevertheless shall at all times remain fully liable to the GOL for compliance with this clause.
- (d) The Company shall bear all costs associated with any resettlement-related efforts or actions of the GOL including: (i) providing information to and answering questions of Persons to be resettled; (ii) reviewing and, where the relevant requirements have been satisfied, approving livelihood restoration programs, the Resettlement Action Plan and details of compensation policies; (iii) inviting PAPs or groups of PAPs to attend meetings reasonably requested by the Company; (iv) undertaking and completing all such actions as are reasonably necessary to effect such resettlement which the Company is not lawfully able to perform and which the GOL is lawfully able to perform; and (v) undertaking and completing such other actions with respect to such resettlement as are required of the GOL by Laws or in accordance with GOL policy and practice as at the date of such resettlement.
- (e) The Company shall bear all costs of compliance with this clause.

- (f) Any failure to complete resettlement shall not constitute a Breach of Contract by, or result in any liability of, the GOL.

4.15 Watershed Management

- (a) The Company shall be responsible to identify, investigate, plan and implement all reasonable, prudent and effective watershed management actions and programs as may be necessary to protect the long-term success of the Project. The Company shall carry out such watershed management throughout the Term of this Agreement in coordination with Relevant Authorities and report the same in writing to the Implementing Agency on a semi-annual basis. Due to the increased risk of illegal logging and other illegal forest activities taking place in the watershed during the Construction Period, the Company's watershed management actions and programmes during the Construction Period shall include a strong focus on identifying, reporting and eliminating such illegal logging and other illegal forest activities in the watershed outside those areas to be inundated by the reservoir. The Parties agree that if the Company fails effectively to manage the watershed, the GOL may, in its discretion and at the Company's sole cost, either itself carry out or assign any third party to carry out the watershed management. Further, the GOL shall have the right to instruct EDL, as a power offtaker / purchaser under the Secondary PPA, to withhold payment to the Company with respect to watershed management work that has been carried out by the GOL or its assigned third party in accordance with this Agreement, and to transfer such withheld amount(s) to the GOL, its designated agency or such assigned third party.
- (b) Promptly after the Effective Date of this Agreement, the Company shall submit to the Relevant Authorities, with a copy simultaneously submitted to the Implementing Agency, the Company's proposed watershed management plan. The budget for such watershed management plan and any required adaptations or modifications thereof shall be a separately identified component of the Company's operation and maintenance budget for the Project.
- (c) The GOL shall have the right, at any time and from time to time, to review and verify the watershed management activities and programs undertaken by the Company, and the amounts expended by the Company thereon. Notwithstanding the obligations of the Company with respect to watershed management as provided in this Agreement and Annex C, the Relevant Authorities at the provincial and local levels with responsibility for the area(s) encompassing the Project (including the relevant River Basin Watershed Authority, if any), may at any time inspect the River, its watershed area, its upstream sources and its upstream tributaries for any activities or uses which could adversely affect the Project or Project Management.
- (d) At least annually, the Parties shall jointly review such watershed management activities, programs, budgets and other matters to determine whether any adjustment to such activities, programs and / or budget amounts is needed.
- (e) The Company shall bear all costs and expenses of any and all watershed management and protection activities and programs to be undertaken by the Company pursuant to this Clause 4.15, Annex T and Annex C. The inspection, monitoring and associated activities of Relevant Authorities with respect to the Company's compliance with this Clause 4.15 and Annex C shall be implemented utilizing the watershed management budget amounts required to be provided by the Company to the GOL for such specific purposes, as detailed in Annex C.

4.16 Community Development Programme

During the Concession Period and beginning from the Effective Date, the Company shall contribute US\$ [] each year for the community development programme, with such programme and budget to be administered by a joint committee established by the Implementing Agency and comprising representatives of PAPs, relevant district authorities and the Company. The activities for which the community development programme budget can be utilized shall include education, scholarships, health, irrigation, basic infrastructure needs and similar matters of long-term value to the neighboring communities. Further, the community development programme budget shall not be used to pay for any office rental, construction or fit-out or for any lease or purchase of administrative vehicles. The joint committee established to manage the budget for and implementation of the community development programme shall meet not less often than quarterly to review the status of activities on which the budget has been utilized and to make any necessary adjustments thereto. If it deems necessary, the Implementing Agency shall have the right to assist the joint committee with the implementation of the community development programme, and to lead the joint committee until such assistance is no longer needed.

4.17 Lao Preferences

- (a) For the purposes of this Agreement, the Parties agree that Lao PDR nationals shall mean citizens of the Lao PDR, and other Lao PDR persons (non-natural) shall mean companies incorporated in the Lao PDR, the majority of the capital of which, directly or indirectly, is owned by Lao PDR citizens and which are effectively controlled, directly or indirectly, by Lao PDR citizens.
- (b) The Company shall, and agrees to ensure that Contractors and Subcontractors shall, at all times in accordance with this Agreement: (i) fully staff the Company's positions with Lao PDR nationals where required by Lao PDR Law to be occupied by Lao PDR nationals, and (ii) otherwise maximize the use of Lao PDR nationals as staff and employees.
- (c) The Company shall comply with the plan and percentages set forth in Annex W to ensure that the number and work positions of Expatriate staff, employees and consultants engaged: (A) on Project Construction, prior to the Commercial Operation Date; and (B) in operation and maintenance and otherwise employed in connection with the Project, as from the Commercial Operation Date, shall in each case be in accordance with Annex W. If the total number and indicated positions of Expatriates is exceeded or if the total number and indicated positions of Lao PDR nationals is reduced in a manner which at any time causes the percentage of Expatriates to exceed the percentage provided in Annex W, then, in addition to being liable for breach of this Agreement and any applicable Laws, the Company shall, subject to the Agreed Fines and Penalties Cap, be responsible to pay to the GOL the fine(s) indicated in Annex W (each such fine to be referred to as a "Fine"). The GOL shall allocate the Fines for vocational training use at provincial and central levels. The Fines shall be determined, imposed and paid annually based on the monthly progress reports submitted by the Company and subject to GOL verification. The Implementing Agency shall have the right to review and confirm the Company's compliance with this Agreement in respect of matters relating to Expatriates.
- (d) The Company shall identify, interview and hire Lao PDR nationals sufficient to fill the positions with the Company as are required to be so filled by the terms and conditions of this Agreement in respect of the Project. The Company shall be responsible to ensure that its Contractors and Subcontractors do the same in respect of positions with the Contractors and Subcontractors. In its progress reports submitted to the GOL under this Agreement, the Company shall provide evidence that such employment matters have been complied with by the Company, Contractors and Subcontractors. Not later than (i) in respect of the Construction Period, two (2) months prior to the Effective Date, and (ii) in respect of the

Operation Period, six (6) months prior to COD, the Company shall have identified and submitted to the GOL a list indicating all positions of the Company, Contractors and Subcontractors required under this Agreement (including Annex W) to be filled with Lao PDR nationals during the Construction Period and the Operating Period, as applicable, and shall have formulated a hiring, training, and retention plan in accordance with Clause 4.17(h) below to ensure the availability of a sufficient number of qualified Lao PDR nationals for such positions. The Company shall annually update and resubmit such plan to the GOL for its review and approval, in order to ensure the Company, Contractors and Subcontractors are in compliance with these obligations.

- (e) With respect to any positions where it is reasonably foreseeable that there could be a shortage of qualified Lao PDR nationals having the requisite skills available to fill such positions at the time when such persons are needed, the Company shall, in respect of positions with the Company (and the Company shall ensure that Contractors and Subcontractors, in respect of positions with Contractors and Subcontractors, respectively, shall) hire in advance or otherwise ensure the timely availability of a sufficient number of suitable Lao PDR nationals and shall provide such individuals with the necessary instruction and training so as to enable the Company, Contractors and Subcontractors to meet the Lao preference obligations contained in this Agreement without causing delay to the Project or the need to seek any waiver or relaxation of the Lao preference obligations with respect to the employment of Lao PDR nationals.
- (f) In addition, the Company shall meet all other Lao preference requirements imposed by applicable Laws.
- (g) The Company shall ensure that Project-related contracts entered into with Contractors and Subcontractors: (i) are consistent with the provisions of this Agreement; and (ii) contain provisions analogous to those in this Agreement as are necessary to enable the Company to fulfil its obligations under this Agreement. The Company shall strictly enforce the obligations of Contractors and Subcontractors with respect to the employment of Expatriates and Lao PDR nationals.
- (h) Not less than two (2) months prior to the Effective Date, the Company shall submit to the GOL a detailed hiring plan setting out: (i) the number of employees needed of each type, (ii) their required skills / qualifications, (iii) the sources from which such labor is expected to be obtained, (iv) an indication for each position whether it will be filled with a Lao PDR national or an Expatriate, and (v) the Contractor or Subcontractor responsible for filling that position, unless it is a position with the Company. The Company shall also include in its submission any contingency or alternative plan to address the possibility that the Company's initial plan fails to yield labor in sufficient number and / or qualifications to meet Project requirements. The Company shall adjust its labor and staffing plan as reasonably proposed by the GOL and in accordance with the provisions of this Agreement.

4.18 Lao Goods and Services

- (a) The Company shall be required to use (and shall contractually require that its Contractors and their Subcontractors use) Lao PDR goods and services whenever they are: (i) of the kind and quality required in order for the Company to implement the Project and engage in Project Management in accordance with the requirements of this Agreement, the Primary PPA and the Secondary PPA; and (ii) available or offered on terms and conditions broadly competitive with those offered by non-Lao suppliers, and irrespective of whether any particular term or condition offered by a non-Lao supplier may be more attractive than the corresponding term or condition offered by a Lao PDR supplier.

- (b) The Company shall include Lao PDR contractors (including Lao PDR insurers) in its invitations for competitive bidding for contracts provided they are capable of providing services and goods of the kind and quality required in order for the Company to implement the Project and engage in Project Management in accordance with the requirements of this Agreement. The Company shall ensure that such invitations for competitive bidding are widely and effectively announced to Lao PDR contractors at the same time as they are announced to international contractors, and that there is no substantive difference between the bidding processes used for Lao PDR contractors and those used for international contractors. When evaluating bids for contracts, the Company shall take into account the extent to which bidders use Lao PDR goods and services. The Company shall be responsible for the compliance with these provisions by its Contractors and their Subcontractors.
- (c) The Company, as a Lao juridical entity, has the right to carry out by itself, employing its own resources and personnel, any and all Construction Works including without limitation any non-specialist or unskilled work referred to in Clause 4.18(d) below and any and all Project-related resettlement work. If the Company contracts directly with a single EPC Contractor to perform the whole of the Construction Works, however, that EPC Contract may allow the EPC Contractor, employing its own resources and personnel, directly to perform any and all Construction Works, including any non-specialist or unskilled work referred to in Clause 4.18(d) below, but excluding all resettlement work which the EPC Contractor must sub-contract out in its entirety to a qualified Lao PDR Contractor / Subcontractor to carry out. If the Company contracts separately with multiple Contractors (i.e., more than a single EPC Contractor) to perform various components of the Construction Works (such as main civil works, associated civil works, electrical/mechanical, transmission line(s), resettlement, etc.), then the Company shall ensure that any and all non-specialist or unskilled work and all resettlement work is contracted to and performed by Lao PDR Contractors / Subcontractors only.
- (d) Except as otherwise explicitly permitted in Clause 4.18(c) above with respect to non-specialist or unskilled work to be carried out by the Company directly or by a single EPC Contractor directly, the Company shall in no event offer to, permit, or hire, or allow the EPC Contractor or any other Contractor to offer to, permit, or hire, any non-Lao PDR Contractors or non-Lao PDR Subcontractors to carry out any non-specialist or unskilled work on the Project, including without limitation: (i) repair, construction and linking of any Access Roads; (ii) construction of camps of every type; (iii) construction of all other basic (non-specialist) infrastructure of every type; (iv) blasting of any rock or other material; (v) transportation of gravel and removal and further handling of any overburden; (vi) resettlement; (vi) supply of cement, steel bar and fly ash; and (vii) supply of diesel fuel and labor in respect of all of the foregoing. The Company shall arrange its contracting and bidding procedures so as to ensure that the provisions of this Clause 4.18(d) and of Clause 4.18(c) above are fully complied with, failure to do which shall be a breach of this Agreement. In such circumstance, the GOL may suspend work on the Project, at the Company's sole risk and cost, until such failure is cured.
- (e) The Company shall ensure that all contracts entered into with Contractors and Subcontractors: (i) are consistent with the provisions of this Agreement; and (ii) contain provisions analogous to those in this Agreement as are necessary to enable the Company to fulfil its obligations hereunder; and (iii) where the subject of such contracts to be entered relates to any works indicated in Clause 4.18(d), are strictly available to Lao PDR nationals only (including via national bidding procedures, where applicable).

- (f) The Company shall, in relation to each winning and signed EPC Contract (and related construction contract), provide the GOL with a copy of that winning and signed contract within sixty (60) days after execution of such contract. The Company shall, to the extent the bidding documents have not already been sent to bidders, ensure that the bidding documents include, and that bidders accept, that the winning and signed EPC Contract (and related construction contracts) will be made available to the GOL and held by the GOL subject to confidentiality obligations. The GOL shall be entitled to review the winning and signed contracts for the limited purposes of: (i) confirming whether the Company is in compliance with its obligations hereunder and in all cases subject to applicable confidentiality obligations; and (ii) collecting information relevant to Taxes.

4.19 Construction Plan

- (a) As part of Project Construction, the Company shall: (i) prepare plans, specifications, and a schedule for the construction of the Project Facilities that are consistent with Annex J, including separate plans, specifications, schedules and appropriate prerequisites (including status of prerequisites) to commencement of the relevant Works for each of the Hydroelectric Power Station, the Transmission Network and the Ancillary Facilities (the “Construction Plan”); and (ii) ensure that the overall Project design and the design of each key Project component has been prepared (in each case in the English language) to reflect the most appropriate construction methodology, parameters and sequences taking into consideration the sub-surface, soil, water and other characteristics of the Project.
- (b) The Company shall deliver the Construction Plan to the GOL for review and comment not less than ninety (90) days prior to the commencement by the Company, the EPC Contractor or other Contractor or Subcontractor of work on any major component of the Construction Works, including without limitation the dam, powerhouse, tunnel and other major civil works. The Company has sole discretion to decide whether it should follow the GOL’s comments. The GOL shall not be responsible for consequences for having made such comments to the Company regardless of any decision made by the Company in relation to the GOL comments. If the Company decides not to follow the comments of the GOL, the Company shall be solely responsible for all consequences of such decision.
- (c) The Company shall deliver to the GOL copies of “as built” drawings for the Project Facilities (wholly in the English language) within ninety (90) days of the achievement of the Commercial Operation Date.
- (d) The Company hereby grants, with respect to any period during which the GOL is entitled under this Agreement to possess, own or operate the Project Facilities (including in respect of early termination and upon the handover of the Project Facilities to the GOL at the end of the Concession Period), to the GOL an irrevocable, royalty-free license and right to use in respect of the Project: (i) the Construction Plan, (ii) the overall Project design, (iii) the design of each key Project component, and (iv) the “as built” drawings for the Project Facilities.

4.20 Compliance with Laws

The Company shall at all times comply with the provisions of all Laws, unless and to the extent that the Company has been granted an Exemption. The Company shall keep itself current and well informed on applicable Laws in respect of the Project and the Company shall be deemed at all times to have knowledge of same.

4.21 Financial Management; Financial Statements; Audit

- (a) The Company shall perform the financial management of the Project: (A) with due diligence and efficiency; (B) in accordance with applicable Laws; and (C) consistent with sound international financial and commercial standards and practices. The Company shall fully account for all aspects of its business each year by preparing and delivering to the GOL:
 - (i) annual audited statements consisting of a balance sheet, a profit and loss account and a statement of cash flow drawn up in accordance with generally accepted International Accounting Standards and applicable Laws and certified by a qualified independent auditor;
 - (ii) quarterly statements of the Company's cash receipts and disbursements; and
 - (iii) all such other information on the Company's financial position as the GOL may request in order to monitor compliance with Laws and this Agreement.
- (b) The GOL may audit the books and records of the Company at the GOL's sole cost and expense, except that if any audit reveals discrepancies the Company shall bear all costs and expenses of that audit. The Company shall provide any and all additional information and / or reports as reasonably requested by the GOL.

4.22 Personnel on Site

During the Operating Period, the Company shall ensure that there are at all times on the Site an adequate number of suitably trained and qualified personnel to ensure that: (i) the Project Facilities are able to operate efficiently and safely at all times; and (ii) the Company otherwise fully complies with all of its obligations under this Agreement.

4.23 Maintenance of the Project Facilities

During the Operating Period, the Company shall maintain and repair the Project Facilities so that they are at all times (subject to Force Majeure and maintenance outages) capable of achieving the operating standards set out in Clause 4.7 and Annex P.

4.24 Supplies and Spare Parts

The Company shall ensure that at all times during the Operating Period, including at transfer of the Project Facilities to the GOL, it maintains: (i) a supply of consumable spare parts adequate to meet the normal needs of the Project Facilities to ensure smooth operations and spare parts for the repair of breakdowns. All spare parts shall be of the standard and specifications set out in the manufacturer's guidelines or recommendations, as applicable, and otherwise shall be of suitable grade and quality; and (ii) sufficient lubricants, chemicals and other materials required for the operation of the Project Facilities.

4.25 Safety and Emergencies

- (a) The Company shall ensure the safe operation of the Project Facilities, including dam safety, and develop, in consultation with the GOL, an Emergency Plan setting out those measures the Company will undertake in an Emergency. The Company shall provide a copy of the initial Emergency Plan to the GOL for approval and to each member of the Dam Safety Review Panel on or before [_____]. The Company shall consider and incorporate any GOL and/or Dam Safety Review Panel recommendations on the Emergency Plan. Notwithstanding the consultation with and recommendations of the GOL, the Company shall remain liable for all injuries, damage and claims arising from such Emergency Plan's

implementation. Where an Emergency arises and the Company fails to comply with the measures contained in the Emergency Plan, or where such measures contained in the Emergency Plan are not sufficient or appropriate for application to a particular Emergency: (i) first, the Company shall immediately take all appropriate measures to respond to such Emergency and shall at the same time keep the GOL informed of such measures and (ii) second, where the Company fails to adequately address such Emergency within a reasonable period of time as dictated by the circumstances of the Emergency, the GOL reserves the right to require the Company or the Operation and Maintenance Contractor, as the case may be, without any cost or liability to the GOL and in response to the relevant Emergency to: (A) suspend the operation of the Project Facility in accordance with and in the circumstances described in Clauses 2.2(c) and (d) or (B) in all other cases, adjust the operation of the Project Facility as required by the GOL. Notwithstanding the above, the Company shall at all times comply with and remain liable under all applicable Laws (to the extent such liability arises) for all injuries, damage and claims arising from the measures it takes to respond to the Emergency.

- (b) The Company shall comply with all procedures of general application to Lao hydropower projects that are adopted or promulgated by the GOL in respect of Emergencies even if such compliance is in conflict with obligations the Company may have under any other Project Documents. The Company shall make no claim for compensation from the GOL for lost income, damages of any kind, or otherwise, arising out of such compliance, nor shall the Company be entitled to claim or receive Change in Law treatment under this Agreement in such regard during the subsistence of the Emergency (unless the Emergency arose as a direct result of Lao Political Force Majeure in which case the Company may be entitled to compensation and/or other Change in Law treatment under this Agreement). For the avoidance of doubt, the occurrence of an Emergency shall not in and of itself constitute Lao Political Force Majeure.

4.26 Archaeological, Geological and Historical Objects

- (a) If any archaeological relics, fossils, antique tombs, historical pieces of art or any other objects of archaeological, geological or historical interest are discovered on any land being used by the Company under this Agreement for the Project, the Company shall promptly give notice to the GOL and take such steps as are required by Laws, including: (i) notifying the Relevant Authorities of the discovery; and (ii) taking appropriate measures to safeguard the site on which the objects are located as well as the objects themselves. Any failure on the part of the Company, Contractors and Subcontractors to properly protect such objects and sites and/or failure immediately to report any such discovery to the GOL shall, to the extent that applicable Law imposes civil and/or criminal sanctions with respect to the above, subject the Company to such sanctions in accordance with applicable Law.
- (b) Within thirty (30) days of its receipt of such notice, the GOL shall provide the Company with advice from relevant experts detailing the required procedures for handling and relocating such discovery away from the Site and within the Lao PDR. The Company shall comply with that advice and bear the costs of such relocation in accordance with those procedures.

4.27 Insurance

- (a) The Company shall, at its own cost, effect and maintain in force insurance on the Project Facilities and Project Management throughout the Concession Period and until the completion of transfer of the Project Assets to the GOL. The types and levels of coverage of such insurance shall be as set out in Annex CC together with such other insurances as are

consistent with Prudent Utility Practices, generally accepted international standards for limited recourse financing privately owned power projects in the Lao PDR, the requirements of the financial institutions which provide such financing (including the Lenders) and the requirements of the Primary PPA. The key terms of the proposed insurance cover hereunder shall be submitted by the Company in advance to, and subject to the approval of, the GOL. The approval by the GOL of any proposed levels or package of insurance coverage shall create no liability of the GOL with respect to any insufficiency or other deficiency in insurance coverage.

- (b) The Company shall ensure that sufficient insurance cover (including for business interruption) is in place at all times to protect against the adverse economic impact of Force Majeure, such that in the event of any occurrence of Force Majeure (other than Lao Political Force Majeure) there shall be available to the Company funds in an amount sufficient not only to repair or fully replace any affected Project Facilities but also fully to compensate the Company for any adverse economic impact it may suffer as a result of those effects, provided, however, that in the event of an occurrence of Force Majeure which delays the completion of the Construction Works prior to the Commercial Operation Date and with respect to which insurance does not fully compensate for delay in achievement of the Commercial Operation Date, the GOL may allow extension of the Concession Period or the Term as a means of offsetting or otherwise compensating the Company for the uninsured portion of the adverse economic impact of that event of Force Majeure. The Company agrees that, except as otherwise provided in this Clause, in no event will the GOL have any obligation to extend the Concession Period or the Term as a means of offsetting or otherwise compensating the Company for any adverse economic impact resulting from Force Majeure.
- (c) The Company shall ensure that each insurance policy that is effected and maintained on the Project Facilities and Project Management shall contain a non-vitiation clause providing, among other things, that any breach of policy, term or condition concerning any required disclosure or any misrepresentation by the Company or by any Contractor or Subcontractor will not invalidate that insurance cover in respect of other insureds, including the GOL.
- (d) The Company shall cause the insurers issuing the liability, casualty, property damage and other insurance policies in respect of the Project to issue endorsements naming the GOL as an additional insured to the extent of its insurable interests and provided that Lenders [and the Primary Offtaker] have been identified as an additional insured.
- (e) The Project Facilities and Project Management shall be insured with reputable Lao PDR insurers. The Company shall invite Lao PDR insurers to bid for such insurance and shall effect and maintain such insurance with suitably qualified Lao PDR insurers (who may be obliged to reinsure with Lao PDR and / or international insurers acceptable to the Company and the Lenders). The Company, Contractors and Subcontractors shall effect and maintain all statutorily required insurances of general application (e.g., worker's compensation and vehicle third party liability) with Lao PDR insurers.
- (f) The Company shall ensure that all Contractors, Subcontractors and their respective Lao PDR personnel shall comply with all Lao PDR statutory insurance requirements including worker's compensation, vehicle third party liability, mandatory social welfare contributions, pension arrangements and other insurance amounts, as required by Laws, before they commence work or services under their contracts.
- (g) The GOL may, at its option, without prejudice to any other right or remedy, and at the Company's sole expense, effect any insurance required under this Agreement if the

Company fails to effect and maintain such insurance. Promptly on demand, the Company shall fully reimburse the GOL for all amounts it has paid for such insurance.

- (h) No such failure of the Company to insure will in any way relieve or limit any Company obligation under this Agreement. Any amounts not insured or not recovered from the insurers shall be borne by the Company in accordance with its obligations and liabilities, in addition to whatever remedies the GOL has for such Breach of Contract by the Company.
- (i) As soon as reasonable after receipt by the Company, the Company shall provide the GOL with certificates of insurance evidencing that: (i) the Company has obtained and continues to maintain all insurance required hereunder; and (ii) Contractors providing goods and / or services in an aggregate value of US\$ 5,000,000 or more are in full compliance with this Agreement's insurance requirements.
- (j) During the Concession Period and until the completion of transfer of the Project Assets to the GOL, all proceeds from property damage insurance policies shall be applied toward the costs of repairing, replacing, or reconstructing the portion of the Project Facilities which has been damaged by a casualty event or an insurable event of Force Majeure unless otherwise required under the Financing Documents. Subject to the limitations set forth in the Financing Documents and the Primary PPA and the rights of the Lenders and the Primary Offtaker to such insurance proceeds, if for any reason insurance proceeds are not so required thereunder to be applied to the repair or replacement of the Project Facilities, the Company shall nevertheless be obliged to apply the available insurance proceeds payable in respect of such damage to the repair, replacement or reconstruction of the damaged portion of the Project Facilities. Subject to the senior rights of the Lenders under the Financing Documents, as applicable (including to require that such proceeds be held in a bank account outside of the Lao PDR), and to the Primary Offtaker's rights under the Primary PPA and the insurance assignment executed in connection therewith, the Company shall receive and hold all such insurance proceeds directly into an escrow account in the Lao PDR and hand over all such proceeds to the GOL immediately upon the written request of the GOL.

4.28 Electrical Output

- (a) The Company shall sell its electrical output to the Primary Offtaker and the Secondary Offtaker under the terms of the Primary PPA and the Secondary PPA, respectively. Any proposed sale to any other customer for any reason shall be subject to the approval of the GOL. All long-term purchase and sale arrangements shall be based upon the availability of the Project Facilities to generate electricity (taking into account both the availability of water and the operable condition of the Project Facilities), and the commitment of the respective offtakers to take or pay for such available electricity as detailed in the relevant PPA. The Company shall bear the risks related to the availability of water and the production and supply of electricity.
- (b) Except as otherwise provided in Clause 16.1(a)(ii), Clause 16.1(a)(viii) and Clause 16.2(a)(i), the Parties agree that a breach by: (i) the Company under any PPA will not of itself constitute a Breach of Contract by the Company under this Agreement; and (ii) any offtaker under the relevant PPA will not constitute a Breach of Contract by the GOL under this Agreement.

4.29 VAT Payable on Domestic Sales of Electricity

The sale of electricity by the Company to the Secondary Offtaker and any other offtaker within the Lao PDR shall be subject to VAT and such VAT shall be duly charged, collected, and paid to the

Relevant Authority in accordance with applicable laws and regulations. The Company shall not seek any exemption from the VAT obligations applicable to the sale of electricity under the Secondary PPA and any other domestic electricity sale arrangements.

4.30 Transmission Network

- (a) The Company shall, at its sole expense, design and construct the Transmission Network, on behalf of the GOL and EDL and in accordance with LEPTS and any design and technical specifications provided in the Secondary PPA, and complete it on or before the Commercial Operation Date.
- (b) If the Transmission Network is intended by the GOL and/or EDL to be used to transmit power to or from any third parties (i.e., other than EDL and the Company), then at the Commercial Operation Date (or such later date as EDL may unilaterally determine, or such earlier date as the Company and EDL may agree) the Company shall transfer the Transmission Network, including any intellectual property rights with respect thereto, to EDL wholly free of charge.
- (c) If the Transmission Network is intended by the GOL and/or EDL to be used exclusively by the Project to transmit power between the Company and EDL, then EDL shall reserve the option at any time following the Commercial Operation Date to require the Company shall transfer the Transmission Network, including any intellectual property rights with respect thereto, to EDL wholly free of charge. Until and unless EDL instructs the Company to transfer the Transmission Network to EDL, the Company shall remain fully responsible to operate and maintain the Transmission Network at its sole cost, and all transmission losses occurring between the Project Facilities' Switchyard and the Delivery Point shall be borne by, and for the account of, the Company.
- (d) EDL shall have no obligation in any PPA or elsewhere to pay any amount whatsoever in regard to the Transmission Network and its transfer to EDL, regardless of when such transfer is made. The process for the transfer and taking over of the Transmission Network shall be in accordance with the terms and conditions of the Secondary PPA.

4.31 Reporting Operational Parameters

Beginning at COD and continuing until the end of the Concession Period, the Company shall submit quarterly written reports to the GOL providing data and other information on such topics as the GOL may advise to the Company from time to time, including with respect to each quarter: daily water levels, daily amounts of electrical energy available, declared, dispatched, produced and delivered to each offtaker, station usage, spill and any other information reasonably requested by the GOL.

4.32 UXOs

In respect of unexploded ordinance (“UXOs”) located on or in any part of the Site and any location on which Construction Work is being carried out, the Company shall at all times during the Concession Period be responsible for: (i) surveying for; (ii) detecting; and (iii) where detected, taking appropriate protective action to render safe the location at which such UXOs are detected, such protective action consisting of removal and subsequent destruction and / or in situ destruction of the UXOs. The Company shall be financially liable to the GOL, its agents, personnel and invitees and the general public in respect of injury and damage arising from UXOs.

The Company agrees that it will (i) on the request of the GOL, provide the GOL with copies of all surveys it has undertaken or commissioned or on which it has relied; and (ii) provide the GOL on a

six (6) monthly basis with all updates it has undertaken or commissioned, in respect of UXOs located on or in any part of the Site or the resettlement area.

4.33 Explosives and Explosive Devices

The Company shall be strictly liable for the safe and proper handling, security, use and disposal of explosives and explosive devices and shall provide to the GOL evidence of insurance with respect to explosives and explosive devices. For the purposes of and in quantities reasonably necessary for Project Construction, the Company is permitted: (i) to purchase from authorized suppliers within the Lao PDR, and use, all explosives; and (ii) to import, transport into the Lao PDR and use, such explosive devices as are not available from qualified suppliers within the Lao PDR, all in conformity with applicable Laws and subject to compliance by the Company with all procedural requirements of the GOL therefor.

4.34 Construction Clearance and Debris Removal

The Company shall, in compliance with all applicable Laws, clear away and remove surplus material, wreckage, rubbish and temporary work remaining from the construction process so as to leave the Site in clean and usable condition within the time frame specified in Annex J but in any event not later than twelve (12) months following the later of the Commercial Operation Date and the Final Defects Retention Period, unless the GOL reasonably requests otherwise. In no event shall the Company at any time, whether prior to or after the Effective Date, place, construct, utilize (whether on a temporary or permanent basis, and whether or not done pursuant to any agreement between the Company and any third party), or carry out any structures, materials, or activities on, any land or premises in the Lao PDR other than the Site. In clearing away and removing surplus material, wreckage, rubbish and temporary work remaining from the construction process, the Company shall remove the camps or offices other than (i) those on the Site which the Company will continue to use after the Commercial Operation Date, if any, and (ii) those in respect of which the Company has otherwise been instructed by the GOL, who shall have the right to retain and use such camps if it wishes without any obligation to make any payment of any amount in respect thereof to the Company or otherwise, and the Company shall also remove their foundations and carry out appropriate landscaping, and shall remove any and all rock fall and blasted rock caused by the Company to ensure that all areas are in a clean and usable condition consistent with this Agreement and Prudent Utility Practices.

4.35 Quality Control

- (a) The Company shall implement the Quality Assurance Plan throughout the Concession Period, and shall on a continuing basis provide to the GOL complete documentation of the quality control results for each item of Construction Works completed or in progress and for Project Facilities operation and maintenance activities.
- (b) The GOL shall have the right to attend or examine the Company's or Contractors' quality control inspections and methods to confirm that all work performed complies with the quality requirements of this Agreement. The Company shall assist in the performance of such checks.
- (c) Compliance with the Quality Assurance Plan shall not relieve the Company of any of its obligations and responsibilities under this Agreement.

4.36 Monitoring and Inspection; Documentation and Records

- (a) Throughout the Concession Period, the Company shall securely maintain, either (i) at its registered office(s) within the Lao PDR, or (ii) at a professionally operated document storage facility within the Lao PDR, complete and accurate originals of all documentation, contracts, invoices, notices, written communications and other business and accounting records relating to the Project and the Company's performance of its obligations and exercise of its rights under this Agreement and the other Project Documents, and / or which contain any data or information required by the GOL pursuant to or in connection with this Agreement, including without limitation that which relates to the design, financing, construction, maintenance, operation and environmental and social aspects of the Project. The Company shall make such original documentation available to the GOL for inspection as and when requested by the GOL, and at the Company's expense shall promptly provide the GOL with clear, complete and accurate photocopies and / or digitally scanned copies of any such documentation as the GOL may request. For the avoidance of doubt, the Company shall not hold or maintain, or provide to any other entity to hold or maintain on the Company's behalf, any original documentation outside the Lao PDR which the Company is required under this provision to maintain within the Lao PDR.
- (b) During the period beginning at the commencement of Project Construction and continuing until the completion of any outstanding construction work after the achievement of the Commercial Operation Date, the Company shall bear (i) the costs and expenses (including office and stationery expenses, accommodation and transportation within the Site) of three (3) Liaison Officers placed by the GOL at the Site, and (ii) the travelling expenses and per diem costs of the Liaison Officers;
- (c) Beginning at COD and continuing until the end of the Concession Period, the Company shall be responsible for the costs of Concession Agreement monitoring and management including any other related activities incurred by the GOL, subject to an annual cap not to exceed US\$ [] (as annually adjusted for inflation). Such budget shall be provided / transferred within five (5) days after the Company has received an official request from the Implementing Agency.
- (d) The Company shall (and shall cause Contractors and Subcontractors to) provide full access at all times for the GOL and its representatives (including Liaison Officers) and the Dam Safety Review Panel to the Site, the Project, Project Construction, the operation and maintenance of the Project Facilities, the Company's records and books with respect to the Project (including to confirm operational information, the calculation of Net Taxable Income and Gross Operating Revenues and actual costs incurred or revenue lost in connection with claims of Lao Political Force Majeure) and, during normal business hours, the business offices of the Company, Contractors and Subcontractors, for monitoring and inspection pursuant to this Agreement.

4.37 Retaining Records and Data

The Company shall retain and permit the GOL to inspect (regardless of whether there is a pending dispute between the GOL and the Company) the records required to be maintained under this Agreement for the Concession Period plus at least three (3) years, to the extent such records have not already been transferred to the GOL under the provisions of this Agreement prior to that date.

4.38 PPA Review

- (a) The Company shall deliver to the GOL for its review and comment electronic and hard copies of the Primary PPA and the Secondary PPA in final draft form not less than sixty (60) days prior to the intended date of execution. If the GOL does not provide any comments

within sixty (60) days of receipt of each such draft document, the GOL may be deemed to have no comments.

- (b) Prior to executing any PPA, the Company shall: (i) in good faith and following discussion and consultation with the GOL reflect the comments, if any, of the GOL into a revised draft PPA; (ii) submit such revised draft PPA to the GOL to enable the GOL to confirm whether the revised draft PPA has resolved the issues identified in the GOL's previous comments to the GOL's reasonable satisfaction.
- (c) Signing of any PPA prior to the Agreement Date of this Agreement and / or prior to any required revision of that PPA as provided in Clause 4.38(b) above, shall cause that PPA to be wholly null and void and of no legal effect, and in any such circumstance: (i) the Company shall be subject to a penalty; and (ii) the PPA shall be duly re-executed and such re-executed PPA shall be submitted by the Company to the GOL.

4.39 Principal Project Contracts

- (a) The Company shall ensure that all Principal Project Contracts are consistent with this Agreement and require all Principal Project Contractors: (i) to comply with applicable Laws, and the provisions of this Agreement concerning taxes, Lao preferences, Lao services and goods and environmental and social mitigation measures; (ii) to employ international competitive bidding (unless otherwise approved by the GOL or for contracts awarded to Lao Contractors or Subcontractors) and, in any event, apply internationally recognized standard forms of contract concluded on a transparent, arm's length basis free of any conflicts of interest; and (iii) to include similar requirements in all contracts signed between such Principal Project Contractors and other Contractors and Subcontractors. The Company shall ensure that the EPC Contractor and any Principal Project Contractor engaged in construction work on the Project shall be a juristic entity which is itself a contractor experienced and expert in that field, or is otherwise appropriately supported, in the reasonable opinion of the GOL, by way of a comprehensive guarantee and all necessary technical support from a parent company or affiliate that EPC Contractor / Principal Project Contractor which itself is a contractor experienced and expert in that field.
- (b) The Company shall submit the forms of all Principal Project Contracts to the GOL not less than sixty (60) days prior to the intended date of execution thereof. The GOL shall have the right (but not the obligation) to comment on Principal Project Contracts prior to their execution, and the Company shall in good faith reflect such comments into the Principal Project Contracts. During the course of Principal Project Contracts negotiations, the Company shall regularly update the GOL as to the progress of negotiations and key agreed points. The Company shall not execute a Principal Project Contract prior to the signing of this Agreement.
- (c) The Company shall at all times remain primarily and principally responsible and liable to the GOL to perform all its obligations under this Agreement and for all breaches of its obligations under this Agreement notwithstanding the employment of Contractors and Subcontractors. The employment of Contractors by the Company (and of Subcontractors by Contractors) shall not relieve the Company from any of its obligations under this Agreement. The Company shall be fully responsible to the GOL for breaches of this Agreement arising from any acts or omissions of its Contractors, their agents, Subcontractors or any person either directly or indirectly employed by them, as if such acts or omissions were the acts or omissions of the Company.

4.40 Security for Payment of Penalties

- (a) Before the Effective Date, the Company shall deposit with the GOL a United States Dollars Two Hundred Fifty Thousand (US\$ 250,000) bank guarantee in favor of the GOL, issued by a bank acceptable to the GOL, to secure the obligation of the Company to pay as and when due any and all penalties that may be incurred by the Company under this Agreement and Annex U.
- (b) If the Company fails or is late in paying any applicable penalty hereunder, the GOL shall have the right at any time and from time to time to draw upon such bank guarantee with or without notice to the Company.
- (c) Not later than thirty (30) days after being advised or otherwise becoming aware that there has been any drawing against such bank guarantee, the Company shall replenish the security amount back to the original level indicated above. The Company shall ensure that such security remains in place throughout the Concession Period.

4.41 Equity Stake of the GOL in the Project

- (a) The GOL shall have the right to subscribe, in the name of [indicate the relevant state-owned enterprise] as its nominated shareholder, up to [_____ percent (___%)] of the total equity of the Company, as follows:
 - (i) [_____ percent (___%)], through payment by the GOL of cash as its contribution to equity in respect thereof; and
 - (ii) [_____ percent (___%)], as a free carried interest at no cost to the GOL, with such amount of equity and all amounts in connection therewith being paid on behalf of the GOL's nominated shareholder by the Sponsor.
- (b) Further, at any time within one (1) year of the achievement of the Commercial Operation Date, the GOL shall have the right to acquire additional equity up to a further [_____ percent (___%)] of total equity in the Company upon the payment therefor at par value. If insufficient funds are available to the GOL to complete such acquisition of additional equity, then the GOL may transfer such right to acquire, in whole or in part, to any other entity selected by the GOL.
- (c) The Company shall, with the assistance of the Sponsor, assist [state-owned enterprise] in finalizing the financial arrangement for [state-owned enterprise] to borrow the necessary funds to enable [state-owned enterprise] to contribute equity capital to the Company. The Parties agree that: (i) if a failure of [state-owned enterprise] timely to borrow the necessary funds would delay the achievement of the Commercial Operation Date, a corresponding extension of the Scheduled Financial Close Date shall be allowed; (ii) none of the Company, the Sponsor, the GOL, or [state-owned enterprise] shall incur any liability under this Agreement or otherwise in respect of any cost, loss or delay affecting any of them or affecting the Project which arises out of the delay or failure on the part of [state-owned enterprise] to satisfy its equity capital contribution requirements by reason of such funds not being made timely available to [state-owned enterprise] in sufficient amount and on otherwise commercially reasonable terms and conditions.
- (d) The details of such arrangement shall be provided in the Shareholders' Agreement of the Company.

4.42 Additional Financings; Refinancings

- (a) The Company shall have the right to enter into additional financings or refinancing transactions required as a direct result of, and only to the extent required for remedying the adverse effects of, any Force Majeure or Change in Law requiring the Company to fund additional capital expenditures.
- (b) The Company may enter into other refinancing or additional financing transactions not covered in the foregoing paragraph, provided always that: (i) the refinancing or additional financing Lenders do not require the renegotiation of any of the Project Documents that the GOL is party to and the GOL's anticipated benefits from the Project shall not be reduced and the GOL's liabilities in respect of the Project shall not be increased; and (ii) the GOL's prior written consent thereto, which shall not be unreasonably withheld and which shall be granted in a timely fashion, has been obtained.
- (c) For the avoidance of doubt, no other refinancing or additional financing transaction than as specifically referred to above shall be permitted except with the prior written approval of the GOL.

4.43 Company Representations and Undertakings

- (a) The Company represents and warrants for the benefit of the GOL as at the Effective Date and at all times during the Concession Period: (i) it is a corporation, duly incorporated and validly existing under Lao PDR Law; (ii) the obligations expressed to be assumed by it under this Agreement are its legal, valid, binding and enforceable obligations; (iii) the entry into, the transactions contemplated by, and the performance by the Company of, this Agreement do not and will not conflict with: (A) any law or regulation applicable to it; (B) its constitutional documents; or (C) any agreement or instrument binding upon it or any of its assets; (iv) it has the corporate power and authority to enter into, perform and deliver, and has taken all necessary action to authorize its entry into, performance and delivery of, this Agreement and the other Material Project Documents to which it is a party and the transactions contemplated by this Agreement and such Material Project Documents; and (v) all Authorizations required to enable it to lawfully enter into, exercise its rights and comply with its obligations in this Agreement and the Material Project Documents to which it is a party have been obtained or effected and are in full force and effect.
- (b) The Company further represents and warrants that: (i) the Project Documents entered or to be entered into by the Company shall fully comply with this Agreement and applicable Laws; and (ii) unless otherwise previously disclosed in writing to the GOL, all written materials described in Annex Q furnished to the GOL by or on behalf of the Company, with respect to the GOL benefits to be derived from the Project were, as of the date on which such information was furnished, accurate in all material respects and no information was omitted or included, the omission or inclusion of which would make the information furnished misleading in any material respect, in each case as of the date on which such information was furnished in writing by the Company to the GOL; and the Company's projections, estimates and other expressions of view as to future circumstances provided to the GOL: (A) were prepared in good faith and with due care; (B) fairly present in all material respects the Company's reasonable and actual expectations as to the matters covered thereby as of their respective date(s) of delivery; (C) were based on reasonable assumptions as to all factual and legal matters material to the estimates therein as of their respective date(s) of delivery; and (D) contain no statements or conclusions which are based upon or include information which the Company knows or should reasonably have known to be misleading or which fail to take into account material information regarding the matters reported therein as of their respective date(s) of delivery.

- (c) The Company undertakes to the GOL: (i) that the Project Facilities shall be designed, constructed and commissioned (A) in such a manner as to be fit for their intended purposes, including but not limited to, during the Operating Period, to be capable of satisfying the obligations of the Company with respect to its power purchase commitments and its obligations under this Agreement, including the environmental and social obligations set forth in Annex C, and (B) so as to ensure that the Economic Operating Life of the Project will be achieved; and (ii) that no modification or adjustment of design shall be made or allowed by the Company or any Contractor or Subcontractor, consultant or other Person acting on behalf of the Company which could pose any risk of failure of the Project or any component thereof to achieve the Economic Operating Life.
- (d) The Company represents and warrants that: (i) neither it, nor the Sponsor nor any representative of either of them has offered any GOL official or employee or any Relevant Authority any unlawful consideration or commission (whether in the form of a bribe or kick-back or otherwise) or other direct or indirect benefits for this Agreement nor has it or its representatives exerted or utilized any unlawful influence to secure or solicit this Agreement; (ii) it shall not contract, or knowingly allow any of its Contractors to subcontract, any portion of the work for the Project to any person known by it to be a GOL official or employee or an official or employee of any Relevant Authority or a member of the immediate family (spouse, parent, child or sibling) of any such official or employee who is directly or indirectly involved in contract awards or supervision of the Project or to any company or enterprise in which any of such person is an executive or officer or substantial owner without the prior written consent of the GOL after full disclosure of the relevant facts; (iii) if any commission has been or will be paid by the Company or the Sponsor, directly or indirectly, to any Person in connection with soliciting or securing this Agreement, the Company shall disclose to the GOL the identity of the payee, the amount paid, and the nature of the services rendered; and (iv) violation by the Company of the commitments set forth herein shall be a Breach of Contract and may be the basis for termination of the Agreement by the GOL.

4.44 Transfer

- (a) The Company shall transfer the Project Assets to the GOL in good operating condition, having been properly maintained in accordance with the requirements of this Agreement, together with all data and information required to be provided to the GOL in regard to the Project, including with respect to the maintenance and major overhauls performed through such date: (i) at the expiration of the Concession Period, at no cost to the GOL, or (ii) upon termination of this Agreement in accordance with its terms.
- (b) The Company shall measure the sediment level(s) present in the reservoir every five (5) years commencing from the Commercial Operation Date throughout the Term, and upon the completion of such measurements shall promptly report such level(s) to the Implementing Agency. If the measured level(s) of sediment exceed the level(s) of sediment projected in the approved Feasibility Study, the Company and the GOL shall discuss and agree what steps, if any, should be taken by the Company to reduce the amount of sediment deposition in order to ensure that the Project will be free of excess sediment and fully operational following transfer to the GOL.
- (c) The GOL shall have the right, at the Company's sole cost and expense, between five (5) and ten (10) years prior to the end of the Concession Period, to select and appoint an independent expert to investigate and confirm that the projected level(s) of trapped sediment present in the reservoir will not be in excess of any sediment level(s) permitted under the approved Feasibility Study.

- (d) If the results of the survey conducted by the independent expert referred to in Clause 4.44(c) above show that the projected level(s) of trapped sediment present in the reservoir will be in excess of any sediment level(s) permitted under the approved Feasibility Study the Company shall be responsible, prior to transferring the Project Assets to the GOL, to remove, at the Company's sole cost and in compliance with all applicable environmental requirements, the excess trapped sediment which is over the permitted level(s).

4.45 Training of Personnel

- (a) Commencing no later than two (2) years prior to SCOD, the Company shall implement a comprehensive training programme for an appropriate number of Lao PDR nationals to act as technical operators for the Project Facilities and to carry out required Project maintenance during the Operating Period in compliance with Annex W. For the avoidance of doubt, throughout the Operating Period the Company shall strictly comply with the requirements of all applicable Lao labor laws and regulations, including any mandatory proportion or ratio of Lao PDR nationals and Expatriates employed on the Project.
- (b) During the last three (3) years of the Concession Period the GOL shall have the option of requesting the Company to train an appropriate number of the GOL's personnel in operations, maintenance and any other relevant aspects of the Project as requested by the GOL, to ensure a smooth transition of responsibility when the Project Assets are transferred to the GOL. The cost of the training and other ancillary costs thereto shall be for the Company's account. The GOL may nominate no more than ten (10) personnel for such training.

4.46 Company Offices and Personnel

- (a) The Company shall at all times maintain its head office in Vientiane Capital, Lao PDR. If and when deemed necessary, the Company may establish a branch office in [_____] Province to coordinate with local authorities for the smooth implementation of the Project.
- (b) The Company shall ensure that its head office is fully staffed in accordance with any applicable Laws and the Project management requirements set out in Annex I, and that its permanent management and other staff based in the Vientiane head office shall have the authority and ability to decide on all aspects of the Project and shall assist the Company to perform its rights and obligations under this Agreement.
- (c) For the avoidance of doubt, the Parties agree that the Company shall exclusively and directly, using its own head office staff, handle any and all Company-related accounting and finance matters, including those relating to its Shareholders and the Project generally, and shall not outsource or contract for the provision of any such services to or with any other entity (including without limitation any Shareholder or Affiliate), except for periodic external independent auditing services.

4.47 Demarcation of Flood Area(s) and Dead Storage Level

No more than eighteen (18) months after the Agreement Date the Company shall complete the demarcation and provide to the GOL mapping of significant areas of the Project and Site which are upstream of the reservoir and are potentially subject to flooding up to the [full supply level] for the Project, as appropriate in order for the RMU and PAPs to know clearly which elevations may be reached by water during flooding and to facilitate the cutting of timber, provided that at least one quarter of the demarcation has been completed within six (6) months of the Agreement Date. The information comprised within the mapping may be used by the GOL for any purpose. The GOL shall

not begin cutting timber until the flood mapping has been provided to it and the relevant area has been demarcated and shall only be permitted to cut timber within demarcated areas.

4.48 Duty to copy official communications to the Implementing Agency

The Company agrees immediately to establish and implement all necessary procedures, and to take any and all other action, that may be necessary to ensure that, commencing from the Agreement Date and continuing until the completed transfer of the Project Facilities to the GOL upon the expiration or early termination of the Concession Period as provided in this Agreement, whenever any official communication (including without limitation any instructions, plans, memoranda of understanding, approvals, agreed minutes, the grant, suspension, revocation or enforcement of any license or right, waivers, etc.) is issued, sent or exchanged from, to, by or between the Company and any Relevant Authority (other than the Implementing Agency), the Implementing Agency shall receive from the Company, at the same time that official communication is provided to such Relevant Authority (if sent by the Company) or within three (3) days following the Company's receipt of that official communication (if issued, sent or otherwise made known to the Company by a Relevant Authority), full, complete and legible copies (in both hard copy (paper) and digital formats (including, in each case, such communication in the digital form in which it was exchanged between the Company and such Relevant Authority, together with a digitally scanned file)) of that communication and any and all attachments and enclosures thereto.

4.49 Biodiversity Offset

The Company shall complete the establishment of a Biodiversity Offset in accordance with the Biodiversity Offset Plan, at the Company's sole cost and expense, and subject to any guidance that may be provided by the GOL. With respect to the Biodiversity Offset, the Company, in good faith, shall:

- (a) properly and timely establish and support it at a location to be determined and provided for such purpose and use by the GOL in accordance with Annex C;
- (b) plant and establish a total area of [_____] hectares;
- (c) achieve such types and degrees of biodiversity as will meet or exceed the standards for biodiversity (including without limitation the numbers and types of trees and other plants, the relative percentages of types of biomass, and other parameters) as the GOL shall notify to the Company in writing consistent with applicable regulations and guidelines in the Lao PDR and the approved plan as agreed by the GOL and Company;
- (d) actively maintain it throughout the Concession Period, taking into account any reasonable guidance or recommendations provided by the GOL arising as a result of the GOL's monitoring to the extent not inconsistent with applicable regulations and guidelines in the Lao PDR;
- (e) regularly patrol its forested areas within the Biodiversity Offset area, with the assistance of villagers located within or otherwise frequenting the Biodiversity Offset area, and train and engage such villagers to assist in such patrols;
- (f) establish and maintain a comprehensive date log of all activities (including both written descriptions and photographic / video records) and their locations (including GPS coordinates) encountered by the Company within the Biodiversity Offset area which could have an adverse effect thereon;

- (g) maintain both a telephone hotline and a reporting desk function at the Site at which the public can submit information concerning activities encountered by the public within the Biodiversity Offset area;
- (h) offer, publicize throughout the Biodiversity Offset area, and pay, small rewards (the amounts to be determined by the Company in its sole discretion) for tips submitted to the Company concerning any illegal / impermissible activities within the Biodiversity Offset area;
- (i) carry out in-person verification and information collection of all such reported illegal / impermissible activities within the Biodiversity Offset area, and add such information to the Company's comprehensive date log of Biodiversity Offset area activities (including both written descriptions and photographic / video records) and their locations (including GPS coordinates);
- (j) immediately upon becoming aware of any illegal / impermissible activities within the Biodiversity Offset area, whether directly or through reports from villagers or others, notify the GOL by the most expedient means and promptly submit to the GOL the written description, photographic / video records and GPS coordinates relevant to such illegal activities, to the extent these are in the Company's possession;
- (k) organize and hold periodic educational workshops and training opportunities for villagers located within or otherwise frequenting the Biodiversity Offset area, on topics including sustainable forestry management, legal / permissible and illegal / impermissible uses of the Biodiversity Offset area and forestry products, and such other topics as the GOL may recommend from time to time;
- (l) not less often than annually, propose to the GOL in writing such additional activities which could be undertaken (whether by the Company, by the GOL and / or by villagers in the Biodiversity Offset area) to further improve the effective reforestation, protection and maintenance of the Biodiversity Offset area, including specific recommendations on how any sub-optimal implementation of the activities listed herein could be improved;
- (m) educate villagers located within or otherwise frequenting the Biodiversity Offset area, on any agricultural or other activities which have the potential not only to improve the effective reforestation, protection and maintenance of the Biodiversity Offset area but also to improve the livelihoods and skillsets of villagers located within or otherwise frequenting the Biodiversity Offset area, and provide where possible seeds and basic implements to facilitate the adoption of such farming and other techniques;
- (n) organize and sponsor annually a "Biodiversity Offset Reforestation Day" to encourage villagers located within or otherwise frequenting the Biodiversity Offset area to respect, value and support the long-term sustainability of the Biodiversity Offset area, including the planting of saplings donated for such purpose by the Company and others;
- (o) engage in community development in accordance with the ESIA and utilise PAPs and other villagers from villages surrounding the Biodiversity Offset area as required for the project;
- (p) carry out such other reasonable, appropriate and legally permitted activities as the Company may, in its sole discretion, determine to undertake to help achieve the effective reforestation, protection and maintenance of the Biodiversity Offset area; and

- (q) in cooperation with MONRE, prepare the Biodiversity Offset Plan not later than the date which is eighteen (18) months after the Financial Close Date.

For the avoidance of doubt, the Company shall carry out the Biodiversity Offset throughout the Term of this Agreement in coordination with Relevant Authorities and report the same in writing to the Implementing Agency on a semi-annual basis. The Company shall contribute a budget for the Department of Forestry Resource Management to monitor the carrying out of the Biodiversity Offset by the Company as provided in Annex C.

4.50 Forest Verification

- (a) Commencing not later than three (3) months following the Agreement Date, the Company shall prepare and submit to the GOL a written report including:
 - (i) the then most current commercially available satellite images; and
 - (ii) detailed written descriptions (with GPS coordinates where relevant), and

in each case with respect to the forest areas encompassed within both the Project watershed and the Biodiversity Offset. The satellite images submitted by the Company to the GOL shall: (A) be of high quality (with a resolution of not less than 2 meters by 2 meters); (B) indicate the name of the service or provider from which such satellite image was acquired; (C) indicate the date and time of day when the satellite image was taken (with such images taken during the dry season wherever possible); and (D) indicate the particular location(s) / coordinates covered in the image.

- (b) Annually thereafter until the end of the Concession Period (or once every two years, if the GOL has in writing consented to extend the reporting period), the Company shall prepare and submit to the GOL an updated forest report including the latest available information for Clauses 4.50(a)(i) and (ii), together with an indication of any significant changes in, and challenges to, the forest areas since the preceding report.
- (c) The Company's first forest report will help the Parties to establish a comprehensive baseline indicating the geographical extent, density, apparent health and other relevant, remotely discernible aspects of such forest. Subsequent reports will aid the Parties in identifying any reduction or increase in forest cover, logging, encroachment and other information which may help the Parties better understand, manage and monitor key aspects of the Project-related forest.
- (d) The GOL shall have the right to require the Company, at the Company's sole cost, to carry out (or to provide additional funding to the GOL sufficient for the GOL to carry out) an air patrol / visual inspection from above of any GOL-designated part(s) of the forest areas encompassed within both the Project watershed and the Biodiversity Offset:
 - (i) annually; and
 - (ii) in any circumstance or situation which the GOL deems to constitute an emergency.

4.51 Evaluation of Sustainable Development Status

The GOL shall have the right, once in every two years during the Concession Period, to inspect and review the Project Assets in order to provide a sustainable development rating for the Project in accordance with the MEM Policy. The Company shall, subject to a cap in respect of each such

inspection of US\$ [_____], pay the actual costs of such inspection, with such costs to be evidenced by a work plan to be submitted to the Company by the GOL.

4.52 Scholarship Programme

The Parties recognize that the Company's support for higher education provides significant and enduring benefits to the people and the economy of the Lao PDR, increases the pool of individuals with Project-relevant education, aids in localizing Company management, and facilitates the Company's compliance with applicable labor requirements. The Company agrees to provide funding for scholarships as follows:

- (a) scholarships shall be granted during the Construction Period, commencing within two (2) months after the Effective Date and made annually thereafter up to the Commercial Operation Date (the "Scholarship Granting Period");
- (b) scholarship grant recipients shall be limited to Lao nationals who have graduated from high school or university (each a "Recipient");
- (c) each year during the Scholarship Granting Period, [_____] new Recipients shall be selected, with [_____] of those new Recipients selected to study in the Lao PDR and [_____] new Recipient selected to study in [_____];
- (d) a representative of the GOL shall select Recipients in consultation with the Company, provided that selection priority shall be given to scholarship applicants and/or nominations who reside in the vicinity of the Project;
- (e) each scholarship grant shall cover the number of years (four or five years) necessary for the Recipient, engaging in full time study, to obtain an academic degree, provided, however, that all scholarship grants shall be for at least a four (4) year bachelor degree program;
- (f) Recipients shall be required to pursue academic degrees in engineering or any other subject relating to power project design, finance, construction, operation, maintenance or management and approved by GOL;
- (g) scholarship grants shall be sufficient to cover all reasonable education-related expenses of each Recipient during the period of the grant (including tuition and fees, books, travel, accommodation and meals and other reasonable living expenses);
- (h) if any Recipient's degree program has not been completed prior to the Commercial Operation Date, the Company's funding of that Recipient's scholarship grant shall continue thereafter without interruption until that Recipient has obtained the relevant degree;
- (i) degree programs shall be pursued at any university or graduate school in the Lao PDR or China, as the case may be, which offers a degree program covering the selected course of study; and
- (j) Recipients studying in China shall, in addition to expense detailed in Clause 4.52(g) above, also receive funding support for Chinese language instruction.

4.53 Irrigation Canal

The Company shall, provided that it does not adversely impact the overall design, construction or cost of the Project, ensure that the detailed design for the Project contemplates an irrigation canal (the “Irrigation Canal”) to be constructed, owned and operated by [_____] (at [_____]’s cost) and located at an appropriate elevation in relation to the Project dam.]

4.54 Obligations Regarding the Mekong River

If the Project is located on the mainstream of the Mekong River or is otherwise subject to the guidance of the Mekong River Commission, then the Company shall comply with the requirements of Annex X.

The Company agrees that neither it nor any of the Sponsors or Shareholders will discuss or negotiate the terms of any international border issues or arrangements, including any water or downstream riparian issues arising out of the Project with the Mekong River Commission or the representatives of any other State without the prior express consent of the GOL and, in any case, without first providing the GOL with an opportunity to be directly involved in those discussions or negotiations. The Company acknowledges that it shall be the sole responsibility of the GOL to decide all border and international issues arising out of or relating to the Project with relevant States, the Mekong River Commission, and with other relevant international entities.]

4.55 Mitigation of Downstream Impacts of Unsteady Flow and Periodic Wave Flooding

- (a) The Company has advised the GOL that the planned operation of the Project Facilities is expected to generate an unsteady flow and periodic wave flooding in the river downstream of the Project Facilities, with the most pronounced effects occurring in the dry season. Such unsteady flow and periodic wave flooding are expected to have adverse impacts on people, cultivated and inhabited areas, agricultural activities and the environment downstream of the Project Facilities up to the confluence with the [_____] River.
- (b) During the Construction Period, the Company shall carry out more detailed investigations and modelling, in order to develop the most effective ways to manage such unsteady flow, to reduce or eliminate such periodic wave flooding of cultivated and inhabited areas insofar as possible, to provide safe, effective and reliable warning systems, to protect against soil erosion, and to mitigate adverse impacts.
- (c) The Company shall bear full financial responsibility for all adverse impacts arising from or otherwise attributable to such unsteady flow and periodic wave flooding.]

Clause 5: Obligations and Undertakings of the GOL

During the Term, the GOL undertakes to the Company to do the following:

5.1 Non-Interference

Subject to the Company’s performance of its obligations in this Agreement, and except as otherwise provided in this Agreement or applicable Laws, the GOL shall not intervene in the design, construction, operation and maintenance of the Project or interfere with Project Management.

5.2 Activities Affecting the Project

- (a) The GOL shall not: (i) grant (other than at the Company's written request) any third person rights over any part of the Project or Project Assets; (ii) authorize any third person to interfere with the Project or Project Management; (iii) approve, after the Agreement Date, activities or uses upstream of the Project dam which during the Concession Period could reasonably be expected to result in: (A) a material diminishment of the water available for use by the Project; or (B) a material increase in costs or a material adverse effect on the revenue of the Project and / or Project Management; or (iv) allow any Relevant Authority or other governmental body to cause a more than de minimis increase in the Company's burden (financial or otherwise) for the maintenance of the Project, without compensating the Company as provided in this Agreement.
- (b) For the avoidance of doubt, any acts, activities or usages potentially affecting the Project and occurring prior to the Agreement Date which are not illegal and which are not the subject of concession rights granted (pursuant to an executed concession / licence agreement) by the GOL prior to the Agreement Date, shall be treated for the purposes of this Agreement as matters to be dealt with exclusively by the Company as part of its resettlement obligations under Annex C.

5.3 Vacant Possession of the Site

All necessary rights in the Site for the Project are in place, subject to any Pre-existing Concession Rights and the Company's obligation to bear the costs of compensation and resettlement under this Agreement and Annex C. Prior to delivery of the Site to the Company, the GOL shall remove any competing interests (other than Pre-existing Concession Rights) that could materially and adversely affect Project Management (provided that any such removal is undertaken in accordance with applicable Laws).

5.4 Direct Agreement

The GOL shall enter into the Direct Agreement with Lenders in form attached as Annex R or in such other form as may be reasonably satisfactory to the GOL in sufficient time to allow the Company to achieve the Financial Close Date, if required by the Company.

5.5 Visas, Work Permits and Travel Authorizations

Provided that the Company and its Contractors comply with applicable Laws and the provisions of Clause 4.17 and Annex W, the GOL shall, through the relevant ministry(ies), grant to Expatriates employed by the Company and its Contractors for the Project (and to their dependents intending to reside in the Lao PDR) all visas, work permits and travel authorizations needed for their Project work; provided, however, that a failure of any Expatriate (including any dependent) to comply with any applicable Law may result in the GOL's withdrawal or cancellation of the visa, work permit or travel authorization of that person and the GOL shall have no liability for any delay or increase in cost or other adverse impact on the Project, Project Management or Expatriate attributable to such withdrawal or cancellation.

5.6 Security Needs

The Ministry of Defense and the Ministry of Security shall act as the GOL's security advisers for the Project, to help expedite the Company's work programs and field work and to consult with the Company regarding the safety of the Project, the Project Facilities, Company personnel and other persons present at the Site. The Company shall be responsible for, and shall bear all costs of, routine security needs for the Project Facilities, Project Management and all personnel, employing unarmed security services as necessary. If additional security arrangements (including armed personnel) are

necessary for the safety of the Project, the Project Facilities, Company personnel and other persons present at the Site, the GOL shall provide them and the Company shall bear the agreed costs thereof (including a daily subsistence allowance for any personnel required to be engaged at the Site); provided, always, that the GOL shall in no event be liable for any damage or injury attributable to any failure or lapse of security.

5.7 Initial Work

As from the Effective Date, the GOL shall allow the Company to enter and remain on the Site for all purposes of the Project and Project Management, including carrying out surveys and other investigations, making any necessary or appropriate excavations or carrying out any necessary or appropriate preliminary work and carrying out construction and operation on, over or under the Site, all as contemplated in this Agreement.

5.8 Change in Law

- (a) The Company shall notify the GOL within thirty (30) days of becoming aware of the occurrence of a Change in Law and its adverse impact, and provide a description of that Change in Law and its adverse effects. The Company shall promptly also provide the GOL with supporting evidence detailing and quantifying the economic and financial consequences of such Change in Law for the Company, the Project or Project Management.
- (b) Upon receipt of such notification and supporting evidence, the GOL will, at the GOL's sole discretion, either: (i) grant or obtain and provide a waiver, exemption or other relief in respect of that Change in Law sufficient to eliminate such adverse effect; or (ii) provide compensation sufficient to put the Company into substantially the same economic position as it would have been in had such Change in Law not occurred. In any case where the Company would expect to claim Change in Law compensation from the GOL pursuant to this Clause 5.8 if a waiver, exemption or other relief is not provided, the Company shall not begin to incur any chargeable costs in respect of that Change in Law until the GOL has first confirmed to the Company in writing whether the GOL will act in accordance with (i) or (ii) above of this Clause 5.8(b).
- (c) In the event that the Company fails to give notice under and as provided in Clause 5.8(a), it will in respect of the particular claim or claims, be deemed in respect of that Change in Law to have (i) elected to be bound by the provisions of that Change in Lao PDR Law on and from the date those provisions became effective; and (ii) waived all rights to give notice under Clause 5.8(a) notwithstanding that the Change in Law concerned may be a continuing event.
- (d) The GOL shall have no responsibility to pay compensation or provide any other remedy unless the adverse economic effect to the Company or the Project:
 - (i) of one Change in Law exceeds [US\$ 250,000 / US\$ 500,000 / US\$ 750,000]; or
 - (ii) of multiple Changes in Law in any period of five (5) consecutive years exceeds in the aggregate [US\$ 500,000 / US\$ 1,000,000 / US\$ 2,000,000]; or
 - (iii) of all Changes in Law in aggregate during the Concession Period exceed [US\$ 1,000,000 / US\$ 2,500,000 / US\$ 5,000,000].

If the adverse economic effect on the Company exceeds the foregoing thresholds, the GOL shall only be responsible to compensate for that portion of the adverse economic impact which exceeds the foregoing thresholds.

- (e) Any Change in Law compensation for which the GOL is responsible shall be paid either:
 - (i) by direct payment; or
 - (ii) through a reduction in the compensation otherwise payable by the Company to the GOL as provided herein.

The payment method to be applied shall be determined by the Company (in accordance with Lenders' instructions) if the Company must obtain the Lenders' approval under the Financing Documents, and, in all other cases, by the GOL in consultation with the Company, taking into account any required payments to third parties.

- (f) If and to the extent that a Change in Law prevents the Company from carrying out its material obligations under this Agreement and no waiver or exemption as described under Clause 5.8(b) above from such Change in Law has been obtained, then the Company shall be entitled to suspend performance of those affected obligations and to claim with respect thereto the occurrence of Lao Political Force Majeure.

5.9 Dam Safety Review Panel

- (a) The GOL may, at the GOL's discretion and at the Company's expense, either: (i) establish and maintain a panel of up to three (3) experts (the "Dam Safety Review Panel" or "Panel"), to be maintained as a standing body from the Agreement Date until the second (2nd) anniversary of the Commercial Operation Date; or (ii) appoint the Contract Engineer to perform responsibilities which are the functional equivalent of the Panel's responsibilities. Any Panel established by the GOL shall be constituted by suitably qualified and experienced persons agreed between the Parties and reasonably acceptable to the Lenders, and may be reconstituted after its disbandment if the GOL so requires.
- (b) The Panel or the Contract Engineer, as the case may be, shall have the right: (i) to inspect, review and comment on the drawings and designs for the works (with all such items having been prepared wholly in the English language) (the "Dam Works") relating to the civil work structures impounding the reservoir and re-regulation pond (if any) (including the dams and components of river diversion works, underground waterways, saddle dams and power intake); (ii) to be present on the Site during the preliminary construction phase and construction phase, in order to inspect, review and monitor the progress of the Dam Works; (iii) to inspect and review any part of the Dam Works and to be present at and review the carrying out of the commissioning tests under the Primary PPA and the Secondary PPA; (iv) to access and take copies of, records, data and information (pertaining to the design, construction and operation of the Project, all of which having been prepared wholly in the English language) which the Panel or the Contract Engineer (as relevant) reasonably requires in order to carry out its Project-related responsibilities; and (v) to be present on the Site to periodically inspect, review and monitor operations and maintenance of the Project insofar as it relates to the dams and other structures referred to above, and to make recommendations to the Company and the GOL in respect of the above.
- (c) In case the Dam Safety Review work is carried out by the Panel, the Company shall, in coordination with or as otherwise requested by the GOL, arrange for periodic Panel meetings and reviews during the investigation, design, construction and initial filling and

start-up phases of the dam. The Company shall inform the Lenders in advance of such Panel meetings, and the Lenders may send an observer to such meetings. The GOL shall have no responsibility for the costs of attendance of any Lender observer or other participant except those persons representing the GOL. The Panel or the Contract Engineer, as relevant, shall review the following plans: (i) the Quality Assurance Plan (including construction supervision); (ii) instrumentation plan during the design stage; and (iii) Emergency Plan not later than one (1) year before the projected date of initial filling of the reservoir.

- (d) After each Panel meeting, the Panel shall provide the Parties with a written report of its conclusions and recommendations, signed by each participating member. The Company shall provide a complete copy of that report to the Lenders. The GOL shall determine whether the recommendations of the Panel or the Contract Engineer, as relevant, will be binding on the Company, taking into consideration the extent to which the recommendations are, in the reasonable opinion of the Panel or the Contract Engineer, required to ensure safe construction and/or operation of the dam.
- (e) If the Contract Engineer determines that the quality of the Project design and / or construction (or of any component(s) thereof) fails to meet the requirements of this Agreement, then the Company shall bear all additional costs and expenses that must be incurred to remedy or otherwise mitigate such failure(s) to the satisfaction of the Contract Engineer and the GOL, including without limitation any increased costs of the Contract Engineer and the costs of any additional expert that may be required.
- (f) The Company shall, within thirty (30) days of receipt of any invoice from the GOL, make payment to the Panel in satisfaction of fees and charges incurred from time to time during the period commencing on the construction phase commencement date and ending on the second (2nd) anniversary of the Commercial Operation Date, subject to an agreed cap for such period of [US\$ 500,000] or such higher amount as may be reasonably required in order for the Panel to fulfil the duties required as set out in any corresponding terms of reference. With notice to the Company and the Lenders, the GOL may: (i) terminate with immediate effect the appointment of any Panel member; and (ii) propose any Panel replacement member.
- (g) [The Company, on the demand of the GOL, shall indemnify and keep indemnified each member of the Dam Safety Review Panel, whether past or present, by way of continuing indemnity, and defend and hold harmless such persons and each of them, from and against any proceedings of any nature whatsoever, penalties, demands, suits, costs and expenses (including reasonable lawyers' fees and expenses) arising from or in respect of any claim made by the Company, the Sponsors, the Shareholders, the Contractors, the Lenders or any of its or their agents, personnel or invitees.]

5.10 GOL Representations and Undertakings

- (a) The GOL represents and warrants for the benefit of the Company as at the Effective Date and at all times during the Concession Period that: (i) all Concession Rights granted under this Agreement are granted in accordance with, and are or (subject to due application therefor) will be valid, fully effective and enforceable on the Effective Date under all Laws then in effect (or pursuant to such Exemptions or Authorizations as have been duly granted at such date); (ii) the GOL shall not take or fail to take any action required of it under this Agreement which has the effect of eliminating, impairing or reducing any Concession Rights, or materially adversely affecting the Project, Project Management, the Company and/or the Shareholders; (iii) the GOL shall not carry out any Expropriation at any time or in any manner; and (iv) the Minister of Justice of the Lao PDR has full legal power and

authority to issue the legal opinions set out as Annex G for and on behalf of the Ministry of Justice of the Lao PDR.

- (b) The GOL represents and warrants that: (i) neither it nor its representatives have solicited or received any unlawful consideration or commission (in the form of a bribe or kick-back) or other direct or indirect benefits nor has it or its representatives exerted or utilized any unlawful influence in connection with the negotiation or awarding this Agreement to the Company; and (ii) it shall not knowingly permit any work related to the Project to be contracted to any of its officials or employees, or any member of the immediate family (spouse, parent, child or sibling) of any such official or employee, who is directly or indirectly involved in contract awards or supervision of the Project or to any company or enterprise in which any of such persons is an executive officer or substantial owner without the prior written consent of the GOL after full disclosure of the relevant facts.

Clause 6: Effective Date; Conditions Precedent; Condition Subsequent; Effectiveness of Inconsistent Acts

6.1 Effective Date

- (a) This Agreement shall become effective when each condition precedent specified in Clause 6.2 has been satisfied or waived in writing by the Party not responsible to satisfy it. The date on which all such conditions have been satisfied or waived shall be the Effective Date, which date the Parties shall acknowledge in writing.
- (b) The Parties intend to satisfy the conditions within twelve (12) months of the Agreement Date (or such other date as the Parties may agree). If the Effective Date has not occurred within twelve (12) months of the Agreement Date or by another mutually agreed date, this Agreement may be terminated by either Party on not less than thirty (30) days prior notice to the other Party, provided, however, that if the Effective Date shall occur prior to the expiry of the Notice of Termination / Project Transfer, the notice shall be deemed repealed.
- (c) Upon termination of this Agreement under Clause 6.1(b) and notwithstanding any provision to the contrary in the PDA, the Company shall promptly and without cost to the GOL forfeit and surrender to the GOL and otherwise agree to the termination and cancellation of all Authorizations issued or granted to the Company for or in respect of the Project.
- (d) If the Effective Date is not achieved for any reason, neither Party shall have any obligation to reimburse the other Party (or any Sponsor) any costs or expenses or to pay any damages or any other amounts howsoever designated, and nor shall either Party (or any Sponsor) have any right to take or base any legal action whatsoever in regard to this Agreement, its execution or any provisions hereof.
- (e) If the Effective Date is achieved, the PDA shall, upon the Effective Date, be wholly superseded by this Agreement and be of no further force and effect and all rights and obligations thereunder shall then be wholly and immediately terminated.

6.2 Conditions Precedent

- (a) The Company shall have received in form and substance satisfactory to it the following (responsibility for which shall rest with the GOL):
 - (i) evidence that the National Assembly Standing Committee has passed and adopted a resolution granting, as relevant, such Project approvals and specific exemptions

- from Lao PDR Law as are required under Lao PDR Law to be obtained from the National Assembly;
- (ii) evidence that each relevant Government office has granted to the Project and the Company, as relevant, such Project approvals as are required to be obtained from such Government office under Lao PDR Law, for which the Company has made due application and which the Government office may validly grant upon such application and prior to this Agreement coming into effect;
 - (iii) evidence of the due execution and delivery of this Agreement and its Annexes, properly finalized and initialed by the Parties; and
 - (iv) issuance by the Minister of Justice of the Lao PDR of a legal opinion.
- (b) The GOL shall have received in form and substance satisfactory to it the following (responsibility for which shall rest with the Company):
- (i) evidence that the Company has been duly incorporated and has commenced carrying on business;
 - (ii) evidence of the due execution and delivery of this Agreement and its Annexes, properly finalized and initialed by the Parties;
 - (iii) evidence that each line ministry of the GOL having responsibility for the Project has granted its respective approval, unless the GOL agrees in writing to defer the satisfaction of this condition precedent with respect to a given line ministry until a later date which shall in no event extend beyond the Scheduled Final Close Date;
 - (iv) evidence of the due execution of the Primary PPA by the Company and the Primary Offtaker (incorporating all schedules and annexes thereto);
 - (v) evidence of the due execution of the Secondary PPA by the Company and the Secondary Offtaker;
 - (vi) evidence that the Financing Documents, in form and substance acceptable to the GOL, have been executed between the Company and its Lenders in respect of the Project;
 - (vii) evidence that all insurance policies that are required by applicable Laws and by Prudent Utility Practices based on the activities being conducted at such time to be in place prior to the Effective Date have been so procured as required under Clause 4.27, and that complete and accurate copies of all such policies have been delivered to the GOL;
 - (viii) delivery to the GOL of the duly issued bank guarantee that is required as security for the Company's payment of penalties, in accordance with Clause 4.40;
 - (ix) delivery to the GOL of the Quality Assurance Plan;
 - (x) delivery to the GOL of the Company's comprehensive Health and Safety Plan in accordance with Clause 4.12(b);

- (xi) evidence that: (A) the Sponsor and [state-owned enterprise] are the only shareholders of the Company; (B) each of the Sponsor and [state-owned enterprise] has executed the Shareholders' Agreement; (C) the Articles of Association of the Company reflect each of the Sponsor and [state-owned enterprise] as a shareholder of the Company; (D) such Articles of Association and the shareholding of the Company reflected therein have been duly approved by the IPD; (E) such Articles of Association have been duly registered with the SAMD; (F) appropriate share certificates reflecting such shareholding of the Company have been issued to each of the Sponsor and [state-owned enterprise]; (G) such shareholding of the Company has been duly reflected in the Shareholders' Registry of the Company; and (H) such up-dated Shareholders' Registry has been duly lodged with the ERO;
 - (xii) evidence that the Company and the GOL have agreed, finalized, and initialed in their entirety the terms and conditions of Annex C including any and all appendices and schedules thereto;
 - (xiii) evidence that the Implementing Agency has agreed, finalized and together with the Company initialed in their entirety the Project management structure and details set forth in Annex I;
 - (xiv) evidence that the RC has approved in writing the Company's budget plan including the operating budgets and costs of the RC and RMU for resettlement, PAP livelihood development and other matters required pursuant to Annex C, through the later to occur of the date which is five (5) years after COD or the date on which PAP livelihoods have become stable as contemplated in this Agreement;
 - (xv) issuance by the Company's legal counsel of a legal opinion in the form set forth in Annex S or, if not in such form, in form and substance acceptable to the GOL; and
 - (xvi) *[for projects on the Mekong mainstream -- evidence satisfactory to the GOL that the Project has fully complied with all MRC Requirements that are then in effect in respect of the Project and which can be completed by such time, up to and including the date on which such evidence is provided to the GOL, together with a comprehensive plan for the satisfaction by the Company, its Contractors and Subcontractors of all other MRC Requirements as and when they are required to be complied with, including without limitation as required under Annex C, and provided, always, that in the event of any perceived conflict or inconsistency between any provision of this Agreement and Annex C, the GOL shall in its sole discretion determine which requirements are to be complied with and instruct the Company accordingly].*
- (c) When the GOL is satisfied that the Company has completed all of the Condition Precedent requirements applicable to it, or when the Company has completed some of such Condition Precedent requirements and the GOL is prepared to waive the completion of any then remaining, unsatisfied Condition Precedent, the GOL shall issue a letter confirming this completion. When the Company is satisfied that the GOL has completed all of the Condition Precedent requirements applicable to it, or when the GOL has completed all of its Condition Precedent requirements other than that set forth in Clause 6.2(a)(iii) and/or Clause 6.2(a)(iv), as the case may be, and the Company is prepared to waive the completion of the remaining, unsatisfied Condition Precedent requirements set forth in Clause 6.2(a)(iii) and/or Clause 6.2(a)(iv), as the case may be, the Company shall issue a letter confirming this completion. For the avoidance of doubt, the Company shall have no right to waive any other Condition Precedent set forth in Clause 6.2(a) which is to be completed by the GOL.

6.3 Condition Subsequent

- (a) Notwithstanding the achievement of the Effective Date, the Parties agree that this Agreement and all Concession Rights granted to the Company hereunder may be unilaterally terminated by the GOL, at its election and sole discretion, in accordance with Clause 16.1(a)(vii) if the Financial Close Date does not occur by the Scheduled Financial Close Date, provided that such deadline may be extended by mutual agreement of the Parties. Both Parties agree that if such condition subsequent is satisfied within the time stated in the notice of termination, or within such longer time as the Parties may hereafter agree in writing, neither this Agreement nor the Concession Rights granted hereunder shall terminate for failure of such condition subsequent.
- (b) The Parties agree that if this Agreement is terminated by reason of a failure of the condition subsequent as provided herein, it shall have no force or effect and the GOL shall have no financial or other liability to the Company or any Sponsor in regard to such termination.
- (c) The Company hereby absolutely and irrevocably waives any right to bring any claim or claims whatsoever against the GOL as a result of or in connection with the termination of this Agreement by reason of a failure of the condition subsequent as provided herein, and waives any rights to seek compensation or reimbursement of any kind from the GOL in regard to or arising from such termination.

6.4 Effectiveness of Inconsistent Acts

With respect to any act or omission of or by any Relevant Authority or third party, the nature or effect of which could, or purports to, have the effect, in any manner and to any extent or degree, of creating or increasing any Company or third party right or GOL obligation under this Agreement, or negating, reducing or interfering with any Company or third party obligation or GOL right hereunder, and notwithstanding the good faith or intention of that Relevant Authority or any third party or the document (excepting only a duly executed and legally binding and effective amendment of this Agreement in accordance with Clause 21.2) or other form or manner in which such act or omission has been taken or is reflected, the Parties acknowledge and agree that no such act or omission shall, or shall be alleged, interpreted or deemed to:

- (a) (i) create or increase any right, privilege or benefit of or for the Company or any other entity; (ii) create or increase any obligation of the GOL or any Relevant Authority; (iii) negate, reduce or interfere with, or act as a waiver by the GOL of the performance by the Company of, any obligation of the Company; or (iv) negate, reduce or interfere with any right, privilege or benefit of the GOL or any Relevant Authority; or
- (b) nullify, supersede, modify, waive or interpret, to any degree or extent, any provision, term or condition of this Agreement; or
- (c) [to the extent of such inconsistency with this Agreement] be effective and / or enforceable by the Company, any Lender or any other entity whether or not acting for or on behalf of the Company or any Lender; or
- (d) [to the extent of such inconsistency with this Agreement] be referred to, or available for use by, either Party in connection with any dispute concerning this Agreement or any provision, term or condition of this Agreement, or any right or obligation of a Party hereunder.

The Company acknowledges and agrees that the Company shall be fully liable to the GOL for any and all costs and expenses (including without limitation legal costs and the cost of complying with

any arbitral awards), loss and damage incurred or suffered by the GOL and arising from or in connection with any failure of the Company to act in full accordance with the provisions of this Clause 6.4.

Clause 7: Reporting

7.1 Periodic Progress Reports

- (a) The Company shall submit to the GOL after the Effective Date until the end of the Concession Period in the same form and content as provided to or received by, as applicable, all monthly, semi-annual and other periodic progress reports and notices of material events provided to the Lenders under the Financing Documents, and in any event shall include at least the following in reasonable detail (each month during the Construction Period and, as relevant, semi-annually following the Commercial Operation Date):
- (i) the items of Construction Works completed since the previous report;
 - (ii) all items of Construction Works completed in aggregate since the commencement of Construction Works;
 - (iii) the items of Construction Work currently in process and the percentage of each completed as at the date of such report;
 - (iv) the progress toward each of the remaining Project milestone dates;
 - (v) the estimated time remaining to completion of Construction Works;
 - (vi) any issues, concerns or problems encountered with respect to Project design or quality of Construction Works;
 - (vii) any Change Orders (including a description of how such Change Orders is expected to impact schedule, cost, or otherwise);
 - (viii) any violations of Laws by the Company or any Contractor or Subcontractor, and the manner in which such violation was handled or resolved;
 - (ix) any penalty imposed by the GOL, any penalty paid by the Company, and any penalty imposed in any previous period and remaining unpaid by the Company with respect to the period covered by such report;
 - (x) any accidents, injuries or damage arising to any employee of the Company or any Contractor or Subcontractor or to any other individual from or in connection with the performance of the Construction Works or otherwise occurring on the Site or related to the Project;
 - (xi) any claims, disputes or other matters which might affect the schedule of Project completion;
 - (xii) the numbers of all Lao PDR employees and Expatriates and the type of work performed by each during the reporting period;

- (xiii) the status of performance, compliance and remediation (if relevant) by the Company with each of its material obligations provided in this Agreement and in its schedules and annexes, including without limitation those contained in Annex C;
 - (xiv) such other matters as the GOL may reasonably request or may require for internal GOL reporting, statistical, and other purposes; and
 - (xv) any major repair or maintenance it carries out in respect of the Project Facilities, including the underlying cause for the required maintenance if not otherwise scheduled, the costs of such repair or maintenance, whether such costs have been budgeted for; and whether there is any liability of or claim against any Contractor or Subcontractor in regard thereto.
- (b) The periodic progress reports provided by the Company under Clause 7.1(a) above shall be reviewed by and subject to the reasonable acceptance of the GOL. Such reports shall be submitted within thirty (30) days after the end of each reporting period and shall indicate the progress and results of the Company's activities under this Agreement. In addition, during the Construction Period, the Company shall provide the GOL with monthly administrative reports on the status of the Project that will describe: (i) the numbers of workers involved in the Project (indicating separately the numbers of Expatriates and Lao PDR nationals employed on the Project by the Company and by each Contractor and Subcontractor); and (ii) the Company's proposals to the GOL to resolve certain delays or issues encountered by the Company during the course of construction. The Company will, upon request from time to time, provide such other Project-related information as may be required by the GOL.
- (c) If at any time: (i) actual progress is too slow to complete the Construction Works (excluding minor punch-list items to be finalised after COD) within the Construction Period; and/or (ii) progress has fallen substantially behind the Work Program, then the GOL may instruct the Company to submit a revised Work Program and a supporting report describing the revised methods which the Company proposes to adopt in order to expedite progress and complete such Construction Works within the Construction Period. The Company shall have sole liability for any increased costs or other impacts associated with correcting schedule delays, including implementing any instructions the GOL may reasonably give in connection therewith.
- (d) The Company shall keep and provide to the GOL at least once annually from and after the Commercial Operation Date a report of any major repair or maintenance it carries out in respect of the Project Facilities, including the underlying cause for the required maintenance if not otherwise scheduled, the costs of such repair or maintenance, whether such costs have been budgeted for, and whether there is any liability of or claim against any Contractor or Subcontractor in regard thereto.
- (e) The GOL shall have title to the copies of all progress and financial reports submitted by the Company to the MEM or the GOL, and the GOL is granted an irrevocable license to use and rely on such progress and financial reports. When the Project Assets are transferred to the GOL as provided in this Agreement, whether upon expiration of the Concession Period or earlier termination of this Agreement, all rights in and copies of Confidential Information that has been the property of the Company prior to the transfer shall automatically become the sole and exclusive property of the GOL.

7.2 Manuals for Inspection, Maintenance and Operations

- (a) Prior to the Commercial Operation Date, the Company shall prepare comprehensive safety and operations manuals wholly in English for overall inspection and maintenance of the Project Facilities, which manuals shall include all procedures and schedules for carrying out periodic and annual inspections, routine maintenance, heavy repair maintenance, and for adjusting and improving the inspection and maintenance program in accordance with Prudent Utility Practices. No later than the date which is six (6) months prior to the Scheduled Commercial Operation Date, the Company shall provide a copy of a complete draft of such manuals to the GOL for its review and examination. The Company shall provide the final versions of such manuals to the GOL no later than six (6) months after the Commercial Operation Date. The GOL may assign an appropriate technician(s) to monitor the work of the Company during the Work Program.
- (b) The Company shall ensure that all manuals relating to the Project Facilities are available in the English language.

7.3 Compliance Audits

During the Concession Period, the GOL shall have the right, at the Company's sole cost, to engage a qualified, independent party to audit the Company's compliance with its material obligations under this Agreement; provided that such audits shall be conducted no more frequently than once annually in the absence of any evidence of the Company's non-compliance with such material obligations.

Clause 8: Confidentiality

8.1 Confidential Information

Each Party shall treat as confidential all Confidential Information received from the other Party, and only use such Confidential Information to administer this Agreement. Until the date which is two (2) years after the end of the Concession Period, neither Party shall suffer or permit its personnel, consultants or agents to divulge to any Person, or make any public statements, as to any Confidential Information, without first obtaining the prior written consent of the other Party.

8.2 Exceptions and Permitted Disclosures

- (a) The confidentiality restrictions herein shall not apply to the disclosure by either Party of any information which: (i) is or becomes public other than by reason of a breach hereunder; (ii) is required by law to be disclosed; (iii) is information already known to a Party on a non-confidential basis prior to being furnished to such Party by the other Party; (iv) has been published pursuant to Law; (v) has been published by the GOL as part of aggregated returns and general reports which do not identify Project-specific confidential or proprietary information, without the Company's prior approval; or (vi) has otherwise been agreed between the Parties to be disclosable.
- (b) Neither Party shall be prevented from disclosing any information: (i) to permit the issue of any Authorizations which the National Assembly or the GOL may issue in regard to this Agreement; (ii) to any of its own personnel, consultants or advisors who reasonably require such information, provided that any intended consultant or advisor recipient shall first sign a confidentiality agreement; or (iii) to any Relevant Authority as required under this Agreement.
- (c) Notwithstanding the above, the GOL shall have the right to disclose, in any manner and media it sees fit, including without limitation on the Implementing Agency's website and in public fora and newspapers: (i) relevant (non-commercial) portions of the Feasibility Study

Report, the environmental impact assessment and the social impact assessment and any and all other reports and studies concerning the Project or any (non-commercial) aspect thereof including information about the Project design, and standards and quality of construction and of operation; (ii) any reports or other communications with the Contract Engineer and any independent experts concerning the quality of work; (iii) any and all instances of non-compliance with applicable Laws, the provisions of this Agreement, its Annexes, the EPC Contract and other Principal Project Contracts and the approved EIA / SIA of the Project, by the Company, Contractors and Subcontractors; (iv) any penalties imposed and collected thereunder; (v) the names of any Contractor, Subcontractor or other person or entity blacklisted by the GOL and the basis for taking such action; (vi) the names, positions and office contact information of the responsible officers of the Company, Contractors and Subcontractors and of the Lenders to the Project; and (vii) such other information concerning the status of the Project implementation and compliance as the GOL may deem to be of interest to the public.

- (d) The Company expressly agrees, and shall cause Contractors and Subcontractors to agree in the documents by which they are bound, that the GOL shall have no liability to it or any of them in regard to any such disclosures and that no legal or other action shall be taken by or on behalf of the Company, Contractors and Subcontractors to prevent or interfere with any such disclosures.

Clause 9: Contract Engineer

9.1 Appointment and Fees

- (a) The GOL shall select and appoint (in accordance with the scope of technical services set forth in Annex K) an internationally recognized consulting engineering firm / expert to act as the Contract Engineer for the GOL under this Agreement.
- (b) The Company shall make available to the GOL a budget of **US\$ []** to be applied by the GOL toward Project-related fees and expenses of the Contract Engineer and toward non-Project specific assistance by the Contract Engineer or any other qualified technical resource to the GOL on general hydropower work or related matters. The Parties agree that the Contract Engineer's Project-related fees and expenses may increase, in the event of: (i) any Project design change; (ii) any failure of Project construction to conform with any applicable standard; or (iii) any failure of the Project to achieve COD by the SCOD date specified in the Master Schedule, results in the need for additional work to be carried out by the Contract Engineer. In such circumstances, the budget amount provided above shall be reasonably increased as necessary given the additional work to be carried out by the Contract Engineer as a result of such change or failure. The Company shall bear sole financial responsibility for any such increase. The GOL reserves the rights:
 - (i) in order better to control the overall costs of engineering consulting services to be provided to the GOL as contemplated in this Agreement, to combine the Contract Engineer budget to be made available to the GOL pursuant to this Clause 9.1(b) with the budget required for the engineering consulting services to be provided to the GOL in connection with the final overhaul reserve under Clause 4.7(u);
 - (ii) to direct that any remaining balance of Contract Engineer budget amounts to be provided under Clause 9.1(b) above, after the payment of all Project-related fees and expenses, shall be applied to non-Project specific assistance by the Contract Engineer or any other qualified technical resource to the GOL on general hydropower work or related matters;

- (iii) to engage, disengage, re-engage and engage any replacement in place of, the Contract Engineer at any time and from time to time during the Concession Period, as the GOL shall in its sole discretion decide, and the Company shall in any event be obliged to transfer payment (to the extent such payment falls within the budget referred to above) as instructed or invoiced by the Implementing Agency prior to the end of any period of engagement of the Contract Engineer; and
 - (iv) to pool such non-Project specific budget amounts together with similar financial resources provided to the GOL by other projects in the power sector for purposes of assisting the GOL with appropriate technical review and monitoring of any other power project.
- (c) The budget amounts referred to in this Clause 9.1 shall be made available by the Company to the GOL at the earlier to occur of: (i) the date that is ten (10) days after the Financial Close Date, and (ii) the date that is two (2) months after commencement of the Construction Work. The Company shall transfer all payments under this Clause 9.1 in accordance with the instructions and/or invoices of the Implementing Agency.

9.2 Responsibilities

- (a) The Contract Engineer shall advise the GOL with regard to all aspects of the Project and shall continuously monitor, on behalf of the GOL, the design and execution of the Construction Works, shall confirm to the GOL that such Construction Works conform to the specifications, design, criteria, relevant construction codes and other codes, regulations and standards, the Construction Contracts and Master Schedule, and shall perform such other duties as are set out in this Agreement and in Annex K. The GOL shall have the right to consult with and instruct the Contract Engineer at any time and on any Project-related matter as it requires.
- (b) A GOL engineer shall have the right, as contemplated under LEPTS, to check and approve: (i) the dam foundation, (ii) prior to diversion; (iii) prior to impounding; and (iv) the date of completion of the work and issuance of the CA Completion Certificate. The GOL reserves the right to carry out the work of the GOL engineer contemplated under LEPTS by itself (via the Department of Energy Management or any other duly authorized department) or to employ the Contract Engineer to carry out such work;
- (c) In case the Contract Engineer or the GOL learns of any material non-compliance by the Company, Contractors and / or Subcontractors with any of the foregoing, the GOL shall have the right to instruct the Company to immediately rectify, repair or replace such non-compliant Construction Works (including without limitation defective or incomplete design, defective or incomplete components of the Construction Works, errors, omissions or inconsistency of any budget for the Project that has been reviewed by the Contract Engineer, and any failure by the Company, Contractors and / or Subcontractors to properly anticipate and address environment-related issues in the Project design and construction) and to require the Company to suspend all or any specified part or parts of the Construction Works, and to expend (at no cost to the GOL) all necessary amounts on rectification, repair or replacement, until such material non-compliance has been resolved. The Contract Engineer shall advise the GOL as to the manner and extent to which such rectification, repair or replacement of such non-compliant Construction Works has been carried out, and shall provide a written confirmation to the GOL when such material non-compliance has been resolved.

9.3 Fiduciary Duty

The Contract Engineer shall owe a fiduciary duty to the GOL and must at all times be and remain independent of the Company, the Lenders, the Project, and any Contractor, Subcontractor, Sponsor or Shareholder.

9.4 Communications

The Company shall provide the GOL with copies of all formal written advice and written communications concerning any substantive issues within the scope of the relevant engineer's engagement or otherwise pertaining to the subject matter of this Agreement, which either the Company or the Lenders have provided to or received from the Contract Engineer or any engineer acting for the Lenders to the Project.

9.5 Certificates and Confirmations

- (a) Any written certification or confirmation required to be provided under this Agreement to the Company, the Lenders or any other party at any time in regard to any matter or purpose with respect to which the Contract Engineer has been consulted or involved, whether under this Clause or otherwise, shall be issued by the GOL only.
- (b) Upon or following the acceptance of a certificate of readiness for operation, taking-over certificate or any similar formal confirmation for each of the Generating Units from the EPC Contractor, the Company shall give notice in writing to the Contract Engineer. The Contract Engineer shall thereupon inspect the Project and confirm to the GOL in writing the take-over of each such Generating Unit by the Company pursuant to, and in accordance with the, the EPC Contract.

Clause 10: Import and Re-export

10.1 Import of Equipment and Materials

The Company may during the Concession Period import Equipment and Materials into the Lao PDR in accordance with this Agreement and Annex T, for use in carrying out the Construction Works and implementing the Project and Project Management, as and to the extent that such Equipment and Materials are included on a comprehensive master list duly submitted (in both hard copy (paper) and Excel file (digital) versions) to and approved by the GOL. Such master list shall include clear indications as to the status of all Equipment and Materials for which import is or was previously requested, and the specific decisions of the GOL in regard thereto. The Company shall take all necessary steps to ensure that it will be able fully to accommodate at secure storage facilities at the Site all imports of Equipment and Materials.

10.2 Master List

- (a) At least ninety (90) days prior to the first date on which the Company intends to import any Equipment and Materials into the Lao PDR, the Company shall submit to the GOL for its review and approval the master list of Equipment and Materials proposed to be imported for the Project, together with the bill of quantities contemplated by the EPC Contract in Excel file (digital) format. The Company shall annually update and resubmit for the GOL's review and approval the import master list at least ninety (90) days prior to the end of each year for any Equipment and Materials to be imported during the next year. Each such updated master list shall accurately indicate all amounts of Equipment and Materials imported for the Project but which, at the date of the updated master list, have not yet been incorporated into the Project. The GOL shall promptly review the proposed master list upon receipt and shall use reasonable efforts to provide the Company with any comments within thirty (30) days

thereof. If the GOL identifies any issue of concern with respect to any such master list or item included thereon, the GOL shall immediately advise the Company, and the Parties shall work together in good faith to resolve such issue as soon as practicable and in any event within such ninety (90) day period. The master list shall also indicate the approximate period of time during which any Equipment and Materials not required for permanent use of the Project are expected to be required in the Lao PDR. The Company may amend the import master list with the GOL's approval.

- (b) The Company shall accurately track and record all matters relating to the importation of Equipment and Material into the Lao PDR, and shall report to the GOL in writing in advance each time the Company wishes to make any further importation of Equipment and Materials.
- (c) The Company shall prepare, manage and maintain the master list in Excel file format. The Company shall clearly date and sequentially number each subsequent update or revision to the master list. Each updated or revised master list that is submitted to the GOL shall be submitted in two versions, one in clean copy and one that has been electronically marked to track changes against the immediately prior version that was submitted to the GOL. Each updated / revised master list shall accurately reflect the progress and status of imports of Equipment and Materials up to the date of such master list, including an accurate and easy to read comparison of imports to date (by type of item) against the total import requirements (for such item) of the Project.

10.3 Import of Vehicles

The Company and its Contractors and Subcontractors (acting in the name of the Company) shall have the right to import Project-related vehicles during the Concession Period, subject to the payment of Taxes in accordance with applicable Laws unless an Exemption in respect thereto has been provided.

10.4 Import of Fuel

Any fuel and other Hydrocarbon imported by or on behalf of the Company shall be imported exclusively and entirely through the Lao State Fuel Company, without exception. The Company and its Contractors and Subcontractors shall have the right domestically to purchase fuel and other Hydrocarbon directly from authorized Lao PDR fuel suppliers.

10.5 Compliance with Procedures; Expedited Review; Bond

- (a) Except as otherwise provided in this Agreement, the Company shall duly observe all import restrictions and prohibitions and rules and procedures of general application.
- (b) If the Company urgently needs to import any Equipment and Materials which do not appear on any master list approved by the GOL (but with respect to which the GOL has not previously rejected an import request), the GOL may, upon written request by the Company, expedite the review and approval process therefor. For each batch of imports, the Company shall if required by the Relevant Authority post a bond to permit the import of such batch prior to issuance of the GOL's approval therefor, and submit all customarily required documentation.

10.6 Re-export

- (a) The Company shall be allowed to re-export from the Lao PDR in accordance with Laws such imported Equipment and Materials as: (i) were only required for temporary use and not for permanent use for the Project; (ii) were not physically incorporated or integrated into the Project Facilities and then subsequently removed; (iii) were duly imported by the Company in accordance with Laws and in compliance with the provisions of this Agreement; (iv) were accurately listed and detailed on the import master list presented to and approved by the GOL; (v) can be reasonably shown by the Company not to be substitutions or replacements for actually imported Equipment and Materials; (vi) have retained a degree of economic value and further useful life; and (vii) are otherwise in reasonable working order and / or original condition.
- (b) The Company shall maintain an accurate, detailed and regularly updated record of all re-exports (including with respect to imported Equipment and Materials that are in the possession, care or custody of Contractors and Subcontractors) and shall make such record available to the GOL immediately upon request.
- (c) The Company shall be responsible to prove to the GOL's reasonable satisfaction any loss, theft, breakage or other damage of or to any Equipment and Materials which would prevent such Equipment and Materials from being used for the Project, including, where so requested by the GOL, by making any Equipment and Materials so affected available to the GOL for direct inspection prior to any salvage or disposal (and, in the case of loss or theft, presenting to the GOL the relevant police reports filed by the Company and / or any Contractor in regard thereto).
- (d) The Company shall be responsible to pay to the GOL all taxes and duties required by applicable Laws and without the benefit of any exemption or reduction, with respect to any Equipment and Materials which have not been incorporated into the Project and have not been duly re-exported in accordance with this Clause, except to the extent otherwise provided in this Agreement.
- (e) For the avoidance of doubt, the import master list for the Project shall not include any petroleum-based products or any personal effects, consumer electronics (televisions, computers, cell phones, etc.), other consumer goods, household products or consumables of any type that are available within the Lao PDR, which shall in all cases be purchased or otherwise acquired in the Lao PDR only.

10.7 No Disposal of Equipment and Materials

During the Concession Period, the Company shall not sell, transfer or otherwise dispose of any Equipment and Materials required for the proper construction, operation or maintenance of the Project Facilities or the conduct of Project Management other than in accordance with this Agreement.

Clause 11: Taxes and Charges

11.1 Obligation to Pay Taxes and Charges

- (a) The Parties acknowledge and agree that Taxes and charges shall be levied on or payable by all Persons (including the Company, Contractors, Subcontractors, Lenders, Shareholders and other investors, if any) directly or indirectly involved in the Project in accordance with applicable Laws, except: (i) to the extent that any exemptions therefrom are described in Annex T and granted under the National Assembly resolution and Prime Minister decree, as applicable; and (ii) the Company shall be authorized to capitalise and depreciate costs

incurred in connection with Project Construction, for the purposes of tax calculation, on a straight-line depreciation basis calculated over the period commencing from the Commercial Operation Date until the expiration of the Concession Period.

- (b) The Parties further acknowledge and agree that, if at any time any Taxes and/or charges payable in accordance with this Clause 11, Annex T and applicable Laws have not been fully paid (allowing for any exceptions under Clause 11.1(a) and Annex T) by any Person referred to in Clause 11.1(a) and/or have not been collected in full by any Relevant Authority for any reason (including without limitation any reductions or exemptions of taxes and/or duties applied to any imports in a manner or amount(s) inconsistent with the allowed exceptions under Clause 11.1(a) and Annex T), then such insufficient payment and/or incomplete collection shall not constitute a waiver of the right of the GOL (or any such Relevant Authority) to rectify such situation at any time to require such Person to make such payment and for the Relevant Authority to collect in full such previously uncollected amount(s), together with any interest and penalties applicable thereto in accordance with the provisions of this Agreement and applicable Law.

11.2 Corporate Income Taxes on the Company

- (a) For any Fiscal Year in which there is Net Taxable Income of the Company, the Company shall pay Taxes on that Net Taxable Income of the Company as provided in Annex T (the “Corporate Income Taxes”) in accordance with and at the rates imposed by applicable Laws, and in priority for payment ahead of any repayment of principal or payment of interest or other amounts to Lenders.
- (b) The Company's Corporate Income Taxes shall be paid: (i) annually in arrears on the later of: (A) the date for payment required by the then applicable tax law of the Lao PDR; and (B) the date of the first semi-annual loan repayment to the Lenders falling due in the immediately following Fiscal Year with respect to which such Corporate Income Taxes are to be paid; and (ii) from the sources and in priority for payment ahead of any repayment of principal or payment of interest or other amounts to Lenders and otherwise subject to such conditions as are specified in the Financing Documents.
- (c) To facilitate the implementation of this Agreement, the Company shall show, explain in detail and clarify to the relevant GOL Authority(ies) the manner in which the Company maintains its books of accounts, records and treats expenses, calculates profits and taxes payable, and such other matters as the GOL may request.

11.3 Corporate Income Taxes on Contractors and Subcontractors employed pursuant to the Construction Contracts

- (a) The Company agrees that its Contractors and Subcontractors have the obligation to pay Corporate Income Taxes to the GOL in accordance with applicable Laws.
- (b) To assist the GOL in collecting Corporate Income Taxes payable by those Contractors and Subcontractors whose work falls within the EPC Contract and any and all subcontracts thereto (such Contractors and Subcontractors taken together, “EPC Contracting Parties”), an amount to be paid in satisfaction of such Person’s Corporate Income Taxes shall be paid by the Company to the GOL for and on behalf of such EPC Contracting Parties, as follows:
 - (i) The Corporate Income Taxes payable by such EPC Contracting Parties solely with respect to the Project shall be calculated assuming a profit element of five percent (5%) based on the total value of the EPC Contract (P&G work, civil work,

electrical/mechanical equipment and installation, metal structure and installation and engineering consultancy services) and the contracts relating to the EPC Contract which are entered into with Subcontractors who are EPC Contracting Parties and an effective corporate income tax rate imposed by the GOL on that profit element at twenty four percent (24%).

- (ii) The Parties agree that such calculation yields, in respect of the Construction Works for the Project, a total amount of US\$ _____ (US\$ _____) to be paid by the Company to the GOL as Corporate Income Taxes payable by the EPC Contracting Parties, in each case, solely in respect of the Project. The Company shall be responsible for the full and timely payment of this amount, which shall be made in [_____] (___) equal quarterly instalments of US\$ _____ (US\$ _____) each, with the first such payment being made on the date that is ninety (90) days after the Effective Date. The Company shall notify the Implementing Agency of each such payment promptly after it is made.
- (iii) The Parties shall treat the Corporate Income Taxes so determined and paid directly to the GOL by the Company as having been paid on behalf of each EPC Contracting Party under the EPC Contract (or subcontracts, as applicable) and such payment by the Company shall, for the avoidance of doubt, discharge the Corporate Income Tax payable in respect of the Project by each such EPC Contracting Party.

[Note to Developer: Depending on the outcome of discussions on Corporate Income Tax in the above sub-paragraphs in this Clause, the GOL may also require inclusion in the CA of one, two or all of the following 3 sub-paragraphs (iv), (v) and (vi):

- (iv) [In addition, the GOL reserves the right to carry out, as and when it deems necessary and otherwise in accordance with applicable Law, audits of all Project-related books, accounts and other financial records maintained by each Contractor and Subcontractor to determine whether profit has been earned in excess of that with respect to which Corporate Income Taxes have been paid by the Company on behalf of the Contractors and Subcontractors in accordance with this Clause. In the event that any additional Corporate Income Taxes are determined to be due and payable to the GOL by any Contractor and / or Subcontractor, the GOL reserves the right to impose and collect all such additional Corporate Income Taxes from such Contractor and / or Subcontractor.]
 - (v) [If at any time the GOL determines that any Contractor or Subcontractor has made non-compliant, inaccurate or deceptive entries or information in its books, accounts and other financial records, the GOL shall have the right to disregard such inaccurate information and impose in lieu thereof a corporate income tax on the deemed profits of such Contractor or Subcontractor in accordance with applicable Law. The Company shall be responsible to ensure that in the Construction Contracts all Contractors and Subcontractors acknowledge and accept their responsibilities and the rights of the GOL as provided in this Clause.]
 - (vi) [The Company shall be responsible to pay to the GOL promptly and in full any Corporate Income Taxes owed by any Contractor and / or Subcontractor which the GOL is unable to collect from any such Contractor and / or Subcontractor.]
- (c) Upon the payment of Corporate Income Taxes by the Company to the GOL on behalf of the EPC Contracting Parties as provided hereunder, the GOL shall issue tax payment certificates pursuant to applicable Laws and any double taxation treaties between such

jurisdiction and the Lao PDR from which an EPC Contracting Party would otherwise be entitled to benefit confirming the Corporate Income Tax paid by the relevant EPC Contracting Parties and that the relevant EPC Contracting Parties have met their Project-related Corporate Income Tax liabilities. In order for the GOL to issue such tax payment certificates, the Company shall provide to the GOL in writing an indication of the relative portion or allocated share of total Corporate Income Taxes paid that is attributable to each EPC Contracting Party for whom a tax payment certificate is required to be issued (provided, always, that the total of all such portions or shares shall not exceed the total amount paid to the GOL in satisfaction of Corporate Income Taxes); and (ii) the Company shall provide the GOL with a summary of the overall pricing of all Project contracts entered into with or otherwise relating to Lao PDR Contractors and Lao PDR Subcontractors.

- (d) At all times any Contractor or Subcontractor that is not an EPC Contracting Party (and any EPC Contractors, in respect of profits from an EPC Contracting Party that are derived from a contract that is not an EPC Contract or a sub-contract of an EPC Contract), and the Operation and Maintenance Contractor (if any) shall pay corporate income taxes on their total profit in accordance with applicable Laws.
- (e) The Company shall not be liable to the GOL for the payment of any Taxes due and owing by any of its Contractors or their Subcontractors referred to in Clause 11.3(d) above in connection with the Project; provided, that the Company shall have the duty to monitor and the duty to report to the GOL if the Company has or should have knowledge of any failure by any such Contractors or their Subcontractors to pay any Taxes which are due and owing to the GOL. In connection with its duties to monitor and report to the GOL as set forth in this Clause 11.3, the Company shall require each of its Contractors that fall within Clause 11.3(d) above to provide during the term of its respective Project Document, an annual tax certificate within ninety (90) days after the originally required date for payment of Tax by the Contractor evidencing such Contractor's or their Subcontractor's payment of all applicable Taxes. The Company shall provide the GOL with written notice of (i) any failure by any such Contractor or Subcontractor to provide an annual tax certificate to the Company within thirty (30) days after the end of the calendar year or fiscal year, as applicable, and (ii) knowledge of any failure by any such Contractor or Subcontractor to pay any Taxes which are due and owing to the GOL within ten (10) days of receipt of such knowledge.
- (f) The Company acknowledges and agrees that any failure by a Contractor or Subcontractor referred to in Clause 11.3(d) above to satisfy its applicable tax payment obligations in accordance with this Agreement may be subject to penalties, fines and/or banishment from the Lao PDR.

11.4 Import Duties and Other Amounts

- (a) During the Concession Period, the Company shall enjoy such exemptions as the Investment Promotion Law and the Exemptions provided as stipulated in Annex T to the extent duly granted, with respect to import duty, VAT and / or other amounts that would otherwise be applicable to and imposed on Equipment and Materials imported into the Lao PDR.
- (b) During the Concession Period, the Company shall pay in full and when due all import duty, VAT, excise tax and other amounts applicable to the import into the Lao PDR at any time of: (i) any equipment, materials, goods, utilities, services and other tangible or intangible items not clearly encompassed within the term Equipment and Materials; (ii) any Equipment and Materials that are ineligible for exemption from import duty, VAT, excise tax or other amounts under the Investment Promotion Law or the Exemptions provided as stipulated in Annex T to the extent duly granted; and (iii) any Vehicles (as stipulated in Annex T).

- (c) GOL policy generally allows the tax-free / duty-free import (temporarily, and for periods of short duration) of vehicles which have been registered outside the Lao PDR. The Parties agree that no Standard Vehicles required for or in connection with the Project shall be imported on such short-term basis.
- (d) The Company shall deposit import duty, VAT, excise tax and other amounts applicable to the import during the Construction Period of any Construction Vehicles (as defined in Annex T) into the Lao PDR, if and to the extent that an exemption from such amounts has not been granted for such Construction Vehicles. Such deposit may be in the form of a bank guarantee in favour of the Ministry of Finance and shall be submitted in accordance with applicable Law.

11.5 Personal Income Tax

- (a) The Company acknowledges and agrees that all staff, employees and labour of all Contractors and Subcontractors have the obligation to pay personal income tax to the GOL in accordance with applicable Laws.
- (b) An amount in satisfaction of personal income tax payable by all Expatriate and Lao PDR national staff, employees and labour employed by the Company and the EPC Contracting Parties in respect of the Project shall be paid by the Company to the GOL for and on behalf of all such staff, employees and labour, as follows:
 - (i) Personal income taxes on salaries and compensation, in respect of any work conducted in the Lao PDR (including without limitation construction, installation and services) solely with respect to the Project by any and all staff, employees and labour of the Company and EPC Contracting Parties which shall be calculated based on the total value of the EPC Contract, and the contracts relating to the EPC Contract which are entered into with Subcontractors who are EPC Contracting Parties, assuming an industry standard labor / employment component of fifteen percent (15%) and an effective personal income tax rate imposed by the GOL on that element at nine percent (9%).
 - (ii) The Parties agree that such calculation yields, up to the end of the Construction Period, a total amount of US\$ _____ (US\$ _____) to be paid by the Company to relevant revenue collecting authorities at the provincial level with respect to staff, employees and labour of the Company and EPC Contracting Parties. The Company shall be responsible for the full and timely payment of this amount, which shall be made in [_____ (____)] equal quarterly instalments of US\$ _____ (US\$ _____) with the first such payment being made on the date that is ninety (90) days after the Effective Date. The Company shall notify the Implementing Agency of each such payment promptly after it is made.

[Note to Developer: Depending on the outcome of discussions on Personal Income Tax in the above paragraphs in this Clause, the GOL may also require inclusion in the CA of one or both of the following 2 paragraphs (c) and (d):

- (c) [The Company shall submit to the GOL a list of all Company staff, employees and labour indicating: (i) the name; (ii) the nationality; (iii) job position; (iv) date of commencement and termination (if any) of employment; and (v) total compensation and the components thereof (salary, bonus, in kind benefits, etc.) of each, and shall be responsible to ensure that similar lists are submitted to the GOL for all Contractors and Subcontractors for each person working on the Project. The Company shall also submit and ensure the submission of

periodic updates of such lists at such frequency (no more than monthly) as the GOL may require.]

- (d) [The GOL undertakes not to seek or impose additional Project-related personal income taxes from or on any persons duly listed as provided in Clause 11.5(c). The Company shall have no responsibility for withholding, collecting or paying any additional personal income tax (i.e., on personal income that is not Project-related) that may be due from any Lao PDR national staff, employees or labour of the Company, Contractors or Subcontractors].
- (e) Upon the payment of personal income taxes by the Company to the GOL on behalf of any persons duly listed as provided in Clause 11.5(c), the GOL shall issue tax payment certificates pursuant to applicable Laws and any double taxation treaties between such jurisdiction and the Lao PDR from which such person would otherwise be entitled to benefit and confirming the personal income tax paid by the relevant person and that the relevant person has met their Project-related personal income tax liabilities.
- (f) During the Operating Period, all staff, employees and labour of the Company, and at all times, all staff, employees and labour of any Contractor or Subcontractor (other than under a the EPC Contract or its subcontracts as a result of work performed in connection with any construction or repair works to remedy a defect or problem that has arisen prior to the expiry of the Warranty Expiry Date or the completion of punch-list items) shall pay personal income taxes on their total compensation (including without limitation salaries, allowances and in kind benefits paid by or on behalf of the Company, Contractor or Subcontractor that is not an EPC Contracting Party and the Operation and Maintenance Contractor (if any)) in accordance with applicable Laws.

11.6 Tax Certificates

- (a) Upon the reasonable request of the Company from time to time and at the Company's expense, the GOL shall issue a tax payment certificate acknowledging that the Company, a Contractor, a Subcontractor has met all applicable requirements for Taxes under applicable Law (a "Tax Certificate"). Any Tax Certificate issued hereunder shall be in a form reasonably satisfactory to the Company and appropriate for submission to any Person.
- (b) In order for the GOL to issue Tax Certificates in regard to the payment of personal income tax by employees and individual contractors of the Company, Contractors, Subcontractors, the Company shall prepare and submit to the Relevant Authorities, from time to time, lists of all such persons who are employed directly by the Company and who will be completing their work on the Project and leaving the Lao PDR and/or who may otherwise need to obtain a Tax Certificate, including the official identification numbers, work permit details, and types, amounts and timing of compensation paid by or on behalf of the Company to each such person.

11.7 Provincial-Level Natural Resources Management Fee

The Company shall pay to the Department of Energy and Mines of [_____] Province a one-time lump-sum amount of US\$ [_____] , as a natural resources management fee for the management and supervision by the GOL of the Company's use of rock, gravel, sand, soil and limestone extracted for, and used by or incorporated into the Project during construction, provided, however, that all such extraction is made from the construction area within the Site. Such payment shall be made by the Company in full not later than sixty (60) days after the Effective Date. For the GOL's statistical purposes, the Company shall accurately record and report to the GOL all quantities of each type of resource used, including usage by Contractors and Subcontractors.

11.8 Forestry Resources Taxes and Charges

The Company shall pay all forest resource tax, fees, charges and other amounts related to the use of forest and forestland in accordance with Annex T and applicable Law.

11.9 Land Transformation Fees

In accordance with applicable Law (including, subject to any Exemptions, the Forestry Law and the Charges and Fees Decree), the Company shall pay all land transformation fees for the transformation of land from one land use category to another as required for the Project and Project Management.

11.10 Land Use Fees

During the Concession Period, the Company shall pay annual lease rental to the relevant GOL Authority in accordance with the land use fees in effect from time to time in respect of the Exclusive Land Use Rights in accordance with Annex D.

11.11 Other Charges and Levies

Subject to any Exemptions that may be granted, the Company, its Shareholders, its Contractors and Subcontractors and the Lenders shall be subject to all routine GOL charges, fees and levies regarding the implementation of the Project and Project Management, including but not limited to usage charges, fees for visas, road and bridge tolls, line connection charges, customary filing and inspection fees, banking service fees, taxes, duties and charges on any and all personal, individual or household-related items including consumer electronics, appliances, residential furnishings, personal effects and other consumer goods and consumables of every type, hotel service fees, taxes and other charges on utilities, document notarization and registration fees as provided for in the Charges and Fees Decree, and other standard charges levied by GOL Authorities.

Clause 12: Sharing of Benefits

12.1 Determining the Revised Equity Rate of Return and Sharing of Benefits

- (a) The Financial Model attached as Annex N sets out the projected finance plan (including applicable assumptions and formulae) for the Project as at the Agreement Date. The Company will provide an updated Financial Model to the GOL (as a complete, executable (run-able) digital file, and not only as a hard copy printout) which sets out the revised finance plan used for the purpose of achieving Financial Close within thirty (30) days of the Financial Close Date, such Financial Model: (i) to include the final Project development expenditures including the Company's pre-development expenses for the Project and the GOL's costs associated therewith; (ii) to take into account all scheduled overhauls during the Term; and (iii) to reflect the O&M budget for the Project for each year during the Term. The Company shall be responsible to ensure that the O&M budget, including any update or revision thereof, shall not exceed the estimated O&M budget set forth in Annex N.
- (b) Within one (1) year following the Commercial Operation Date or upon the expiration of the Final Defects Retention Period, whichever is later to occur, and provided that the Company has been able to determine the final construction and related costs (with reasonable allowance made for any matters in dispute at such time, but not waiting for final resolution of any such dispute if such resolution would occur later than the date which is one (1) year after the Commercial Operation Date), and been able to better project the operation and maintenance costs for the Project (provided, however, that any change in projected operation and maintenance costs shall not exceed the O&M budget set forth in Annex N), then based

upon a then re-run Financial Model provided after Financial Close, the Company and the GOL shall determine the revised Equity Rate of Return of the Project in accordance with Annex N (the “Revised Equity Rate of Return”).

- (c) To the extent that the Revised Equity Rate of Return is in excess of estimated [thirteen percent (13%)], the net economic benefits in excess of [thirteen percent (13%)] rate of return will be split on a 50:50 basis between the GOL and all of the Shareholders in the Company. The net economic benefit to be shared between the GOL and all of the Shareholders of the Company shall be calculated and paid as additional Royalties in accordance with the procedures and protocol described in Annex N (if any).
- (d) The Company shall provide the GOL with all material, data and other information reasonably necessary to enable a proper and fair determination of the Revised Equity Rate of Return. For the avoidance of doubt, if the Company and the GOL have determined that the Revised Equity Rate of Return is equal to or below [thirteen percent (13%)], then there shall be no excess benefits to be shared with the GOL hereunder and thereby, the rates of Royalties shall not be adjusted downwards and/or deferred in their application.

12.2 Upward Adjustments

- (a) If, as a result of the above determination, the Revised Equity Rate of Return is found to be greater than [thirteen percent (13%)], the respective percentage rates of the Royalties herein shall be adjusted upwards by the GOL (in consultation with the Company) in accordance with Annex N and those rates shall apply to and bind the Parties immediately.
- (b) Without the requirement for further action on the part of the Parties under this Agreement, this Agreement will be deemed to have been automatically amended by the deletion of the specified Royalty percentage rates herein as and from the date of the adjustment and the substitution of those adjusted rates of Royalties shall apply unless and until further adjusted as provided for in this Agreement.
- (c) Without limiting the above, the Parties agree to promptly agree the adjustment by way of a formal amendment pursuant to Annex N.

Clause 13: Bank Accounts and Foreign Currency Transactions

13.1 Lao PDR Bank Accounts

The Company, Contractors and Subcontractors shall each have the right and authority during the Concession Period: (i) to receive revenues, hold cash and other financial assets, and effect payments in Foreign Currency in and outside the Lao PDR, including dividends, distributions and obligations to foreign Persons and Lenders, as permitted by the Bank of the Lao PDR under Law; (ii) to open and maintain Kip, US Dollar and other appropriate Foreign Currency bank accounts; and (iii) to effect (subject to the Bank of Lao PDR's foreign exchange reporting requirements) all Project-related transactions through such accounts, including foreign exchange transactions. Further, the Company shall establish, operate and maintain with a bank in the Lao PDR its main bank accounts to service the Project loan.

13.2 Offshore Bank Accounts

- (a) During the Concession Period, the Company, foreign Contractors and foreign Subcontractors shall be entitled to establish and maintain offshore bank accounts and to receive, hold and effect payments and distributions in Foreign Currency outside the Lao

PDR. This right shall include all equity amounts provided by the Shareholders, liquidated damages payable by foreign Contractors, proceeds of insurance and reinsurance and other foreign sources.

- (b) The Company shall comply with all Bank of Lao PDR reporting requirements concerning transactions involving such offshore bank accounts, and shall ensure that the offshore bank provides notice of all such transactions to the GOL.
- (c) Notwithstanding anything to the contrary contained in this Agreement and subject to obtaining the relevant Authorizations, the Company will be obliged to receive all revenues earned and other payments received under the [Primary PPA / Secondary PPA] as cash and cash equivalents (as classified as such by accounting standards at the time and shown in the audited financial statements of the Company) in accounts established in onshore bank accounts in the Lao PDR at a bank selected by the Company and EDL as [Primary Offtaker / Secondary Offtaker under the relevant PPA in order to reduce transaction costs.

13.3 Remittance Outside of the Lao PDR

During the Concession Period, the Company shall have the right to remit outside of the Lao PDR the following:

- (a) dividends and other permitted distributions in the Company to Shareholders, including payments of principal, commercially reasonable interest and fees on loans provided to the Company by any of its Shareholders;
- (b) repayments of outstanding principal and payments for interest and other fees and commissions payable on loans or facilities of any kind made available under the Financing Documents and any other amounts due and payable under the Financing Documents;
- (c) amounts to be deposited in any offshore account pursuant to the Financing Documents;
- (d) payments by the Company denominated in Foreign Currency, if any, that arise under the Project Documents, including but not limited to liquidated damages, operation and maintenance costs, insurance premiums and payment of legal, accountancy, auditing or other professional fees or otherwise in relation to the Project Management;
- (e) any compensation paid to the Company or the Sponsor pursuant to Annex L; and
- (f) subject to compliance by the Company with its insurance-related obligations in this Agreement, the proceeds of any claims under any insurance policy,

provided, always, that: (i) the audited financial statements of the Company have been submitted to the GOL; and (ii) no Notice of Intention to Terminate or Notice of Termination is in effect.

Clause 14: Equity Transfers

14.1 Restrictions on Transfers of Equity Interests

- (a) Prior to the fifteenth (15th) anniversary of the Commercial Operation Date, the Sponsor shall not transfer any of its equity ownership interest in the Company to any other Person (other than to another Shareholder of the Company or to an Affiliate of the relevant Sponsor) if such transfer will reduce that Sponsor's aggregate equity ownership interest in

the Company to: fifty percent (50%) or less of its aggregate equity ownership interest in the Company existing as of the Agreement Date; provided, further:

- (i) if such equity ownership interest that satisfied the condition regarding the amount of transfer as provided above is transferred to another Shareholder of the Company or an Affiliate of a Shareholder, no approval from the GOL shall be required; or
- (ii) if such equity ownership interest that satisfied the condition regarding the amount of transfer as provided above is transferred by any Shareholder to any other Person other than a Shareholder of the Company or an Affiliate of the relevant Sponsor, such transfer shall not occur without the prior written approval of the GOL with such approval to be given or withheld in the sole discretion of the GOL;

and, in either case

- (iii) before any transfer of any of equity ownership interest in the Company to any other Person, the Company shall be responsible to make all necessary arrangements for the GOL to meet with each potential new shareholder, to carry out all relevant background checks on each potential new shareholder, and to conduct such interviews with the potential new shareholder as the GOL may request, and the Company shall provide to the GOL all relevant information regarding such potential new shareholder.
- (b) In no event will any onward or further transfer by any Affiliate transferee or Shareholder transferee to any non-Affiliate or non-Shareholder be permitted without the prior written approval of the GOL in its sole discretion.
 - (c) The equity ownership transfer restrictions set forth herein shall not apply in the event that the equity ownership interests in the Company are required to be transferred to or as directed by any of the Lenders pursuant to the enforcement by such parties of their security interests under the Financing Documents.
 - (d) [_____], as the State company that has been designated by the GOL to act as the GOL's shareholder in the Project, shall have the right to transfer any or all of its shares in the Company to any other State enterprise and/or any other private entity without limitation, except that: (i) the exercise of such right of transfer by the GOL prior to the [Commercial Operation Date] shall be subject to any transfer restriction reasonably imposed by Lenders in the Financing Documents; and (ii) in the event of any transfer of shares in the Company by the GOL to a private entity, the Sponsors shall have a right of first refusal to acquire such shares on terms and conditions equivalent to those applicable to that proposed sale.

14.2 Issue of New Shares

The Company must not (i) issue new shares, effect a reduction in its shares on issue or effect any other alteration to the terms of issue of its shares; or (ii) convert into a public company, without the prior written approval of the GOL with such approval to be given or withheld in the sole discretion of the GOL.

14.3 Notice to the GOL

Any transfer by a Shareholder of the Company (or any of its Affiliates) of any of its equity ownership interest in the Company to any other Person shall be notified to the GOL at least sixty (60) days in advance.

14.4 Capital Gains Tax

Capital gains tax shall apply in respect of every Company share transfer.

14.5 Conditions Applicable to Transferees

Any transferee shall be subject to the same conditions imposed hereby on transfers made by it as are imposed with respect to transfers by the original Shareholders of the Company.

Clause 15: Force Majeure

15.1 Force Majeure

Notwithstanding the force majeure definition provided in the PPA to the Contrary, for purposes of this Agreement, the term “Force Majeure”:

- (a) means an event, condition or circumstance or combination of the same (together with the effects thereof) beyond the reasonable control and arising without the fault or negligence of the Party claiming Force Majeure which, despite all reasonable efforts of the affected Party (the "Affected Party") to prevent it or mitigate its effects, causes a delay or disruption of, or any other adverse effects on, the performance by the Affected Party of any of its obligations under this Agreement; and
- (b) subject to satisfaction of the requirements of Clause 15.1(a), includes:
 - (i) the following events and circumstances which do not otherwise comprise events of Lao Political Force Majeure or [_____] Political Force Majeure (each being a “Non-Political Force Majeure” event):
 - (A) acts of war (declared or undeclared), invasion, armed conflict or other hostile act of a foreign nation;
 - (B) revolution, riot, mutiny, rebellion, insurrection, military or usurped power, state of siege, civil commotion (except as arising specific to the Project or the Company) or the declaration or maintenance of martial law or state of siege);
 - (C) acts of terrorism or sabotage;
 - (D) strikes, go-slows or lockouts or other labor disturbances or industrial action which are widespread or nationwide (but excluding any such actions occurring solely within the workforce or employ of the Affected Party or its respective Affiliates);
 - (E) nuclear or radioactive explosion or contamination;
 - (F) fire, explosion, lightning, earthquake, landslide, storms, severe weather conditions or other natural disasters (excluding drought and climate change) or acts of God;
 - (G) epidemic or plague;

- (H) a national emergency relevant to or involving the Project which has been declared as such by the President of the Lao PDR in accordance with Laws;
- (I) the making of any archaeological find of artifacts, fossils, burial sites or other historical things at the Site which the GOL determines will require the Company to suspend Project construction or operation;
- (J) blockade, embargo, any closing of borders, roads, rail links, airports, harbors, docks or other adjuncts of transport, shipping or navigation of, to or within any place:
 - (aa) not resulting from any action on the part of any Relevant Authority; or
 - (bb) resulting from any action on the part of any Relevant Authority attributable to any event, condition or circumstance referred to in subparagraphs (B) to (H), inclusive, of this Clause 15.1(b)(i); and
- (K) the occurrence of Non-Political Force Majeure referred to in subparagraphs (A) to (J) inclusive of this Clause 15.1(b)(i), which adversely affects:
 - (i) the performance of any Contractor or Subcontractor;
 - (ii) the performance of the Company's obligations under this Agreement, the Primary PPA or the Secondary PPA; or
 - (iii) [the construction, operation or maintenance of the Shared Substation or Shared Transmission Facilities by any person in a manner which materially and adversely affects the performance of the Company's obligations under this Agreement, the Primary PPA or the Secondary PPA];
- (ii) the following events and circumstances occurring within or directly involving the Lao PDR (each a “Lao Political Force Majeure” event):
 - (A) when and to the extent wholly initiated by the GOL (not in response to any provocation, instigation or initiating or triggering event or circumstance which itself would be deemed to be an event of Force Majeure under this Agreement), acts of war (declared or undeclared), invasion, armed conflict and other hostile acts of the Lao PDR or other nations or that directly affect the performance of this Agreement;
 - (B) Change in Law;
 - (C) the expropriation, requisition, confiscation or nationalization by the GOL of the Project or Project Assets or any material part thereof;
 - (D) the imposition of any export or import restrictions, rationing or allocation wholly initiated by any Relevant Authority (not in response to any provocation, instigation or initiating or triggering event or circumstance which itself would be deemed to be an event of Force Majeure under this Agreement);

- (E) when wholly initiated by the GOL (not in response to any provocation, instigation or initiating or triggering event or circumstance which itself would be deemed to be an event of Force Majeure under this Agreement), any blockade, embargo, closing of borders, roads, rail links, airports, harbors, docks or other adjuncts of transport, shipping or navigation by any Relevant Authority;
 - (F) when wholly initiated by the GOL (not in response to any provocation, instigation or initiating or triggering event or circumstance which itself would be deemed to be an event of Force Majeure under this Agreement), any exercise of military power by the GOL;
 - (G) declaration of martial law by the GOL if done in connection with Lao Political Force Majeure of the type described above;
 - (H) any act or omission of any Relevant Authority (excepting lawful actions taken by Relevant Authorities relating to acts or omissions of the Company, Contractors, servants or agents) not in accordance with this Agreement which is directly applicable to the Company and which materially and adversely affects the performance by the Company of its obligations hereunder, but excepting any action by any Relevant Authority attributable to any events, conditions and circumstances (or any combination thereof) referred to in subparagraphs [(A) through (H)] of Clause 15.1(b)(i);
 - (I) an occurrence of Lao Political Force Majeure referred to in subparagraphs (A) to (H) inclusive of this Clause 15.1(b)(ii) which adversely affects:
 - (i) performance of any Contractor or Subcontractor; or
 - (ii) the performance of the Company's obligations under this Agreement, the Primary PPA or the Secondary PPA; or
 - (iii) [the construction, operation or maintenance of the Shared Substation or Shared Transmission Facilities by any person in a manner which materially and adversely affects the performance of any of the Company's obligations under this Agreement or the Primary PPA]; or
 - (J) any failure of the GOL, to issue or renew any required Authorization relating to the performance of any of the Company's obligations under this Agreement or under any Material Project Document where such failure could materially and adversely affect the Company or the Project (such as a failure to achieve Financial Close, a failure to be able to operate the Project Facilities or which would otherwise result in a Breach of Contract by the Company), unless such failure is attributable to an act by or omission of the Company or its Contractors or Subcontractors, servants or agents.
- (iii) the following events and circumstances occurring within or directly involving [_____ insert name of country of foreign Primary Offtaker] (each a “[_____] Political Force Majeure” event):

- (A) acts of war (declared or undeclared), invasion, armed conflict and other hostile acts of [_____] or other nations or that directly affect the performance of this Agreement;
- (B) [_____] Change in Law;
- (C) the imposition of any export or import restrictions, rationing or allocation by a [_____] Governmental Authority;
- (D) any blockade, embargo, closing of borders, roads, rail links, airports, harbors, docks or other adjuncts of transport, shipping or navigation by any [_____] Governmental Authority;
- (E) exercise by a [_____] Governmental Authority of military power;
- (F) any act by or omission of any [_____] Governmental Authority (excepting lawful actions taken by such [_____] Governmental Authority relating to acts or omissions of the Company, Contractors, servants or agents) not in accordance with this Agreement which is directly applicable to the Company or Project Management and which materially and adversely affects the performance by the Company of its obligations hereunder, but excepting any action by any [_____] Governmental Authority attributable to any events, conditions and circumstances (or any combination thereof) referred to in subparagraphs (A) through (H) of Clause 15.1(b)(i);
- (G) the Company's failure to obtain or renew any required approvals, authorizations, permits, permissions, licenses or consents from any [_____] Governmental Authority relating to the performance of any of the Company's obligations under the Primary PPA unless such failure is attributable to an act by or omission of the Company, Contractors, servants or agents;
- (H) the occurrence of [_____] Political Force Majeure referred to in subparagraphs (A) to (G), inclusive, of this Clause 15.1(b)(iv) which materially and adversely affects the performance of Contractors or Subcontractors; and
- (I) any other event, condition or circumstance or combination of same that duly constitutes [_____] Political Force Majeure as defined by the Primary PPA.

15.2 Exceptions to Force Majeure

- (a) The Parties agree that the Company shall have no right to claim any of the following circumstances as constituting Force Majeure:
 - (i) any delay or defect: (A) in the performance by any Contractor or Subcontractor; or (B) in the delivery and performance of Equipment and Materials or any other items for the Project Facilities, except if and to the extent that such delay or defect is itself caused by an event which satisfies the criteria for Non-Political Force Majeure set out above in relation to both the Company and the relevant Contractor or Subcontractor;

- (ii) any patent or latent defects in any Equipment and Materials or any other items for the Project Facilities;
 - (iii) breakdown (other than due to an event which satisfies the criteria for Non-Political Force Majeure set out above) or ordinary wear and tear of Equipment and Materials or any other items comprising the Project Facilities; and
 - (iv) strikes, go-slows or industrial disputes by or affecting employees of the Company or employees of Contractors or Subcontractors, except where such events are national or industry wide in scope.
- (b) The Parties agree that the GOL shall have no right to claim circumstances otherwise defined as Lao Political Force Majeure by Clause 15.1(b)(ii) as constituting Force Majeure.

15.3 Notification and Claims of Force Majeure

If a Party claims that Force Majeure applies to it, that Party shall give the other Party written notice of the Force Majeure event promptly upon becoming aware of that event and the obligations affected. The Party claiming Force Majeure shall inform the other Party as to all relevant matters including details of the Force Majeure event, the obligations affected and the action it has taken or proposes to take to remedy the situation.

15.4 Duty to Mitigate and Consultation

The Affected Party shall use reasonable efforts to mitigate the duration and severity of the effects of the Force Majeure and to promptly remedy its inability and resume performance of its affected obligations. The Parties shall develop and implement a plan of reasonable remedial and alternative measures to eliminate and/or minimize the adverse effects of such Force Majeure; provided, however, that neither Party shall be obligated to resolve or terminate any disagreement with third Persons, including labor disputes, except under conditions acceptable to it.

15.5 Suspension of Performance Obligations

- (a) Either Party shall be entitled to suspend performance of any of its obligations under this Agreement (other than any obligation to pay money as and when due) if it is unable to perform such obligation due to an event of Force Majeure the consequences of which cannot be avoided or overcome by the Party claiming Force Majeure;
- (b) Subject to proper notice of the Force Majeure having been given to the other Party, the obligations of the Affected Party shall be suspended from the time the performance of such obligations is first affected by Force Majeure and shall remain suspended, and the failure of the Affected Party to perform such obligations shall not constitute a Breach of Contract, for as long as such affected obligations cannot be performed by the Affected Party solely as a result of such Force Majeure.
- (c) The period of time during which the Affected Party is entitled to suspend performance and the relief afforded to the Affected Party due to the occurrence of Force Majeure shall not exceed that period of time which would have been required for the Affected Party to remedy the occurrence and mitigate the effects of such Force Majeure (and to resume performance of its affected obligations) had the Affected Party properly acted to remedy and mitigate the effects of such Force Majeure as herein provided.

- (d) The Affected Party must promptly notify in writing the other Party when it is able to recommence the performance of its affected obligations under this Agreement. The period of Force Majeure shall then end and the Affected Party must then immediately recommence the performance of those previously affected obligations.

15.6 Compensation for Force Majeure

- (a) Except as otherwise provided herein, neither Party shall be liable to the other Party for payment of any amount in respect of any occurrence of Non-Political Force Majeure or any impact or effect thereof.
- (b) If any event of Lao Political Force Majeure materially and adversely affects the economic position of the Company by reducing the income of the Company or by increasing its costs, the Company shall be entitled to compensation from the GOL sufficient to put the Company into the equivalent economic position as it would have been had such Lao Political Force Majeure not occurred; provided, always, that the Company shall not be entitled to compensation from the GOL to the extent the economic position of the Company is restored pursuant to any other provision of this Agreement or to the extent the adverse economic effect is counterbalanced by any direct economic effect in favor of the Company also due to such Lao Political Force Majeure, and provided, further, that no compensation shall be paid to the Company unless the adverse economic effect to the Company exceeds the amount specified in Clause 5.8(c)(ii). In case the adverse economic effect to the Company exceeds the foregoing thresholds, the GOL shall only pay compensation to the Company above such thresholds.
- (c) If, as a consequence of an event of Lao Political Force Majeure, the Company is entitled to compensation from the GOL hereunder, the compensation shall be paid by means of either a direct payment to the Company from the GOL or through a reduction in the compensation otherwise payable by the Company to the GOL under this Agreement. The selection between the foregoing two means of compensation shall be made by the GOL subject only to Lenders' requirements, if any. Compensation shall, in any event, be paid by the GOL within the earlier of (i) ninety (90) days of the date on which the GOL receives a written request for payment from the Company, and (ii) such date as would cause the Company to be unable to avoid a payment default (provided that the Company has given the GOL prior written notice as to what such date would be and has provided supporting evidence of same), and shall be paid by the GOL by direct payment to the extent that the Company does not have sufficient funds available to it to meet its operating costs, payment and other obligations under the Financing Documents or to make any payments that it may be required to make, including to the Primary Offtaker as a consequence of the occurrence of Lao Political Force Majeure.
- (d) To invoke the provisions of this Clause, the Company shall promptly give notice to the GOL of the Lao Political Force Majeure event and its effects, and shall provide supporting evidence thereof to the GOL (including, if requested by the GOL and at the expense of the Company, an opinion of legal counsel to the Company).
- (e) The GOL shall have a reasonable opportunity to rectify or to mitigate the effects on the Company of any event of Lao Political Force Majeure (and any benefit to the Company resulting from such Lao Political Force Majeure event shall be treated as part of such mitigation).
- (f) The GOL shall not be liable to the Company for any of the adverse effects (including any financial consequences) arising from any occurrence of [_____] Political Force Majeure.

15.7 Damage or Destruction due to Force Majeure

- (a) Upon the occurrence of an event of Force Majeure which has caused material damage or destruction to the Project Facilities which materially impairs the ability of the Company to perform its obligations under this Agreement, the Company shall keep the GOL informed of its remedial and rectification efforts and shall within forty five (45) days of the issuance of the required notification and prior to commencing any work to rectify, repair, reconstruct or replace those parts of the Project Facilities that were damaged or destroyed, provide to the GOL projections and / or estimates of:
- (i) the remedial work required to rectify, repair, reconstruct or replace those parts of the Project Facilities which were damaged or destroyed;
 - (ii) the reasonable period of time likely to be required for the Company to perform such remedial work;
 - (iii) the reasonably likely cost of such remedial work;
 - (iv) the amount of any insurance proceeds to which the Company is entitled and which is reasonably expected to be available to fund such remedial work;
 - (v) the amount of any compensation to which the Company is entitled to be paid by the GOL and the basis for such payment; and
 - (vi) the need for and ability of the Company to arrange any additional financing which may be required to fund such remedial work.
- (b) Within twenty (20) days of the receipt by the GOL of the foregoing estimates, the Parties shall meet and use reasonable efforts to reach agreement on each matter addressed by such estimates.

15.8 Rectification and Repair Obligations

- (a) Subject to Clauses 15.8(b) and (c) below, where an event of Force Majeure has resulted in damage to or destruction of any part of the Project Facilities, the Company shall rectify, repair, reconstruct or replace those parts of the Project Facilities which were damaged or destroyed.
- (b) If the Force Majeure event has caused material damage or destruction to the Project Facilities which materially impairs the ability of the Company to perform its obligations under this Agreement, and:
- (i) such damage or destruction is not covered by insurance; or
 - (ii) the cost of repairing such damage or destruction exceeds available insurance proceeds; or
 - (iii) the Project and / or Project Facilities is or are declared a total loss for insurance purposes;

then, unless the reason for the unavailability or insufficiency of insurance to cover such damage or destruction is the failure of the Company to obtain or maintain insurance as required under this Agreement (which would constitute a Company Termination Event), the

Company shall, subject always to all the requirements of the Financing Documents, the requirements of the Primary PPA and the Primary Offtaker Insurance Assignment, at the GOL's election (x), be obliged to apply fully any available insurance proceeds to the reconstruction or repair, or (y) assign the available insurance proceeds to the GOL, and shall ensure that all such proceeds are paid directly by the insurers into a Company account held in the Company's name in the Lao PDR and such proceeds shall be retained in such account until applied in accordance with the provisions of this Agreement. The GOL acknowledges and agrees that insurance proceeds are assigned to the Lenders as collateral security under the Financing Documents [and are assigned to the Primary Offtaker under the Primary PPA] and the right of the Company to assign such insurance proceeds to the GOL pursuant to the foregoing shall be subject to the prior rights of the Lenders under the Financing Documents (to the extent such Financing Documents remain in effect) and the Primary Offtaker under the Primary PPA.

- (c) If the restoration of such damage or destruction could be reasonably expected to exceed either: (i) twenty-four (24) months for destruction or damage caused by [_____] Political Force Majeure or Lao Political Force Majeure; or (ii) thirty (30) months for destruction or damage caused by all other events of Force Majeure, either Party may terminate this Agreement by issuing to the other Party a Notice of FM Termination / Project Transfer notwithstanding that the adverse effects of such Force Majeure on the performance of the Company would not have continued unremedied for the otherwise required minimum periods; upon which the provisions regarding termination of this Agreement for reason of extended Force Majeure shall apply. If the destruction or damage to the Project Facilities was caused by Lao Political Force Majeure, then such termination will be deemed to be due to a Lao Political Force Majeure event.
- (d) If restoration of such damage or destruction could reasonably be expected to be achieved within (i) twenty-four (24) months for destruction or damage caused by [_____] Political Force Majeure or Lao Political Force Majeure; or (ii) thirty (30) months for destruction or damage caused by all other events of Force Majeure, the failure of the Company to complete restoration of the Project Facilities within such period (except where such restoration is delayed by reason of any Breach of Contract by the GOL or by Force Majeure, in which case such timeframes shall be extended by the length of the delay) shall constitute a failure on the part of the Company to perform one of its material obligations under this Agreement.

15.9 Revised Timetables

The period specified in this Agreement for the performance of an obligation hereunder shall be extended by a period equal in duration to the shorter of: (i) the period during which such Force Majeure prevented the performance of that obligation by the Affected Party; and (ii) period required by the Affected Party, using the remedies and mitigation required under this Agreement, to regain its status quo ante economic position; provided, always, that if the economic impacts on the Affected Party of such Force Majeure or Lao Political Force Majeure have been compensated by insurance or otherwise, no extension shall be allowed.

15.10 Termination Due to Force Majeure

- (a) Except as otherwise provided in regards to restoration and repair of damage and destruction, if a Force Majeure event impedes a Party's performance of its obligations for longer than one hundred and eighty (180) days from the date that the Affected Party gives written notice to the other Party, then the Parties shall decide through consultation the terms upon which to continue their respective performance of this Agreement.

- (b) If the Parties are unable to agree on such terms or to terminate this Agreement by mutual consent within twelve (12) months after the date that the Affected Party gave written notice to the other Party, and the adverse effects of such Force Majeure on the performance of the Affected Party continue unremedied for more than fifteen (15) months (in the case of Lao Political Force Majeure or [_____] Political Force Majeure) or twenty four (24) months (in the case of Non-Political Force Majeure) after the date of the aforementioned notice, either Party may, at any time thereafter during the continuance of such Force Majeure, deliver a written notice of termination to the other Party (the “Notice of FM Termination / Project Transfer”).
- (c) Upon the issuance of a Notice of FM Termination / Project Transfer as provided herein, this Agreement shall remain in force and effect until, and shall terminate immediately upon, either: (i) when the GOL has elected or is required to purchase the Project Assets hereunder, the transfer of the Project Assets to the GOL from the Company and the payment by the GOL as herein provided; or (ii) if the GOL has not elected or is not required to purchase the Project Assets, the expiration of such period as is reasonably required for the Company to sell the Project Assets and to transfer its rights and obligations under this Agreement to a third Person.

15.11 Notice to the Primary Offtaker and the Lenders

If either Party issues a Notice of FM Termination / Project Transfer to the other Party, the Company upon receipt or issuance of such Notice of FM Termination / Project Transfer, as the case may be, shall immediately deliver a copy thereof to the Primary Offtaker and the Lenders.

15.12 Compensation upon Force Majeure Termination

- (a) If either Party exercises its right to terminate this Agreement due to the occurrence of Lao Political Force Majeure, upon its issuance or within thirty (30) days of its receipt of the Notice of FM Termination / Project Transfer, the Company may by written notice elect to terminate this Agreement and require the GOL to purchase the Project Assets and pay the Company compensation as required in this Agreement and Annex L.
- (b) If the Company does not require the GOL to so purchase the Project Assets, the GOL shall permit the Company to transfer the Project and its rights and obligations under this Agreement to a third Person. For the avoidance of doubt, the GOL is only required to pay liquidated amounts pursuant to Annex L to the Company as referenced above if the Company elects to require the GOL to purchase the Project Assets. If the Company elects instead to make such third party transfer, the GOL shall have no obligation whatsoever to make any compensation payment, damages, or any other amount, however designated or justified, in connection with such termination, third party transfer, payment or otherwise, to the Company. Each Party shall, however, retain the right to exercise any other claims under this Agreement against the other Party which pre-exist, have not already been satisfied, and are unrelated to, such termination.
- (c) If either Party exercises its right to terminate this Agreement due to the occurrence of Force Majeure other than Lao Political Force Majeure, upon its issuance or within thirty (30) days of its receipt of the Notice of FM Termination / Project Transfer, the GOL may by written notice elect to purchase the Project Assets and pay the Company compensation as required in this Agreement and Annex L. Otherwise, the GOL shall permit the Company to transfer the Project and its rights and obligations under this Agreement to a third Person. For the avoidance of doubt, if the GOL elects to purchase the Project Assets from the Company in

such circumstances, the GOL is only required to pay the relevant liquidated amount pursuant to Annex L.

Clause 16: Breach of Contract and Termination

16.1 Company Termination Events

- (a) Each of the following events, if not attributable to acts or omissions of the GOL or Force Majeure for which the Company is entitled to relief, and if not cured within any permitted cure period following the GOL's issuance of a notice specifying such breach and requiring the Company to remedy it (a "Notice to Company to Cure"), shall be a Company termination event ("Company Termination Event") entitling the GOL immediately to issue a written request for consultation ("Notice to Company Requesting Consultation"):
- (i) the Company abandons the Project for ninety (90) days;
 - (ii) the Primary PPA is terminated by the Primary Offtaker or the Company for any reason that is not directly caused by breach by the GOL of this Agreement or Lao Political Force Majeure and an alternative power purchase agreement is not entered into within 180 days with an offtaker and on terms acceptable to the GOL;
 - (iii) the Company fails to pay to the GOL any amount as and when due under this Agreement, and fails to remedy the non-payment within sixty (60) days of the Company's receipt of a Notice to Company to Cure;
 - (iv) the Company fails to replenish the penalty bond provided in Clause 4.40 within sixty (60) days of the Company's receipt of a Notice to Company to Cure;
 - (v) an event of insolvency occurs in respect of the Company, other than for the purposes of reconstruction of the Company with the approval of the GOL, and the event of insolvency is not cured within ninety (90) days of the Company's receipt of a Notice to Company to Cure;
 - (vi) any representation made by or on behalf of the Company herein was untrue in any material respect when made or deemed to have been made, or the Company is in breach of any warranty hereunder, and such event would materially affect the ability of the GOL to exercise its rights or to perform its obligations under this Agreement or which otherwise deprives the GOL of the benefits it is otherwise entitled to derive under this Agreement;
 - (vii) the Company fails to perform any of its other material obligations under this Agreement (including a failure for any reason to achieve Financial Close by the Scheduled Financial Close Date) and fails to remedy such material breach within sixty (60) days (or such longer period as the Parties may agree) of its receipt of notice from the GOL specifying such breach;
 - (viii) the Company: (a) fails to perform any of its material obligations under any Material Project Document, which failure, under the terms and conditions of that Material Project Document could, if not timely remedied, give rise to a right of termination for the counterparty to that Material Project Document; and (b) fails to remedy such material breach within sixty (60) days (or such longer period as may be provided in that Material Project Document or as the Company and the counterparty thereto may

agree in writing) of its having been notified or otherwise becoming aware of such breach; and

- (ix) the Company fails to provide evidence satisfactory to the GOL that it has used best endeavours to employ the required percentage of Lao PDR nationals as required by Clauses 4.17(a) – (f) and Annex W;
- (x) the EPC Contract is terminated by the EPC Contractor for any reason that is not directly caused by breach by the GOL of this Agreement or Lao Political Force Majeure where such termination is reasonably likely to cause the Company to be unable to complete the Project Facilities by the Scheduled Commercial Operation Date and an alternative construction contract is not entered into within 180 days, or such later date as the GOL may agree;
- (xi) the Company fails to ensure the completion of the Project Facilities by the Scheduled Commercial Operation Date (excluding any delay attributable to the GOL, a Force Majeure event or a GOL Termination Event) and fails to remedy such breach within a period of twelve (12) months; and
- (xii) the Company fails to maintain in full force and effect the Project insurances as required under Clause 4.27 due to the negligence of, or any intentional act or omission of, the Company and the relevant Project insurance is not reinstated or a substitute Project insurance entered into within thirty (30) days of the Company receiving notice from the GOL requiring that it do so,

provided, however, that no Company Termination Event shall arise hereunder: (A) as a result of termination of the Secondary PPA; or (B) if the event or circumstance that would otherwise constitute a Company Termination Event arises as the direct consequence of a breach of or default by the GOL under this Agreement.

- (b) If the GOL is entitled and exercises its right to terminate this Agreement due to a Company Termination Event, upon its issuance of and by written notification set forth in the Notice of Default Termination / Project Transfer, the GOL shall elect either:
 - (i) to terminate this Agreement and, if the GOL so elects, to purchase the Project Facilities for the relevant compensation specified in Annex L, or
 - (ii) to permit the Company to sell the Project and to transfer its rights and obligations under this Agreement to a third Person, in which case the GOL shall not terminate this Agreement for such period as is reasonably required to effect such a sale.

For the avoidance of doubt, the GOL is only required to pay liquidated amounts pursuant to Annex L to the Company as referenced above in the event that the GOL elects to purchase the Project Assets from the Company, and shall have no obligation whatsoever to make any compensation payment, damages, or any other amount, however designated or justified in connection with such termination, transfer, payment or otherwise, to the Company, except that each Party shall, however, retain the right to exercise any other claims under this Agreement against the other Party which pre-exist, and are unrelated to, such termination.

16.2 GOL Termination Events

- (a) Each of the following events, if not attributable to acts or omissions of the Company or Force Majeure for which the GOL is entitled to relief, and if not cured within any permitted

cure period following the Company's issuance of a notice specifying such breach and requiring the GOL to remedy it (a "Notice to GOL to Cure"), shall be a GOL termination event ("GOL Termination Event") entitling the Company immediately to issue a written request for consultation ("Notice to GOL Requesting Consultation"):

- (i) the Primary PPA is terminated by the Primary Offtaker for reasons solely due to the unremedied breach by the GOL of its obligations under this Agreement; or the occurrence of "Lao Political Force Majeure" as defined in the PPA and the GOL has not cured such termination within ninety (90) days of its occurrence;
 - (ii) the GOL fails to pay to the Company any amount as and when due under this Agreement, and fails to remedy the non-payment within sixty (60) days of the GOL's receipt of a Notice to GOL to Cure;
 - (iii) any representation made by or on behalf of the GOL herein was untrue in any material respect when made or deemed to have been made, or the GOL is in breach of any warranty hereunder, and such event would materially affect the ability of the Company to exercise its rights or to perform its obligations under this Agreement or which otherwise deprives the Company of the benefits it is otherwise entitled to derive under this Agreement; and
 - (iv) the failure of the GOL to perform any other of its material obligations under this Agreement which materially and adversely affects either the ability of the Company to exercise its rights or to perform its obligations under this Agreement or the Primary PPA or which otherwise deprives the Company of a substantial or major portion of the benefits it is otherwise contractually entitled to derive hereunder and the GOL fails to remedy such material breach within ninety (90) days (or such longer period as the Parties may agree) of the GOL's receipt of a Notice to GOL to Cure requiring the GOL to remedy the same.
- (b) A GOL Termination Event shall not arise hereunder if the event or circumstance that would otherwise constitute a GOL Termination Event arises as the direct consequence of a breach of or default by the Company under this Agreement.
- (c) If the Company is entitled and exercises its right to terminate this Agreement due to a GOL Termination Event, upon its issuance of and by written notification set forth in the Notice of Default Termination / Project Transfer, the Company shall elect either:
- (i) to terminate this Agreement and require the GOL to purchase the Project Assets for the relevant compensation specified in Annex L, or
 - (ii) sell the Project and to transfer its rights and obligations under this Agreement to a third Person.

For the avoidance of doubt, the GOL is only required to pay liquidated amounts pursuant to Annex L to the Company as referenced above in the event that the Company elects to require the GOL to purchase the Project Assets from the Company. In the event of the Company electing to make such third party transfer, the GOL shall have no obligation whatsoever to make any compensation payment, damages, or any other amount, however designated or justified in connection with such termination, third party transfer, payment or otherwise, to the Company, except that each Party shall, however, retain the right to exercise any other claims under this Agreement against the other Party which pre-exist, and are unrelated to, such termination.

16.3 Notice Requesting Consultation

- (a) Upon the occurrence of a Termination Event, which is continuing and has not been waived, the GOL, in the case of a Company Termination Event and the Company, in the case of a GOL Termination Event, may, at its option (to be exercised in its absolute discretion) deliver a Notice Requesting Consultation to the other Party as provided above. The Notice Requesting Consultation shall specify in reasonable detail the termination event giving rise to such notice.
- (b) Following the issuance of a Notice Requesting Consultation, the Parties shall consult for a period of ninety (90) days (the “Consultation Period”) or such longer period as the Parties may agree in writing, as to what steps shall be taken with respect to the Termination Event. If the Company and the GOL agree on such steps to be taken and / or the Company or the GOL (as the case may be) remedies the Company Termination Event or the GOL Termination Event, as relevant, within such Consultation Period or any longer period agreed in writing by the Parties, then the Notice Requesting Consultation shall immediately and automatically cease to have any effect.

16.4 Notice of Default Termination / Project Transfer

- (a) Subject to the rights of Lenders and the Primary Offtaker as provided in this Agreement, upon expiry of the relevant Consultation Period and unless: (i) the Parties have agreed in writing otherwise; or (ii) the Company Termination Event or the GOL Termination Event giving rise to the Notice Requesting Consultation has been remedied, then the Party which issued the Notice Requesting Consultation may exercise its right immediately to terminate this Agreement by delivering a written notice to this effect to the other Party (a “Notice of Default Termination / Project Transfer”).
- (b) Upon issuance of a Notice of Default Termination / Project Transfer, this Agreement shall terminate immediately upon either: (i) the GOL having elected or being required to purchase the Project Assets, the satisfaction of any then outstanding obligations in respect of the Project to the Lenders, and the acquisition of the Project Assets shall be completed in accordance with the requirements hereof, or (ii) where the Company is entitled to sell the Project Assets to a third Person, expiration of such period as is reasonably required complete such sale to a third Person.

16.5 Notice to the Primary Offtaker and the Lenders

If either Party issues a Notice of Default Termination / Project Transfer to the other Party, the Company upon receipt or issuance of such Notice of Default Termination / Project Transfer, as the case may be, shall immediately deliver copies thereof to the Primary Offtaker and the Lenders.

16.6 Rights of Lenders and the Primary Offtaker

The GOL shall not terminate this Agreement without first allowing the Lenders and the Primary Offtaker to exercise their respective rights hereunder and (with respect to the Lenders) under the Direct Agreement.

16.7 Compensation upon Default Termination

The amount, if any, payable by the GOL in respect of a default termination of this Agreement shall be determined as follows:

- (a) if the termination is consequent upon the occurrence of a Company Termination Event and the GOL elects to acquire the Project Assets, the GOL shall pay the Company the relevant amount in Annex L.
- (b) if the termination is consequent upon the occurrence of a GOL Termination Event and the Company elects to require the GOL to acquire the Project Assets, the GOL shall pay the Company the relevant amount in Annex L.

16.8 Termination as Breach of this Agreement

Any attempt to terminate this Agreement which is not in accordance with the terms hereof shall be of no force and effect and shall constitute a material breach of this Agreement by the Party attempting to do so.

16.9 Compensation for Breach of Contract

- (a) Subject to other provisions of this Agreement, if a Party:
 - (i) is in breach of any of its representations, warranties and / or obligations under this Agreement; and
 - (ii) has failed to remedy that breach within any grace or notice period therefor allowed by this Agreement,

then the non-defaulting Party shall be entitled, without being required to give any further notice, to claim compensation for and to be indemnified against all loss and damage which such Party suffered or incurred or will or is likely to suffer or incur as a result of such breach; provided, however, that the amount of such compensation shall not exceed the loss and damage which the breaching Party could reasonably have foreseen at the Agreement Date.

- (b) Unless otherwise agreed by the Parties, interest on compensation for Breach of Contract of any non-monetary obligation under this Agreement accrues from the time of occurrence of the Breach of Contract.
- (c) If the GOL has elected not to purchase the Project Assets in the circumstances of a Company Termination Event and the Company fails within a reasonable period to sell the Project to a third Person, the GOL shall have the right to dispose of the Project Assets as it sees fit and shall have no obligation to pay any amount in regard thereto to the Company, and the Company shall have no right to exercise any remedy against the GOL for such failed sale, any disposition by the GOL or otherwise.

16.10 Loss and Damages due in part to the Aggrieved Party

Where loss and damage suffered are due in part to an act or omission of the aggrieved Party or to an event as to which the aggrieved Party bears the risk, the amount of compensation shall be reduced equitably to the extent that these factors have contributed to such loss and damage.

16.11 Consequential Loss

Except in cases of fraud or wilful breach, neither Party shall have any liability for any indirect, consequential, incidental, punitive or exemplary damages, including loss of use or loss of profit, and each Party hereby releases the other Party from such liability.

16.12 Currency of Compensation

Unless otherwise agreed in writing by the Parties, any compensation for loss or damage payable hereunder shall be paid in the currency in which that loss or damage was incurred.

16.13 Additional Remedies

- (a) Where, notwithstanding a Breach of Contract, it is still possible for this Agreement to be performed or continued in substantially the form originally intended, the Party not in breach shall be entitled to have this Agreement so performed by the breaching Party.
- (b) Each Party shall have the right to bring court action to prevent any breach or proposed or threatened breach of this Agreement by the other Party.
- (c) A Party suffering or threatened with loss or damage as a result of a Breach of Contract by the other Party having occurred shall take such actions as are necessary or reasonable to mitigate the loss and / or damage resulting from such Breach of Contract and shall be entitled to recover from the other Party the reasonable costs of any such actions. If a Party fails to take such measures, the Party in Breach of Contract may claim a reduction in any compensation it is required to pay, in an amount equal to the amount by which such loss and damage should have been reduced through such mitigation.
- (d) A Party not in breach of this Agreement shall have the right to withhold from the Party in breach any money or other obligation owed by the Party not in breach to the Party in breach, pending fulfilment of such obligation by the Party in breach, or to apply such monies against the debt or obligation owed to it by the Party in breach.
- (e) No Shareholder shall have any rights or obligations whatsoever under this Agreement in any respect or to any extent.

16.14 Termination for Failure to Achieve Financial Close

- (a) If this Agreement terminates by reason of the Company's failure to achieve Financial Close by the Scheduled Financial Close Date, then neither Party shall have any further obligations or liabilities of any kind whatsoever to the other Party under or in connection with this Agreement.
- (b) The Company hereby irrevocably waives any and all rights to bring any claims against the GOL as a result of such a termination of this Agreement by reason of the Company's failure to achieve Financial Close by the Scheduled Financial Close Date, and waives any and all rights to seek compensation or reimbursement of any kind from the GOL as a result of such termination of this Agreement after the effectiveness of the Concession Rights granted to the Company under this Agreement.

Clause 17: Consequences of Termination

17.1 Transfer of the Project upon Termination

- (a) If the GOL elects or is required to purchase the Project Assets as herein provided, the GOL shall, on or before the date of transfer (and not later than the date falling one hundred eighty (180) days after the issuance of a Notice of FM Termination / Project Transfer or a Notice of Termination (the "Transfer Deadline")), pay to the Company the required termination compensation.

- (b) If there exists any dispute between the Parties as to the total, final amount of compensation to be paid, the GOL shall: (i) pay to the Lenders the amount required to satisfy all outstanding obligations and liabilities of the Company under the Financing Documents; and (ii) pay the balance of any undisputed compensation amount to the Company.
- (c) Upon the Company's receipt of the undisputed compensation amount, it shall promptly and in any event within thirty (30) days, transfer all of its right, title and interest in the Project Assets (including any intellectual property rights with respect thereto) to the GOL, irrespective of the existence of any dispute as to the compensation amount (or as to the exercise by either Party of its rights of termination or otherwise) not yet resolved pursuant to the dispute resolution procedures herein (and the Parties shall discuss in good faith interim arrangements for operation of the Project during such period). If any such dispute over the compensation amount (or dispute as to rights of termination) is finally resolved in a manner that requires the GOL to make any payment of additional compensation to the Company, the GOL shall transfer such additional compensation to the Company in accordance with such final resolution, provided that, in no event, shall the GOL be liable under any circumstances to pay aggregate compensation any greater than that referred to in Annex L for the relevant termination event (and any applicable default interest on such amounts).
- (d) The costs of transferring ownership of the Project Assets to the GOL shall be met by the Company.
- (e) For the avoidance of doubt, no amounts due to Lenders may be set-off, deducted or withheld by the GOL from the termination compensation amount as a result of disputes over amounts owing by the Company to the GOL.
- (f) Upon the exercise by either Party of its right to terminate this Agreement, if the GOL does not elect and is not otherwise required to purchase the Project Assets, the Parties acknowledge and agree that the Company shall have two (2) years from the date of the GOL's election or deemed election not to purchase the Project Assets to sell the Project Assets and to transfer its remaining rights and obligations under this Agreement to the Primary Offtaker or a third Person. If the Project Assets are not sold and transferred within such period, then the GOL shall have the right to dispose of the Project Assets as it sees fit and shall have no obligation to pay any amount in regard thereto to the Company or the Lenders, and neither the Company nor the Lenders shall have any right to exercise any remedy against the GOL for such failed sale, any disposition by the GOL or otherwise.
- (g) If the GOL does not elect to purchase the Project Assets or if the Company elects or is required to sell the Project Assets to the Primary Offtaker or a third Person, then the GOL shall: (i) not interfere with such sale by the Company or the exercise by Lenders and the Primary Offtaker of their respective securities against the Project Assets; and (ii) procure and grant all Authorizations and other approvals required of Relevant Authorities in order for the Company to effect such sale or for Lenders and / or the Primary Offtaker to exercise and enforce their respective securities in the Project Assets under the Financing Agreements [and the Primary Offtaker Security Documentation, if any].

17.2 Application of Certain Proceeds

If the GOL becomes obliged to pay compensation to the Company upon the termination of this Agreement as provided herein, then the amount of such compensation payable shall be reduced (to the extent the same has not already been deducted from the compensation amount) by:

- (a) any compensation paid to the Company by the Primary Offtaker or the Contractor(s) consequent upon the event giving rise to such termination;
- (b) the proceeds of any realization by the Lenders of the Company's assets or the Project Facilities following such termination;
- (c) any cash balances then held in the Company's bank accounts and available to the Company to meet its liabilities; and
- (d) the amount of any equity share capital which the Shareholders of the Company are required under the Financing Documents to contribute to the Company consequent upon an event of default and the acceleration of the debt repayment under the Financing Documents, but which has not yet been contributed to the Company by its Shareholders.

17.3 Consequences of Termination

Upon the expiration or earlier termination of this Agreement, each Party will cease to have any rights or obligations to the other Party under this Agreement, apart from the surviving obligations as provided herein, and subject to: (i) any payment obligation which is due; (ii) any payment obligation that arose prior to or as a consequence of such the termination and remained unfulfilled on the date thereof, and (iii) any other obligations accrued prior to the date of such expiration or earlier termination.

17.4 Survival

Subject to other provisions of this Agreement, the provisions of Clauses 8, 16, 17 and 19 shall survive the expiration or sooner termination of this Agreement, together with any other provisions expressly indicated to so survive.

Clause 18. Penalties

18.1 Penalties

- (a) The GOL shall have the right to impose financial penalties on the Company from time to time in respect of any failure or series of failures by the Company to meet any of its obligations as set forth in this Agreement for which a penalty is set out in Annex U, provided, however, that: (i) any penalties relating to environmental and social matters shall be dealt with as provided in Annex C; (ii) any breach of its obligations for which a penalty is also prescribed under generally applicable Law shall be dealt with in accordance with such Law; (iii) the amount of any penalty is equal to the amount set out for that breach in Annex U; and (iv) the agreed amount of penalties in that calendar year and during the entire Concession Period does not exceed the applicable Agreed Fines and Penalty Cap.
- (b) The Implementing Agency shall be authorized to establish and maintain a general account or special purpose account to facilitate the timely and effective enforcement of penalties under this Agreement. Unless otherwise instructed or permitted by the Implementing Agency, all penalties paid or collected shall be paid or deposited into such penalty account. The GOL

shall have the right to apply and use penalty amounts received for any purpose, including purposes related to the administration of this Agreement.

18.2 Conditions for Imposing Penalties

- (a) Any penalties imposed hereunder shall be: (i) levied at the sole discretion of the GOL acting reasonably and in good faith; (ii) in addition to any damages incurred by the GOL which may be separately claimed from the Company; and (iii) intended to encourage compliance by the Company with its obligations as set forth in this Agreement in a timely manner as a means of reducing the risk that any failure in performance, if unattended, could lead to termination of this Agreement. The Parties agree that no such penalty or penalties shall be treated or regarded as constituting any prohibited expropriation or confiscation or any infringement of any right of the Company.
- (b) With respect to any claim of penalties by the GOL pursuant hereto, the GOL shall issue a notice to the Company (copied to the Lenders) notifying it in reasonable detail of the nature of the breach and the amount of the penalty intended to be imposed in respect of such breach. If the breach has not been remedied within thirty (30) days of receipt by the Company of such notice, then the GOL may impose the penalty against the Company up to the amount set out in the notice and the Company shall pay any such penalty within fifteen (15) days of such penalty being imposed. Any late payment of a penalty shall bear interest.

Clause 19: Dispute Resolution

19.1 Amicable Settlement

The Parties shall use their reasonable efforts to settle amicably any and all disputes, controversies or claims arising out of, relating to or in connection with this Agreement. If this method fails to achieve a mutually acceptable solution within a period of thirty (30) days from the date of receipt by either Party of a notice of the dispute, controversy or claim from the other Party, then at the request of either Party the same shall be referred within a further sixty (60) days either: (i) to an Expert, in the circumstances provided under Clause 19.2, or (ii) in all other circumstances, to arbitration, at the request of either Party.

19.2 Referral to Expert for Determination

Any dispute, controversy or claim arising out of, relating to or in connection with this Agreement which: (i) has not been amicably resolved in accordance with Clause 19.1; and (ii) concerns: (A) the quality or sufficiency of, or defects, deficiencies or other shortcomings in, any Equipment and Materials or in the performance of any Project-related work by the Company, Contractors and / or Subcontractors, including any design, supply, construction, testing, commissioning, operation and maintenance of the Project Facilities, or (B) non-compliance by the Company, Contractors and / or Subcontractors with LEPTS, Prudent Utility Practice or any other technical standards or procedures applicable to the performance of any such work, or (C) any other matter which the Parties agree in writing to so refer, shall only be referred to an Expert as provided in this Clause 19.

19.3 Appointment of Expert

The Parties shall mutually agree in writing on the appointment of a single, suitably qualified and experienced Expert within ten (10) days of the date of issuance by either Party of a written notice to the other Party indicating the issuing Party's intention to refer any matter under Clause 19.2 to an Expert for determination. If the Parties are unable to mutually agree upon an Expert within such

period, either Party shall have the right to refer the appointment of an Expert to ICOLD who shall be requested to appoint an Expert satisfying the requirements of this Clause 19.

19.4 Qualifications of Expert

The Parties agree that the Expert shall: (i) be a consulting engineer with not less than fifteen (15) years' experience of the design, supply, construction, testing, commissioning, operation and / or maintenance of hydroelectric power stations and associated infrastructure and facilities in Southeast Asia; (ii) not have previously worked for or consulted to either Party (or any shareholder of the Company) or any Contractor or Subcontractor; (iii) be fluent in the English language.

19.5 Determination by the Expert

The Expert shall first determine if the matter referred by a Party for decision has been properly so referred in accordance with this Clause 19. If the Expert determines that the matter has not been properly referred to the Expert, the Expert shall so advise the Parties in writing and shall discontinue the Expert's further involvement on the matter. Either Party shall then have the right to initiate arbitration proceedings in respect of that matter as provided below, if the matter is not amicably resolved beforehand. If the Expert determines that the matter has been properly referred to the Expert, then the Expert shall advise the Parties in writing of that determination, and request the Parties to submit in writing to the Expert within ten (10) days of such advisement all relevant information concerning the matter under dispute. The Expert shall make a determination on such matter within twenty five (25) days after the date of such advisement, irrespective of whether any Party is delayed in the submission of information to the Expert or seeks to defer such determination of the Expert for any reason. The Expert shall provide its written analysis on the matter in dispute and explain the basis for the Expert's decision. The decision of the Expert shall be final and shall be implemented by the Parties without delay. The Parties agree there shall be no right of either Party to appeal such decision to any other authority or to arbitrate any matter that has been decided by the Expert, absent manifest error, gross negligence or fraud. While the matter in dispute is under consideration by the Expert, the Parties shall continue to perform their respective obligations under this Agreement.

19.6 Costs of Expert

All costs and expenses of the appointment of the Expert, the Expert's review of the matter in dispute and the rendering of the Expert's determination shall be borne in full by the losing Party, or, if there is no clear loser, then as allocated by the Expert. Each Party shall bear all of its other direct and indirect costs and expenses related to the dispute, including investigations, fees of advisors and the cost of preparation and submission of information to the Expert. Hearings, if any, shall be held only in Vientiane, Lao PDR.

19.7 Arbitration: Venue; Rules; Panel; Language

If a dispute is to be resolved by arbitration, the arbitration proceedings shall be held in Singapore at the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated herein by reference. The arbitration shall be conducted in English.

19.8 Appointment of Arbitrators

The arbitral tribunal shall consist of three (3) arbitrators. Each Party shall appoint one (1) arbitrator. The two (2) arbitrators so appointed shall appoint the third arbitrator who shall serve as the chairman of the arbitral tribunal. If a Party fails to appoint its arbitrator within a period of thirty (30) days after

the date of notice of the arbitration or if the two (2) arbitrators appointed cannot agree upon the third arbitrator within thirty (30) days after appointment of the second arbitrator, then such arbitrator shall be appointed by the Singapore International Arbitration Centre.

19.9 Determination by Arbitrators

The arbitrators shall decide disputes by majority of the arbitral tribunal and shall state in writing the reasons for its decision. The arbitral tribunal in determining any dispute or difference shall consider all evidence which it determines may be relevant to the subject dispute.

19.10 Proceedings

During the arbitration proceedings: (i) the Parties shall continue to perform their respective obligations under this Agreement until the earlier to occur of (A) a final decision having been reached by the arbitral tribunal, and (B) the termination of this Agreement in accordance with its terms; and (ii) in the event of a termination of this Agreement in accordance with its terms, all rights and obligations of this Agreement that are expressed to survive its termination shall survive such termination and the Parties shall perform and fulfil their respective termination-related obligations as set out herein.

19.11 Decision; Enforcement

The arbitration tribunal's decision shall be conclusive, final and binding, and may be enforced by any court of competent jurisdiction.

19.12 New York Convention

The GOL agrees that it will not itself do or fail to do anything which will cause the termination or suspension of the Lao PDR's accession to the New York Convention and shall ensure that it continues to implement the New York Convention in the Lao PDR in accordance with its original accession to the New York Convention and Law.

Clause 20: Assignment, Grant of Security Interests and Rights to acquire the Project and other Assets of the Company

20.1 Transfer and Assignment

Except as otherwise permitted in this Agreement, this Agreement may not be transferred or assigned by the Company, in whole or in part, without the prior written consent of the GOL; provided, however, that if the GOL consents to a transfer or assignment, the Company shall not be relieved from any of its obligations hereunder except to the extent that the transferee or assignee shall assume all such obligations.

20.2 Permitted Assignments

The GOL acknowledges that the Company may wish to transfer or assign its rights and/or obligations in whole or in part to its Affiliates, one or more of its Lenders or Persons acting on behalf of them. The GOL hereby consents to any such assignment or transfer and agrees at any time for the Company to execute any assignment, notice, novation, transfer, acknowledgment or consent which the Company, its Affiliates, its Lenders or any Person acting on behalf of any of them may require.

20.3 Lender Security

- (a) During the Concession Period, the Company shall have the right: (i) to grant valid, effective and enforceable security interests in the Project Assets and / or Concession Rights or any of them in connection with any financing for the Project and Project Management to any Lender, guarantor or other Person which provides, guarantees or otherwise directly or indirectly arranges or facilitates any such financing, and to execute and register with Relevant Authorities all security documents in connection with such security interest as required by the Financing Documents; and (ii) to execute and register with Relevant Authorities the Primary Offtaker Security Documentation as required by the Primary PPA.
- (b) Such security interests shall have such priority over other rights and interests in the Project Assets and Concession Rights as established by the documents and arrangements creating such security interests; provided that subsequently granted security interest shall be subject and subordinate to any previously granted security interest which by its terms has an equal or higher priority unless the Lender and / or the Primary Offtaker, as the case may be, to whom the prior security interest was granted, consents in writing to the grant and priority of the subsequently granted security interest.
- (c) If requested in the documents and arrangements creating the security interests, the Lenders and/or the Primary Offtaker, as the case may be, shall be assured of the right to exercise and enforce such security interests, to take possession and control of the Project Assets and / or Concession Rights covered thereby and to dispose of such Project Assets and / or Concession Rights and to obtain the proceeds of such disposition in Foreign Currency to effect payment and performance in full of all obligations then owing to them; provided, always, that from and after the achievement of the Commercial Operation Date, the disposal of Project Assets shall not be made on any basis which would involve in any manner or to any extent the dismantling of the Project or any component of the Project or interference with the production of electricity or the disposal of Project Assets other than on a "going concern" basis. The GOL agrees to cooperate with the Company and any such Lenders and / or the Primary Offtaker, as the case may be, from time to time as the Company or any such Lenders and / or the Primary Offtaker, as the case may be, may request to provide and affirm such assurances.
- (d) The GOL shall reasonably assist the Company in its registering of the security documentation included in the Financing Documents with the Relevant Authorities.

Clause 21: Terms

21.1 Effectiveness

This Agreement becomes valid, legally binding and enforceable on the Effective Date.

21.2 Amendment

All additions, amendments and variations or any side agreement to this Agreement shall be binding only if in writing and signed by the duly authorized representatives of the Parties hereto.

21.3 Entire Agreement

This Agreement constitutes the entire agreement and understanding of the Parties hereto with respect to the matters set forth herein and supersedes any previous agreements or arrangements (including the PDA) between the Parties in respect of the matters addressed herein.

21.4 Term of this Agreement; End of Concession Period; Transfer

Notwithstanding the commencement of the Concession Period and subject to earlier termination as provided herein, this Agreement shall continue in force for a term of [_____] (____) years commencing from the Commercial Operation Date (the "Term"). Upon the expiration of this Agreement, the Project Assets shall promptly be duly transferred to the GOL or such nominee as the GOL may select, free of charge and, absent the prior written consent of the GOL, free of all liens and other security interests therein, with each Party bearing its own costs of such transfer. Where third parties have or claim any ownership or other interest in any of the Project Assets to be transferred to the GOL, the Company shall procure that full legal and equitable title in those Project Assets is transferred to the GOL free of cost to the GOL and free of any lien, charge or encumbrance. Following such transfer, the Company shall be wound-up and dissolved in accordance with applicable Laws, the Shareholders Agreement and the Articles of Association after first having satisfied any outstanding liabilities.

Clause 22: Notices

22.1 Notice Procedures

Any notice, demand, request, report or other communication to be given by any Party to the other Party hereunder shall be in writing, in the English language (including, where reasonably practicable, a Lao caption), to the address, telex or facsimile number specified below, and shall be deemed to have been given: (i) if presented personally, at the time of being presented to the addressee thereof; (ii) when transmitted by tested telex or facsimile, at the time dispatched provided the proper answerback is received; or (iii) if deposited in a regularly maintained and serviced depository for mail for dispatch by registered or certified (or the equivalent) airmail, postage prepaid, return receipt requested, fifteen (15) days after such deposit.

22.2 Addresses

Notices shall:

- (a) if given to the GOL, be addressed to

Department of Energy Business
Ministry of Energy and Mines
Nong Bone Road
P.O. Box 11964
Vientiane, Lao PDR

Tel: (856 21) 45 2539, 45 2540, 26 3321

Fax: (856-21) 41 5626, 45 2541

E-mail: [_____]

Attention: Director General

(b) if given to the Company, be addressed to:

[_____] Power Company Limited
[_____] Power Company Limited
[_____] Power Company Limited
Vientiane, Lao PDR
Tel: 856 [_____] Power Company Limited
Fax: 856 [_____] Power Company Limited
Attention: [Managing Director / Chief Executive Officer]

22.3 Change of Details

A Party may at any time notify the other Party of a change to its notice details, provided that such notification shall only be effective as from the date on which the notice is deemed given as provided above.

Clause 23: Waiver and Immunity

23.1 Waiver

The failure by either Party to exercise or enforce in any instance any of the terms or conditions of this Agreement or to insist upon strict performance by the other Party of any of the provisions of this Agreement shall not constitute or be deemed a waiver of that Party's rights thereafter to enforce each and every term and condition of this Agreement and shall not establish any custom or relinquish any rights under this Agreement as to any subsequent failure of performance.

23.2 Immunity

To the extent that the GOL or any of its properties or assets in any jurisdiction has or hereafter may acquire any right to immunity under any applicable law, convention or rule of any arbitral body, the GOL hereby expressly, irrevocably and unconditionally waives such right to immunity for itself and its properties and assets (save for those assets which are not commercial in nature, such as military, hospital or diplomatic assets) in respect of its obligations arising under this Agreement and related documentation, and consents to the giving of any relief in any legal or arbitral action, suit or proceeding and to execution or any other form of process for the enforcement of any judgment or award against it or its property or assets. This waiver does not extend to, and shall not be construed as implying, any waiver of sovereign immunity with respect to any obligations of the GOL other than those arising under this Agreement or with respect to any assets that are not commercial in nature or that are intended for use in the defense of the Lao PDR.

Clause 24: General

24.1 Applicable Law

This Agreement shall be governed by and construed and interpreted in accordance with the Laws of the Lao PDR. If such Laws are found to be wholly silent on any issue in question, or so inadequate as to preclude the making of any reasonable finding on any issue in question, then solely to the extent of such silence or inadequacy, as the case may be, for the purposes of the interpretation of such issue, English law shall apply.

24.2 Language

This Agreement is executed in the English language and translated into the Lao language. The governing language is the English language. The Annexes are in the English language only. To the extent that there may be an inconsistency between the English and Lao language versions of this Agreement, the English language version shall prevail.

24.3 Severability

If any provisions of this Agreement shall be declared invalid, unenforceable or illegal by any arbitral tribunal to which any dispute has been submitted by a Party in accordance with this Agreement, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

24.4 Remedies Cumulative

The rights and remedies set forth in this Agreement are cumulative and in addition to and not in substitution for any other rights or remedies which may be available to a Party under Laws, and the exercise of, or failure to exercise, one or more remedies by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies by that Party.

24.5 Interest

Any Party in default of payment of any amount due in accordance with this Agreement shall pay interest thereof, where the relevant sum is denominated in [Lao Kip], at a per annum interest rate equal to two percent (2%) plus the minimum overdraft rate calculated as the arithmetic average rate (expressed in per cent per annum) of the minimum overdraft rates quoted by the principal office of the Bank of the Lao PDR from time to time and, where the relevant sum is denominated in US Dollars, at a per annum interest rate equal to two percent (2%) plus one month LIBOR as determined for any relevant period by reference to the Reuters Screen. Such interest shall be computed on a monthly basis from the due date of payment until the relevant amount together with accrued interest is fully paid by the defaulting Party.

24.6 Indemnification; Environmental Contamination; Defense of Claims

- (a) Each Party agrees to indemnify and keep indemnified the other Party on demand and to defend and, hold harmless the other Party from and against all liabilities, loss, damages, expenses and claims of any nature whatsoever by any Person for death, personal injury and for damage to or loss of any property arising out of or in any way connected with the indemnifying Party's: (i) Breach of Contract; or (ii) negligent or wilful act or omission; except and to the extent that such death, personal injury, damage to or loss of any property is attributable to a Breach of Contract or to negligent or wilful act or omission of the Party demanding to be indemnified.
- (b) The Company shall be liable for, and shall defend, indemnify and hold the GOL, its personnel and agents, harmless from and against, all liabilities, damages, loss, expenses and claims from any damage or loss incurred by the GOL, the public, or any Person due to the design, construction and operation of the Project, except when such liabilities, damages, loss, expenses or claims are solely attributable to a Breach of Contract of the GOL. The obligation to indemnify under this Clause 24.6(b) shall survive the expiration or sooner termination of this Agreement.
- (c) The Company shall be liable for, and shall defend, indemnify and hold the GOL, its personnel and agents, harmless from and against, all liabilities, damages, loss, expenses and

claims from Environmental Contamination caused by the construction, operation and maintenance of the Project, except when such liabilities, damages, loss, expenses or claims are solely attributable to a Breach of Contract of the GOL or for Environmental Contamination which is not attributable to the Company, its contractors or subcontractors or the Project to the extent not attributable to the Company, its contractors or subcontractors or the Project. The obligation to indemnify under this Clause 24.6(c) shall survive the expiration or sooner termination of this Agreement.

- (d) The Party entitled to indemnification in respect of any claims brought against it shall promptly give notice to the other Party that such claim has been brought. The indemnifying Party may give notice to the other Party accepting liability to indemnify and giving reasonable instructions as to how and by which Party the claim is to be defended. Until receipt of such notice the indemnified Party shall take all prudent and reasonable steps in defense of the claim. Upon receipt of such notice, if any, the indemnified Party shall follow the instructions given by the indemnifying Party.

24.7 No Representation or Warranty except under this Agreement

The Company acknowledges and agrees with the GOL that, except as contemplated by the representations and warranties given in Clause 5.10:

- (a) no representation or warranty has been made or given, either expressly or impliedly, on behalf of the GOL to the Company in relation to the accuracy, completeness, suitability or efficacy of any information or data supplied or made available by the GOL or by any other person on behalf of the GOL to the Company or to any of the Sponsors or to any other person on behalf of the Company or any of the Sponsors, including:
 - (i) any drawings, plans, designs, specifications, reports or other information or data in relation to the Project, the Site or any river;
 - (ii) the suitability for purpose, hydrology, geology, condition, state of repair or environmental, ecological or social appropriateness of:
 - (A) the Site; or
 - (B) water flows or hydrology of any river;
 - (iii) the demand of the Offtaker for electricity; or
 - (iv) the revenues the Company will or may derive from the Project; and
- (b) the GOL has no liability for any present or future damage, expense, loss or liability which the Company or any person claiming through or under the Company suffers or incurs at any time in respect of:
 - (i) the incorrectness or inaccuracy of any such information or data supplied by or on behalf of the GOL prior to the date of this Agreement; or
 - (ii) any patent and latent defects in respect of the hydrology, geology, condition, state of repair or environmental, ecological or social appropriateness of the Site going to its suitability for purpose; and

- (c) as against the GOL, the Company accepts those risks of and in respect of the Project as are not expressly allocated to and accepted by the GOL in terms of this Agreement, including the risk arising from the GOL's disclaimers in Clauses 24.7(a) and (b) above.

24.8 Annexes

- (a) Each of the Annexes to this Agreement (and the appendices and schedules thereto) shall be deemed to be an integral part of this Agreement and shall have the same binding effect as this Agreement. With respect to matters such as dispute and termination, this Agreement shall supersede and prevail over all Annexes hereto.
- (b) The Company shall be responsible to ensure that topics that are addressed in Annex C are dealt with in that Annex C in a manner which is consistent with the provisions of this Agreement. For the avoidance of doubt, with respect to environmental and social rights and obligations of the Company as set forth in this Agreement and in Annex C, to the extent of any perceived or alleged inconsistency in the environmental and social rights and obligations of the Company as set forth in this Agreement and in Annex C, the GOL shall in its sole discretion determine which requirements are to be complied with and shall instruct the Company accordingly.

Clause 25: Definitions and Interpretation

- 25.1 Unless otherwise expressly provided in this Agreement, each of the following terms shall have the meaning specified for it below:

"Access Roads" means all routes and other rights to access which are necessary or expedient to gain and maintain access to the Site;

"Affiliate" means any Person which, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified. For these purposes (i) "control" means the holding beneficially of more than half the issued share capital of the relevant Person or the ability to direct the affairs of the relevant Person and/or to control the composition of its board of directors or equivalent body, and (ii) for so long as GOL's shareholder is a wholly owned State enterprise of the GOL, it shall be deemed to be controlled by the GOL. Without limiting the generality of the above, such direction is presumed to exist if such Person possesses, directly or indirectly, the power to direct or cause the direction of management and policy decisions of such other Person, whether through the ownership of voting securities, by contract or otherwise. Any person which is an Affiliate of another Person is "Affiliated with" such other Person;

"Agreed Cap" means the amount US\$ [_____], representing the cap on all costs of the Project (to be incurred or spent by or on behalf of the Company, and including without limitation with respect to the Sponsor, Contractors and Subcontractors, Lenders, consultants, employees and other Persons associated with the Project, and covering any and all costs of development, design, financing, construction, testing and commissioning through and including the Commercial Operation Date and the Final Defects Retention Period thereafter, and irrespective of any later identified costs or expenses which the Company may indicate have not been fully reflected in the Project cost, such as actual costs to the Company of complying with the Company's environmental and social obligations, or costs of delay or defect in the performance of any Contractor or Subcontractor, etc.) not to be exceeded for any reason by the Company, with the agreed understanding of the Company and the GOL that if the Agreed Cap is exceeded for any reason, any excess costs shall be at the sole risk of the Sponsor, shall not be recognized or treated for any purpose as Project costs, shall not be taken into account in the determination and payment of any sharing of benefits between the Company and the GOL, shall not be treated as allowable expenses for any tax purposes and shall not

reduce or affect in any manner or to any extent the amount and timing of payment of Taxes and Royalties payable by the Company to the GOL, and shall in all respects be costs of and for the account of the Sponsors;

“Agreed Fines and Penalty Cap” means:

- (i) the cap on Fines and penalties, taken in aggregate, imposed in any one (1) calendar year shall be based on the Project's total installed generating capacity, as follows: (a) less than or equal to 50 MW, US\$ 250,000; (b) greater than 50 MW and less than or equal to 100 MW, US\$ 500,000; or (c) greater than 100 MW, US\$ 750,000;
- (ii) the cap on Fines and penalties, taken in aggregate, imposed in any period of five (5) calendar years shall be based on the Project's total installed generating capacity, as follows: (a) less than or equal to 50 MW, US\$ 500,000; (b) greater than 50 MW and less than or equal to 100 MW, US\$ 1,000,000; or (c) greater than 100 MW, US\$ 1,500,000;
- (iii) the cap on Fines and penalties, taken in aggregate, imposed during the entire Concession Period shall be based on the Project's total installed generating capacity, as follows: (a) less than or equal to 50 MW, US\$ 1,000,000; (b) greater than 50 MW and less than or equal to 100 MW, US\$ 1,500,000; or (c) greater than 100 MW, US\$ 3,000,000;

“Agreement” means this agreement and all Annexes, schedules, exhibits and attachments hereto or explicitly incorporated here, however the foregoing may be titled or described, and as the same may from time to time be amended, modified, novated, restated, replaced or supplemented.

“Agreement Date” means the date on which both Parties have duly executed this Agreement;

“Ancillary Facilities” means any facilities (other than the facilities described in Annex A) of or to which the Company otherwise acquires ownership or rights for or in connection with the Project, including transportation, communication, water, power, housing, education, medical or other facilities;

“Articles of Association” means the articles of association of the Company as approved by the Relevant Authority;

“Authorizations” means all approvals, authorizations, permits, permissions, licenses or consents from the GOL and Relevant Authorities which are or may from time to time become necessary or appropriate pursuant to the Laws for or ancillary to the lawful status and operation of the Company in accordance with the Shareholders Agreement and for or ancillary to implementation of the Project and/or Project Management, or for the fulfilment of the purposes and intents of this Agreement;

“Biodiversity Offset” means a combination of actions, such as restoration of habitats, offset of losses through the creation or effective conservation of ecologically comparable areas that are managed for biodiversity while respecting the on-going use of such biodiversity by ethnic groups or traditional communities, and compensation to direct users of biodiversity as provided for in Annex C and this Agreement;

“Biodiversity Offset Plan” means the plan that the Company shall prepare pursuant to Annex C and this Agreement;

“Breach of Contract” means a failure by a Party to perform any of its obligations under this Agreement, including late or defective performance, unless such non-performance was caused by an

act or omission of the other Party, by Force Majeure or by another event as to which the other Party bears the risk;

“CA Completion Certificate” has the meaning set forth in Clause 4.7(l)(i);

“Change in Law” means a change in such Laws of the Lao PDR as specifically relate to: (i) the construction, operation and maintenance of the Project Facilities; (ii) the production and sale of electricity; and/or (iii) the taxes, royalties, and other financial benefits payable by the Company to the GOL, which change is enacted or adopted after the Agreement Date and prevents, materially impedes or materially delays performance or makes it impossible, unlawful, materially more costly or materially more time consuming for the Company to fulfil the obligations and/or to receive rights and benefits under this Agreement, where such change is manifested through: (i) the enactment of new Law; (ii) the modification or repeal of Law (including a National Assembly resolution or a Prime Minister decree); or (iii) a change in the interpretation or application of Law by any Relevant Authority (in an amount equal to or greater than the threshold amounts set out in Clause 5.8(d) of this Agreement); provided, however, that the first interpretation or application of a Law that was in force on the Agreement Date but had not been interpreted or applied prior to such Agreement Date shall not constitute a Change in Law;

“Change Order” means a change order relating to a Construction Contract which results in an impact on the Construction Works;

“Charges” means any fees, charges or any other type of expenses required to be paid to the GOL, whether at national, provincial or local level, in respect of the performance of an administrative service or procedure, consumption of a public service, use of public facilities and infrastructures or of any other public resources;

“Commercial Operation Date” or “COD” means, for purposes of this Agreement, the date which the commercial operation date has occurred as defined in and in accordance with the Primary PPA;

“Commissioning Programme” means the testing and commissioning procedure provided for in the Primary PPA.

“Community Development Program” has the meaning set forth in Clause 4.16;

“Company Termination Event” has the meaning set forth in Clause 16.1(a);

“Compliance Certificate” has the meaning set forth in Clause 4.7(k)(i);

“Compliance Certificate Checklist” has the meaning set forth in Clause 4.7(k)(ii);

“Concession Period” means the period commencing on the Agreement Date and ending [twenty five (25)] years after the earlier to occur of: (i) the Commercial Operation Date, if that date is on or before the Scheduled Commercial Operation Date or if it is later than the Scheduled Commercial Operation Date for reason of Breach of Contract by the GOL or the occurrence of a Force Majeure event, and (ii) the Scheduled Commercial Operation Date, if the actual Commercial Operation Date is later than the Scheduled Commercial Operation Date for any reason other than Breach of Contract by the GOL or the occurrence of a Force Majeure Event, and in either case as such period is extended or reduced in accordance with the terms and conditions of this Agreement;

“Concession Rights” shall have the meaning set forth in Clause 2.1;

“Confidential Information” means all confidential information provided by either Party to the other Party in relation to the Company or its Affiliates, the Project or any Contractor or Subcontractor during the Term;

“Construction Contract” means any construction contract to be entered into by the Company in respect of the Project.

“Construction Period” has the meaning set forth in Clause 4.7(e);

“Construction Plan” has the meaning set forth in Clause 4.19;

“Construction Works” means any and all of the construction and related works to be completed by the Company, its Contractors and Subcontractors to achieve the Commercial Operation Date of the Project Facilities, including any punchlist items to be finalized after COD;

“Consultation Period” has the meaning set forth in Clause 16.3(b);

“Contract Engineer” means the engineering firm appointed by the GOL at the expense of the Company as provided in Clause 9;

“Contractor” means any Person with which the Company contracts (other than any natural person who thereby becomes an employee of the Company) for the sale, purchase, acquisition, lease or other supply or provision of Equipment and Materials or the performance of any work or service in connection with the Project, including the Principal Project Contractors listed in Annex M and includes Foreign Contractors and Domestic Contractors (as such terms are defined and used in Annex T);

“Corporate Income Taxes” has the meaning set forth in Clause 11.2;

“Dam Safety Review Panel” or “DSRP” has the meaning set forth in Clause 5.9(a);

“Dam Works” has the meaning set forth in Clause 5.9(b);

“Delivery Point” has the meaning given to it in the Primary PPA with respect to electrical energy to be delivered to the Primary Offtaker, and has the meaning given to it in the Secondary PPA with respect to electrical energy to be delivered to the Secondary Offtaker;

“Direct Agreement” means the lenders direct agreement to be entered into between the Lenders and the GOL as a condition precedent to the Financial Close Date in the form attached hereto as Annex R;

“Dollars” “US Dollars”, or “US\$” means the lawful currency of the United States of America;

“Economic Operating Life” means: (a) not less than one hundred (100) years, for all civil works structures of the Project used for or in connection with retaining and regulating water, including without limitation the dam and all components thereof and the power intake; (b) not less than fifty (50) years, for all other civil works structures including without limitation the civil works components of the Transmission Network; and (c) not less than thirty (30) years, for all electrical and mechanical plant, including without limitation the generating plant, power transmission equipment, hydro-mechanical equipment and auxiliaries, and subject to any necessary replacement and / or refurbishment;

“EDL” means Electricité du Laos, a State enterprise organized and existing under the Laws of the Lao PDR or any successor or assign of that entity;

“EDL Transmission Line” means a [____KV] transmission line and all of the facilities and property (including necessary rights of way or easements and interconnection and other facilities) necessary or appropriate to carry all of the electricity generated by the Project other than that which is intended for export to the Primary Offtaker, from the Hydroelectric Power Station to the Secondary Offtaker;

“Effective Date” means the date upon which the conditions precedent have been satisfied pursuant to Clause 6.1;

“Emergency” means, with respect to the Project, a condition or situation that is likely to cause an imminent physical threat of danger to life, health, property or the Environment;

“Emergency Plan” means the plan setting out those measures the Company will undertake in an Emergency, including the plan relating to safety or security or persons and the environment arising from or consequent upon the impounding of the reservoir which contains at least the following matters:

- (a) emergency identification and evaluation;
- (b) preventative actions, if available;
- (c) notification procedures and flow charts;
- (d) communication systems;
- (e) access to the Site and the Project Facility;
- (f) response during periods of darkness and periods of adverse weather;
- (g) sources of equipment;
- (h) stock piling of supplies and materials;
- (i) emergency power stations;
- (j) inundation maps;
- (k) warning systems; and
- (l) maps, tables of dam breach discharge and key locations in flooded areas.

"Environment" means all aspects of the surrounding of human beings, including: (i) the physical characteristics of those surroundings such as the land, the waters and the atmosphere; (ii) the biological characteristics of those surroundings such as the animals, plants and other forms of life; and (iii) the aesthetic characteristics of those surroundings such as their appearance, sounds, smells, tastes and textures;

“Environmental Contamination” means the release of any hazardous or toxic substances by the Company or any Contractor or Subcontractor (and their respective employees, agents, and contractors), in violation of Law or the applicable standards set forth in Annex C;

“Environmental Management Plan” means the environmental management plan prepared for the Project in accordance with applicable Laws and approved by the GOL;

“EPC Contracting Party” has the meaning set forth in Clause 11.3(b);

“Equipment and Materials” means any goods, equipment and materials which are physically incorporated into the Project Facilities and are required for and directly related to the construction of the Project, the production of electricity, and the operation and management of the Project Facilities, or are otherwise required by the Company in order to carry out Project Management in accordance with Prudent Utility Practice. Such term shall include machinery, telecommunications and radio equipment, vehicles, vessels, parts and components and spare parts or replacement parts for any of the foregoing, but shall exclude: (i) cement, fly ash and steel rebar; (ii) Hydrocarbon; (iii) utilities (such as telecoms, electricity or water); (iv) personal, individual or household-related items (such as consumer electronics, appliances, residential furnishings, personal effects and other consumer goods and consumables of every type), regardless of whether or not the same are purchased and / or imported by or in the name of the Company or any Contractor or Subcontractor, or are identified as being intended to be incorporated in any manner into the Project Facilities or any construction or operator's camp or village or other Ancillary Facilities;

"ERO" means the Enterprise Registration Office of the Ministry of Industry and Commerce of the Lao PDR;

“Event of Insolvency” means, in relation to the Company, any of the following events:

- (a) a liquidator, provisional liquidator, trustee, administrator, manager, receiver, receiver and manager or similar officer is appointed in respect of the Company or any of its assets;
- (b) an order is made or a resolution is passed for the purpose of appointing a Person referred to in the foregoing clause (i) or for winding up the Company or for implementing a scheme of arrangement for the Company or for placing it under administration;
- (c) a moratorium of any debts of the Company or an official assignment or a composition or an arrangement formal or informal with its creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered or declared; or
- (d) the Company becomes, is declared or is deemed to be insolvent within the meaning of any applicable law or admits in writing its inability to pay its debts as these fall due; provided, that for the avoidance of doubt an “Event of Insolvency” shall exclude any corporate restructuring or reorganization transaction that is voluntarily undertaken by the Company and/or its Affiliates.

“Exclusive Land Use Rights” has the meaning set forth in Clause 2.3(a);

“Exemptions” means those exemptions to Laws (in whole or in part) that are granted by the National Assembly or the Standing Committee and / or any other applicable Relevant Authority empowered to grant exemptions in regard to the Project and which, if granted: (i) ensure that the Concession Rights herein shall be consistent with applicable Laws; (ii) effect and implement this Agreement; and (iii) enable the lawful implementation of the Project and the lawful conduct and pursuit of Project Management as contemplated by this Agreement without being inconsistent with or in violation of applicable Laws;

“Expatriate” means any individual who is a non-Lao national working with the Company or under the direction of the Company, or any Contractor or Subcontractor;

“Expert” means any person or panel of persons appointed by agreement between the Parties to resolve disputes between the Parties pursuant to Clause 19.2;

“Expropriation” means any expropriation, nationalization, requisition, confiscation or compulsory acquisition having a greater than de minimis impact on the Project and Project Management or any measures having equivalent effect by the GOL or any Relevant Authority and pursuant to which the ownership or control of an asset, right or benefit having a greater than de minimis value is involuntarily lost by the party previously lawfully entitled to same as a direct consequence of the unilateral action or inaction, whether by one action or a series of actions or inaction or by any measures having like effect, of the GOL or any Relevant Authority. Notwithstanding the preceding sentence, any action that is taken under Law and is in nature a penalty for violation of applicable Law, and is consistent with the general and common practices and procedures (i.e. not effected arbitrarily) of the GOL or any Relevant Authority for similar violations shall not constitute an Expropriation;

"Feasibility Study Report" means the feasibility study for the Project, setting forth the result and findings of the activities undertaken by the Company with respect to the Project to determine its feasibility, as submitted by the Company to the Ministry of Energy and Mines and approved thereby on [_____];

“Final Defects Retention Period” means the last remaining Principal Project Contractor’s defects retention period, which in general the Parties expect will occur not sooner than [twelve (12)] months after COD;

“Financial Benefits” has the meaning set forth in Clause 2.2 and Clause 3;

“Financial Close” means all relevant Financing Documents required (in combination with all equity contributions and / or firm, irrevocable equity commitments) fully to fund the development, acquisition, construction, ownership and initial working capital for the Project have been duly executed and all conditions to the availability and drawdown of such funding by the Company have been fully satisfied or waived by the Lenders and arrangements for the provision to [state-owned enterprise] of the required funding in support of its equity contribution have been duly executed and all conditions to the availability of such equity funding by [state-owned enterprise] have been fully satisfied or waived by the relevant parties providing the equity funding to [state-owned enterprise];

“Financial Close Date” means the date on which Financial Close occurs;

“Financial Model” means the Financial Model (as a complete, executable (run-able) digital file, and not only as a hard copy printout) attached hereto as Annex N and reflects, among other things, the estimated O&M budget for each year of the Project and all scheduled overhauls during the Term;

“Financing Documents” means the agreements entered into by the Company for the making available of any loans, credit facilities, notes (including floating rate notes and commercial paper), bonds, subordinated debt or other funds other than equity or equity-related funds and including any letters of credit (and related agreements), security agreements, swap agreements, and any other hedging agreements and any other documents relating to the financing or refinancing of the development, construction, acquisition, ownership, operation and maintenance of the Project, including working capital thereof;

“Fine” has the meaning given to that term in Clause 4.17(c);

“First Royalty Period” means the period that commences with the first production of test energy and ends on the [_____th (___th)] anniversary of the Commercial Operation Date;

“Fiscal Year” means (i) in respect of the first Fiscal Year, the period from the Commercial Operation Date through 31st of December of the same year; (ii) in respect of the Fiscal Year in which the Company is wound up, the period from the 1st of January through the date in the same year on which the Company is wound up; and (iii) in respect of any other Fiscal Year, the period from the 1st of January through the 31st of December;

“Force Majeure” has the meaning set forth for that term in Clause 15.1;

“Foreign Contractor” means any Contractor which is not established in the Lao PDR;

“Foreign Currency” means any currency other than Kip;

“Foreign Subcontractor” means any Subcontractor with which a Contractor directly contracts (and excluding for the purposes of this definition any sub-Subcontractor of the Company) which is not established in the Lao PDR;

“Generating Unit” means a generating unit referred to in the Primary PPA and/or the Secondary PPA, as applicable;

“GOL” or “Government” means the government of the Lao PDR, including the lawful legislative, executive and administrative bodies of the Lao PDR, including its ministries, departments, government agencies, municipalities, local or statutory authorities or state enterprises, and all Relevant Authorities;

“GOL CA Completion Date” means the earlier of the date on which (i) the GOL has issued the CA Completion Certificate in respect of the Project or (ii) the GOL CA Completion Date is deemed to have occurred in accordance with Clause 4.7[(1)(ii)];

“GOL Termination Event” has the meaning set forth in Clause 16.2;

“Government office” means any governmental ministry, organization, agency or office of the Lao PDR, as the context may require;

“Gross Operating Revenues” means, for any period, the revenues actually received or deemed to have been received by the Company (and not merely accrued) during such period from the sale of generating capability and electric power from the Project to the Primary Offtaker and to EDL pursuant to the Primary PPA and the Secondary PPA and to any other customer in accordance with this Agreement, provided that, in respect of the sale of generating capability and electric power from the Project to the Primary Offtaker, revenue shall only be deemed to have been received if such amount would have been received by the Company during such period but for the exercise by the Primary Offtaker of a right of set off against such amount of revenue where such right of set off has been exercised on account of damages or liquidated damages payable by the Company to the Primary Offtaker in respect of the period to which such revenues relate where such damages or liquidated damages have arisen due to an Operational Outage and further provided that no revenue shall be deemed to have been received if it relates to amounts in respect of which a set off right has been exercised on account of damages or liquidated damages arising prior to the Warranty Expiry Date but, for the avoidance of doubt, Gross Operating Revenues shall expressly exclude (i) the proceeds of any insurances, and (ii) liquidated and other damages (including force majeure amounts) payable under the Primary PPA and any of the Principal Project Contracts as a consequence of events entitling the Company to receive compensation thereunder and (iii) value added tax payable on electricity sold or made available to EDL under the Secondary PPA;

“Hydrocarbon” means any and all hydrocarbon materials and petroleum-based products, including without limitation fuels (gasoline, diesel, plane gasoline, etc.), oils (hydraulic, brake, etc.), lubricants and greases, to be used for Project purposes including operating and maintaining Equipment and Materials and Vehicles and any other appropriate use;

“Hydroelectric Power Station” means the dam, reservoir and approximately [____] MW nominal hydroelectric power station, dedicated to the provision of power to the Primary Offtaker [and the Secondary Offtaker], and all related works (as more fully described in Annex A) to be built by the Company on the Site in accordance with the provisions of this Agreement and includes all related permanent Equipment and Materials and Ancillary Facilities;

"ICOLD" means the International Commission on Large Dams;

"Implementing Agency" means the Department of Energy Business of the Ministry of Energy and Mines, and any successor thereto;

“International Financial Reporting Standards” means the International Financial Reporting Standards (IFRS) promulgated by the International Accounting Standards Board (“IASB”) (which include standards and interpretations approved by the IASB and international accounting standards issued by any predecessors to, or a previously constituted, IASB), together with its pronouncements thereon from time to time, and applied on a consistent basis;

“Investment Promotion Law” means the Law on Investment Promotion (No. 02/NA, 08 July 2009, as may be amended from time-to-time.

"IPD" means the Investment Promotion Department of the Ministry of Planning and Investment of the Lao PDR;

“JSC” has the meaning set forth in Clause 1.3;

“Kip” means the lawful currency of the Lao PDR;

“Land Use Rights” has the meaning set forth in Clause 2.3(a);

“Lao Political Force Majeure” has the meaning set forth in Clause 15.1(b)(ii);

“Laws” means the constitution of the Lao PDR, treaties, all national, provincial and local laws, decrees, rules, regulations, orders, codes, directives, edicts, notices, decisions, orders, judgments, injunctions or other legally binding actions or enactments of the GOL as from time to time have been promulgated and are in force and effect including any resolution issued by the National Assembly or on its behalf by the Standing Committee, Prime Minister decree and any permit and/or approval of any Government office of Lao PDR, in each case as relates to the Project;

“Lease” means the lease of the Site to the Company as provided in this Agreement;

“Lenders” mean the entities or financial institutions (unrelated to the Company) which from time to time agree with the Company to provide loan, credit or guarantee facilities and other financing facilities such as hedging facilities and, where the context admits, includes guarantors;

“LEPTS” or “Lao Electrical Power Technical Standards” means the Lao Electrical Power Technical Standards issued by the Department of Electricity of the Ministry of Energy and Mines;

“Liaison Officer” means a representative of the GOL (who may be an engineer) assigned to the Project whose responsibilities shall include monitoring the progress of the Project, liaising with the Company in regard to technical or other aspects of the Project, and generally assisting (when and to the extent available and within the scope of his or her role) the Company in relation to the Project as reasonably requested by the Company, as well as any other responsibility which may be assigned from time to time by the GOL to such representative;

“LIBOR” means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) on the basis of the offered rates for deposits in U.S. Dollars for the applicable repayment period which shall appear on the page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters, as of 11:00 a.m., London Time, on the day that is two London Banking days prior to the date the rate adjustment is to be effective. If at least two rates appear on the LIBOR01 page of the Thomson Reuters screen (or any such replacement page as may be applicable), the rate for that period will be the arithmetic mean of such rates. A “London Banking Day” means any day other than Saturday, Sunday or other day on which commercial banks are authorized to close in London, United Kingdom;

“Master Schedule” means the schedule set out in Annex J, as such schedule may be modified or adjusted from time to time as deemed necessary or appropriate by the Company;

"Material Project Documents" means those reports, documents and agreements for and relevant to the implementation of the Project that are described in Annex E;

“MEM Policy” means the sustainable hydropower development policy signed into law by the Prime Minister of the Laos PDR on 12 January 2015;

“MONRE” means the Ministry of Natural Resources and Environment and any successor thereto;

“National Assembly” means the National Assembly of the Lao PDR;

“National Interest” means any economic, security or other vital interest of the Lao PDR;

“Net Taxable Income” has the meaning set forth in applicable Laws;

“Nominated Representatives” or “Representatives” means the persons authorized in accordance with Clause 1.2(a);

“Non-Exclusive Land Use Rights” has the meaning set forth in Clause 2.3(a);

“Non-Political Force Majeure” has the meaning set forth in Clause 15.1(b);

“Notice to Company Requesting Consultation” has the meaning set forth in Clause 16.1(a);

“Notice to Company to Cure” has the meaning set forth in Clause 16.1(a);

“Notice to Cure” means a Notice to Company to Cure or a Notice to GOL to Cure (as applicable);

“Notice to GOL Requesting Consultation” has the meaning set forth in Clause 16.2(a);

“Notice to GOL to Cure” has the meaning set forth in Clause 16.2(a);

“Notice Requesting Consultation” means a Notice to Company Requesting Consultation or a Notice to GOL Requesting Consultation (as applicable);

“Notice of Default Termination/Project Transfer” has the meaning set forth in Clause 16.4;

“Notice of FM Termination/Project Transfer” has the meaning set forth in Clause 15.10(b);

“Notice of Termination/Project Transfer” means the Notice of FM Termination/Project Transfer and/or the Notice of Default Termination/Project Transfer, as the context requires, and, if issued by the GOL, as issued by the Ministry of Planning and Investment on behalf of the GOL;

“Offtaker” means the Primary Offtaker and/or the Secondary Offtaker, as the context may require, or any successor or assign of either;

“Operating Period” has the meaning set forth in Clause 4.7(q);

“Operation and Maintenance Contract” means the contract for the operation and maintenance of the Project Facilities (if any);

“Operation and Maintenance Contractor” means an operation and maintenance contractor incorporated in the Lao PDR, nominated by the Company, and having available sufficient experienced personnel for the Project, the requisite experience to operate and maintain the Project in accordance with the requirements of this Agreement and the Primary PPA, and sufficient financial resources to meet its contractual obligations under the Operation and Maintenance Contract;

“Operational Outage” means a Generator Forced Outage, a Generator Short Notice Outage, a Generator Maintenance Outage or an Exceptional Outage (in each case, as such terms are defined in the Primary PPA and only where such outage does not constitute a Water Supply Outage (as defined in the Primary PPA));

“Owner’s Engineer” means the engineering firm appointed by the Sponsors and/or the Company and which is responsible for the design and other aspects of the Project Facilities.

“Owner’s Engineer Contract” means the contract for services between the Sponsors and/or the Company and the Owner’s Engineer in respect of the Project.

“PAP” or “Project Affected Person” means any natural person or juridical person, entity or organization (whether considered individually, in a family or in a community), who is or who will be (or whose rights, interests, ordinary routines or resources, including on a community-wide basis, will be) in any manner and to any extent affected by the Project. PAPs shall be entitled to the entitlements to be provided by the Company as specified in Annex C and the relevant schedules or appendices thereto;

“PDA” has the meaning set forth in Recital C;

“Person” means any individual, partnership or corporation, wherever organized or incorporated, and all other juridically recognized entities, including governments, governmental bodies and associations whether or not incorporated and includes references to their respective successors and permitted assigns;

“Pre-existing Concession Rights” means a concession or other grant of rights granted by the GOL in writing, and if required to be registered with a Relevant Authority to be effective, then so registered, prior to the Agreement Date which under Law takes priority over the Land Use Rights or other

applicable rights granted by the GOL under this Agreement, in respect of any portion of the Site or other rights that are validly held by any third Person under Law;

“Primary Offtaker” means the [_____ for export project, insert name of foreign offtaker, e.g., EGAT, EVN, etc.] a State enterprise organized and existing under the laws of [_____] or any successor or assign of that entity;

“Primary Offtaker Security Documentation” means the insurance assignment, additional security and subordination agreement required to be provided to the Primary Offtaker by the Company pursuant to the Primary PPA in form and substance substantially the same as set forth in the Primary PPA or as may otherwise be agreed upon in writing by both Parties and the Primary Offtaker;

“Primary PPA” means a long-term power purchase agreement between the Company and the Primary Offtaker providing for the sale of the electricity generated from the Project to the Primary Offtaker;

“Principal Project Contract” means a major contract, excluding this Agreement and the Financing Documents, for the engineering, procurement, construction, commissioning, operation and maintenance of the Project and the work described therein between the Company and the relevant Principal Project Contractors; as identified in Annex M;

“Principal Project Contractor” means a Contractor performing a Principal Project Contract;

“Project” means the hydroelectric power project detailed in Annex A, including the Project Facilities and all extensions of such system contemplated by this Agreement;

“Project Assets” means the Project Facilities, the Project Funds and/or the Concession Rights, and any reserve account established pursuant to Clause 4.7(u), except that for the purposes of any references to a transfer of the Project Assets to the GOL, Project Assets does not include the Project Funds;

“Project Construction” means the design, procurement and construction of the Project Facilities and all acts and things necessary for the conduct and furtherance thereof;

“Project Documents” means

- (a) this Agreement;
- (b) the Primary PPA;
- (c) the Secondary PPA;
- (d) the Lease;
- (e) the Grid Code;
- (f) the Operation and Maintenance Contract;
- (g) each construction contract entered into by a Contractor or Subcontractor in relation to the Project;
- (h) the Owner’s Engineer Contract;
- (i) the Shareholders Agreement;

- (j) the Articles of Association;
- (k) all performance and other bonds and guarantees in favour of the Company issued pursuant to a Project Document;
- (l) [the Shared Substation Project Documents;]
- (m) the Financing Documents;
- (n) [the Primary Offtaker Security Documents]; and
- (o) any agreement or document amending, supplementing (whether expressly stated to be supplementary or reasonably implied to be supplementary to the terms and conditions of that agreement or document) or replacing any of the above;

“Project Facilities” means the Hydroelectric Power Station, the EDL Transmission Network (until handover to EDL upon COD) and the Ancillary Facilities;

“Project Funds” means all cash, accounts and other assets or investments of the Company whether in Foreign Currency or Kip and whether located or held inside or outside of the Lao PDR;

“Project Management” means the development, financing, construction, ownership, operation and management of the Project, including (i) the ownership of the Hydroelectric Power Station, Ancillary Facilities and (until handover to EDL upon COD) the Transmission Network, and the ownership or other possession of or rights to all other Project Assets, (ii) the management and conduct of the Project Construction and Project Operation, (iii) the management of the Project Assets and the ownership, management and conduct of the business associated therewith, including selling the electricity generated by the Project Facilities to the Primary Offtaker and the Secondary Offtaker and maximizing, receiving and disbursing the revenues and enjoying the benefits thereof as generally contemplated by this Agreement; (iv) the performance of the Company's environmental and social obligations under this Agreement and related documents; and (v) borrowing and repayment of Project loans;

“Project Operation” means management of the [reservoir / head pond] water storage, use, release and spillage and the operation and maintenance of the Project, including the Hydroelectric Power Station, the Transmission Network (prior to its handover by the Company to EDL upon COD) and the Ancillary Facilities;

“Project Related Revenue” means revenue received by a Person in connection with the Project or goods or services provided in connection with the Project and/or Project Management;

“Prudent Utility Practices” means the relevant practices, methods and acts generally followed or approved by the international electric industry with respect to the planning, design, construction, commissioning, testing, operating, maintenance and repair of works with characteristics comparable to those of the Project, including the location of the Project, and includes the performance of work:

- (i) in a sound and workmanlike manner, with due care and skill and applying generally accepted engineering, construction, safety and management practices and procedures;
- (ii) with due expedition and without unnecessary or unreasonable delay;
- (iii) using appropriate internationally accepted standards for materials and workmanship applicable to works having characteristics comparable to those of the Project; and

- (iv) with all materials and workmanship suitable for their respective purposes and properly certified where appropriate;

“Quality Assurance Plan” means the quality assurance plan to be prepared in accordance with the requirements of Annex Z and delivered to the GOL under Clause 6.2(b)(viii).

“Quarry Site” means the land identified at the Agreement Date as necessary to quarry the rock and other materials to be used to construct the dam, reservoir and other civil works required for the Project;

“Relevant Authorities” means any particular entity or entities that comprise the GOL, including the lawful legislative body (the National Assembly and Standing Committee) and also including all relevant public authorities, State enterprises, governmental departments, ministries, commissions, boards, bureaux, agencies, authorities, instrumentalities, judicial, legislative and administrative bodies of the Lao PDR and any subdivisions of any of the foregoing, other than where any such state enterprise is acting in a commercial rather than governmental capacity, including EDL acting as offtaker under the Secondary PPA and [insert name of state-owned enterprise] acting as a Shareholder in the Company;

“Rent” means the payment during the Concession Period annually by the Company to the GOL for Exclusive Land Use Rights for the Site, as provided in this Agreement;

“Resettlement Action Plan” means the plan for the resettlement of certain people required to be prepared for the Project and approved and implemented by the GOL by applicable Laws;

“Resettlement Committee” or “RC” means the Provincial Resettlement and Livelihood Restoration Committee as described in Annex C;

“Resettlement Management Unit” or “RMU” means the Resettlement Management Unit (RMU) as described in Annex C;

“River” means the [_____] River;

“River System Coordination Plan” means, if the GOL considers that a Project has or may have competing interests with another project or sector of the economy and so notifies the Company, the Plan developed by the Parties in good faith and in consultation with other GOL-nominated water users to identify and manage legal, traditional and other recognized rights relating to the River, including the use of River water as approved by the GOL, all as set forth in greater detail in Clauses 4.9(b) through (d);

“Royalties” has the meaning set forth in Clause 3.1;

“SAMD” means the State Assets Registration Department of the Ministry of Finance of the Lao PDR;

“Scheduled Commercial Operation Date” or “SCOD” means, for purposes of this Agreement, the earlier to occur of (i) the date which is [_____ (____)] months following the [Agreement Date/Effective Date]; and (ii) the date so indicated in the PPA;

“Scheduled Financial Close Date” means the date which is [eighteen (18)] months after the Agreement Date, as extended day for day for each day beyond such deadline (provided, always, that as at such deadline all of the Conditions Precedent for which the Company is responsible have been satisfied in full) by the number of days which any of the Conditions Precedent which the GOL is

responsible to execute or issue has not been satisfied for reasons solely attributable to the GOL and not due to any default or delay on the part of the Company or the Lenders;

“Secondary PPA” or “Secondary PPA” means a long-term power purchase agreement between the Company and EDL providing for the sale of the electricity generated from the Project to EDL;

“Second Royalty Period” means the period of [_____] (___) years that commences immediately following the end of the First Royalty Period and ends on the [_____]th (___th) anniversary of the Commercial Operation Date;

[“Shared Facilities” means the Shared Substation and the Shared Transmission Facilities;]

[“Shared Facilities Project Documents” means all contracts entered into by the Company in connection with the construction and operation of the Shared Facilities, including any coordination agreement in relation to the Shared Facilities;]

[“Shared Substation” means the existing [_____] kV switchyard and associated infrastructure owned by [_____] or the [_____] / [_____] kV substation to be designed, constructed, installed and commissioned by or on behalf of the GOL, each located in [_____] and which will receive electric power from the Hydroelectric Power Station via a [_____] kV transmission line and will transmit such electric power via the Shared Transmission Facilities to the Primary Offtaker;]

[“Shared Transmission Facilities” means a 500KV transmission line, and other related facilities used to transmit electric power from the Shared Substation to the border between the Lao PDR and [_____] for interconnection with the facilities of the Primary Offtaker at the Delivery Point;]

“Shareholders Agreement” has the meaning set forth in Recital D;

“Shareholders” mean the persons that are shareholders in the Company as set forth in Annex O and their permitted successors and assignees;

“SIAC Rules” means the Arbitration Rules of the Singapore International Arbitration Centre;

“Site” means the land, over which the GOL has granted to the Company either Exclusive Land Use Rights or Non-Exclusive Land Use Rights, identified at the Agreement Date as necessary to build, operate and maintain the Project and Project Facilities, including the area of the reservoir, the Quarry Site, the sites of the Hydroelectric Power Station and Ancillary Facilities, and the right of way for the Access Road to and from the Hydroelectric Power Station and Ancillary Facilities, and right of way on, over and under the Transmission Route and all the space necessary for the work and maintenance and temporary worksites and any other space or rights in space required by the Company; including such land as identified and described in Annexes D1 and D2 to this Agreement and in the Lease, together with any additional areas granted by the GOL to the Company pursuant to Clause 2.3(d), but shall not include the catchment area;

“Social Development Plan” means the social development plan required to be prepared for the Project and approved by the GOL by applicable Laws;

“Sponsors” means [_____] Company Ltd. and [_____] Company Ltd.;

“Standing Committee” means the Standing Committee of the National Assembly;

“Subcontractor” means any Person with which a Contractor subcontracts for the sale, purchase, acquisition, lease, supply or provision of Equipment and Materials or services in the performance of

any work or service in connection with the Project and includes any sub-Subcontractor and includes Foreign Subcontractors and Domestic Subcontractors (as such terms are defined and used in Annex T);

“Substation” means the existing [_____] kV switchyard and associated infrastructure owned by [_____] *or* the [____]/[____] kV substation to be designed, constructed, installed and commissioned by or on behalf of the GOL, located in [_____];

“Taxes” means all forms of taxation of any kind or character by Lao PDR or any agencies or instrumentalities thereof, whether national, provincial or local, and includes any value added taxes, any custom duties for import and re-export facilities or any other import or re-export duties and fees pursuant to Clause 11 herein and all withholdings, duties, levies, imposts or contributions, whether by reference to profits, income or turnover or the acquisition, sale, use, holding or disposal of property, rights or other assets, whether tangible or intangible, or the acquisition, sale or performance of services of any kind, or the incurrance or performance of any obligations or the entry into or performance of any contract or agreement, and includes all of the same whether imposed directly on the Company or on any Contractor or Subcontractor and also includes any interest, fine, penalty or surcharge in connection with any such Taxes and “Tax” means any of such Taxes;

“Tax Certificate” has the meaning set forth in Clause 11;

“Term” has the meaning set forth in Clause 21.4;

“Termination Event” means a Company Termination Event and/or GOL Termination Event;

“[_____] Change in Law” means a change in the laws of [_____] *insert name of country of primary offtaker* after the Agreement Date which prevents, impedes or delays performance or makes it impossible, unlawful, more costly or more time consuming of a Party to fulfill its respective obligations and/or to receive its respective rights and benefits under this Agreement. For this purpose and the avoidance of doubt, a change in the laws of [_____] means:

- (a) the enactment of any new [_____] law;
- (b) the modification or repeal of any [_____] law;
- (c) the application to either Party and/or their respective facilities and equipment relevant to performance of their respective obligations under this Agreement of any [_____] law which had been enacted but that had not become effective prior to the Agreement Date by both Parties; and
- (d) a change in the interpretation or application of any [_____] law by any [_____] Governmental Authority;

“[_____] Governmental Authority” means the government, any governmental department, ministry, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body of [_____] or any subdivision of any of the foregoing (excluding the Primary Offtaker);

“[_____] Political Force Majeure” has the meaning set forth in Clause 15.1(b);

“Third Royalty Period” means the period of [_____] (____) years that commences immediately following the end of the Second Royalty Period and ends at the end of the Concession Period;

“Transfer Deadline” has the meaning set forth in Clause 17.1(a);

“Transmission Network” means a [____KV] transmission line and all of the facilities and property (including necessary rights of way or easements and interconnection and other facilities) necessary or appropriate to carry all of the electricity generated by the Project and intended for export to the Primary Offtaker, from the Hydroelectric Power Station to the [Shared Substation], all as indicated on Annexes D(1), D(2) and F and in the relevant PPA;

“Transmission Route” means the route for the Transmission Network;

“UXOs” has the meaning set forth in Clause 4.32;

“VAT” means value added tax;

“Warranty Expiry Date” means the earlier of (i) the date falling [eighteen (18)] months after the Commercial Operation Date and (ii) the date on which the last defects liability period under the Construction Contracts ends; and

“Water Rights” has the meaning set forth in Clause 2.1(c).

25.2 In this Agreement, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include every gender;
- (c) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced or added (as a side agreement) from time to time, and to all Annexes, schedules, attachments, supplements and the like which form a part thereof; and
- (d) terms defined in any number, gender or tense shall have the correlative meaning when used in any other number, gender or tense, and the terms “includes” or “including” mean “including without limitation”.

25.3 In this Agreement, references to Clauses, Annexes and Schedules are to clauses of and Annexes and Schedules to this Agreement and references to paragraphs are to paragraphs of Clauses of this Agreement or the Annexes, as the case may be.

25.4 Headings are inserted for convenience only and shall not be deemed to be part thereof or be taken into consideration in the interpretation of this Agreement.

25.5 In this Agreement, any reference to a ministry, committee or other organ of the GOL shall be read and construed as including a reference to any successor or substitute entity forming part of the GOL.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective duly authorized officers as of the day and year first above written.

This Agreement is made in two copies having the same contents, and both Parties have read and thoroughly understood the contents hereof and hereby affixed their respective signatures and seals (if any) before witnesses and each retains one copy.

Signed for and on behalf of:

Signed for and on behalf of:

**THE GOVERNMENT OF THE
LAO PEOPLE’S DEMOCRATIC REPUBLIC**

[_____] **POWER COMPANY LIMITED**

By: _____
Name:
Title:

By: _____
Name:
Title:

Witness: _____
Name:
Title:

Witness: _____
Name:
Title: