

**PROJECT DEVELOPMENT AGREEMENT
("PDA")**

for

**[_____]
[HYDROELECTRIC]
POWER PROJECT**

Vientiane Capital, Lao People's Democratic Republic

[_____] 20[___]

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PROJECT DEVELOPMENT AGREEMENT

This Project Development Agreement ("PDA") is made on [_____] 20[___] in Vientiane Capital, Lao People's Democratic Republic (the "Lao PDR") by and between:

THE GOVERNMENT OF THE LAO PDR (the "GOL"), represented jointly by the Ministry of Energy and Mines ("MEM") and the Ministry of Planning and Investment ("MPI"),

and

[_____] , a limited liability company incorporated under the laws of the Lao PDR and having its registered legal address at [_____] (the "Developer").

The GOL and the Developer are the "Parties" and each is a "Party".

WHEREAS:

- A. On [_____] 20___, the Parties entered into a Memorandum of Understanding (the "MOU") regarding the proposed development, on a build, own, operate and transfer basis, of a [hydroelectric] power project [on the [_____] River / at [_____]] in [_____] Province, as described in Schedule 2 hereto (the "Project").
- B. Upon successful completion of the MOU obligations to the satisfaction of the GOL, the Parties now wish to further cooperate in the effective and expeditious achievement of that objective, agreeing to enter into and to implement this PDA.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. IMPLEMENTING AGENCY

- (a) MEM and MPI jointly represent the GOL in signing this PDA.
- (b) MEM, acting through its Department of Energy Business ("DEB"), is the Implementing Agency in exercising the GOL's rights and performing the GOL's obligations, as specified under this PDA.
- (c) The Implementing Agency:
 - a. has full power and authority:
 - i. to act on behalf of and otherwise to represent the GOL in implementing this PDA; and
 - ii. to make any and all decisions required or otherwise contemplated in this PDA to be made by the GOL; and
 - b. may coordinate with any other Relevant Authority, agency, department or office of the GOL to facilitate the performance by such Relevant Authority, agency, department or office of its responsibilities for matters connected with the performance of this PDA.

2. PURPOSE

- (a) PDA signing and implementation are intended to facilitate the conduct of key Project development activities.
- (b) This PDA does not create, establish or grant to the Developer any concession rights or analogous rights in the Project.

3. MANDATE PERIOD

The mandate period under this PDA (the "Mandate Period") shall commence upon PDA signing and be coterminous with the Term.

4. MANDATE

- (a) The GOL mandates the Developer, exclusively during the Mandate Period, to carry out the Project-related activities indicated in this PDA (the "Mandate").
- (b) During the Mandate Period, neither the Developer nor the Project Company shall engage in, attempt to engage in, or encourage, authorize or allow any third person (including without limitation any employee, contractor, subcontractor, local authority or any representative thereof) under the Developer's or the Project Company's actual or constructive control to engage or attempt to engage in, any of the following actions unless the prior written approval of the Implementing Agency has first been obtained by the Developer and/or the Project Company, as the case may be:
 - a. commence or continue any activity related to the compensation, resettlement, livelihood restoration or relocation of any Project-affected person;
 - b. carry out any preliminary construction work on or in connection with the Project, provided, however, that if such work constitutes Preliminary Construction Work as such term has been defined in Article 38:
 - i. the Developer or Project Company shall be responsible to ensure that all such Preliminary Construction Work, and in particular any Preliminary Construction Work related to or impacting the environment, is carried out in strict compliance with applicable Lao PDR Law;
 - ii. the Developer or Project Company shall have first provided to the Implementing Agency the plan for Preliminary Construction Work, the methodology to be used for such construction, the contract under which the Developer or Project Company has engaged a reputable designer, contractor or owner engineer to participate in such construction and any other information that the Implementing Agency deems necessary; and
 - iii. the Developer or Project Company shall inform the Implementing Agency and any other Relevant Authority at least one (1) week prior to the commencement of any Preliminary Construction Work or other activity on any Project Land, to allow the GOL to coordinate with local authorities and facilitate such Project development activities (and if it deems necessary, the Implementing Agency may appoint a representative to work with the Developer or its consultant at the Project Land); or
 - c. import any equipment, materials or other goods into the Lao PDR for use in any Preliminary Construction Work on the Project, other than in accordance with Lao PDR Law and in the types and quantities of such items to be imported as have been clearly indicated in the bill of quantities that has been prepared by the Developer.
- (c) The Developer shall be solely responsible for, and shall bear all costs and risks associated with, any and all Preliminary Construction Work on the Project. The GOL shall have no legal or financial responsibility to the Developer, the Project Company or any third party (whether vendor, contractor, subcontractor or otherwise) with respect to any aspect of such Preliminary Construction Work on the Project.
- (d) The GOL shall have no obligation to compensate the Developer in any manner or amount if the Project is not developed or completed for any reason whatsoever, including due to the expiry of

the Mandate Period or the Term or the earlier termination of this PDA by either Party for any reason.

- (e) This PDA neither creates nor grants to the Developer or the Project Company any concession right, title or interest whatsoever.

5. NO THIRD PARTY DISCUSSIONS

- (a) During the Mandate Period:

- a. the GOL shall not consider, discuss, negotiate or accept any other proposal or offer with or from any other person, apart from the Developer, concerning the development, ownership and/or operation of the Project; and
- b. the Developer shall not accept any additional partner or co-venturer, or transfer or assign, or attempt to transfer or assign, any right or interest under this PDA or otherwise in respect of the Project, without first having received the prior written consent thereto of the GOL.

- (b) If, in its sole discretion, the GOL grants its prior written consent to the Developer to accept any additional partner or co-venturer, or to transfer or assign any right or interest under this PDA or otherwise in respect of the Project, the Developer shall nonetheless be required at all times during the Mandate Period to retain and maintain a larger equity stake or interest in the Project than the aggregate equity stake or interest of all other additional partners and co-venturers combined.

- (c) Notwithstanding the foregoing, the GOL reserves the right, at all times during the Term and during the term of the Concession Agreement, to discuss, negotiate, accept, grant rights in, facilitate, implement or take any other action with respect to, any other non-Project related endeavor, activity or venture, whether:

- a. directly in its name (or the name of any State enterprise or Relevant Authority) or indirectly via, or with the involvement of, any third person,
- b. commercial in nature or otherwise, and/or
- c. on or in the vicinity of the Project Land (other than on any part of the Project Land with respect to which the Project Company has obtained exclusive land use rights under the Concession Agreement and the Project lease agreement),

and where such non-Project related endeavor, activity or venture:

- d. is unrelated to the generation or transmission of electric energy (e.g., tourism and recreation, hotel, mining and other natural resource exploitation, manufacturing, irrigation, agriculture, etc.), and
- e. does not interfere with any Project-exclusive water rights or other rights of the Project Company under the Concession Agreement in a manner that could adversely affect Project operations or economics.

6. GUARANTEE

- (a) To secure the Developer's timely performance of its obligations under this PDA, within [thirty (30)] days after PDA signing the Developer shall deliver to the GOL a valid and binding guarantee issued by a Qualified Bank, in form and substance substantially the same as set forth in Schedule 8 to this PDA or as may otherwise be agreed upon in writing by the Developer and the Implementing Agency (the "Guarantee"):

- a. in the amount United States Dollars [_____] (US\$ [_____]),
and
 - b. duly issued by the Vientiane Capital head office of a commercial bank established in the Lao PDR.
- (b) The period of validity of such Guarantee shall be not less than thirty six (36) months after PDA signing.
- (c) The GOL shall have the right to call the Guarantee immediately upon:
- a. the Mandate Period is extended as per the relevant provision of Article 56 (New) of the Electricity Law;
 - b. the early termination of this PDA by:
 - i. the GOL, for reason of any uncured Default by the Developer; or
 - ii. the Developer, other than for reason of any uncured Default by the GOL; or
 - c. any attempt by the Developer or the Project Company:
 - i. to implement any Project-related preliminary construction work other than work that constitutes Preliminary Construction Work as such term has been defined in Article 38; or
 - ii. to cancel, revoke or terminate the Guarantee; or
 - iii. otherwise to interfere in any way with the right or ability of the GOL duly to call the Guarantee.
- (d) If the Mandate Period is extended in accordance with the terms of this PDA, the Developer shall ensure that, in connection with and as a condition applicable to the grant of that extension, a new, valid and binding Guarantee is delivered to the GOL. For the avoidance of doubt, in any case of extension:
- a. the initially submitted Guarantee shall be called by and forfeited to the GOL; and
 - b. the Developer shall be required to submit a new Guarantee to the GOL in the same amount as the forfeited Guarantee, before the earlier date to occur of:
 - i. the date that is 30 days after the approval of extension, and
 - ii. the date of commencement of the extension of the Mandate Period.

Such new Guarantee shall have a period of validity not less than:

- c. the period of extension of the Mandate Period, plus
- d. a further twelve (12) months.

In any event, the Developer shall ensure that the GOL is in possession of a valid and binding Guarantee (including any replacement Guarantee) at all times after the submission deadline for the original Guarantee and continuing through the date which is twelve (12) months after the date of expiry (including any extension in accordance with this PDA) of the Mandate Period or the earlier termination of this PDA.

- (e) The GOL shall have the absolute right to retain all Guarantee proceeds called by the GOL. The GOL shall have no obligation to pay or return to the Developer or the Project Company any Guarantee proceeds in any amount or for any reason whatsoever.

- (f) The Developer shall not claim from or against the GOL any recovery, refund, reimbursement or other amount in regard to any Guarantee proceeds called by, and paid by the Guarantee issuing bank to, the GOL.

7. PROJECT DOCUMENTS

- (a) During the Mandate Period, the Developer shall draft, negotiate (where relevant), obtain approvals / certificates of Relevant Authorities (where required) with respect to, finalize and sign (subject to the requirements of this PDA, including Schedule 7 hereto) as project documents (the "Project Documents"):

- a. the Potential Benefits Report
- b. the Final Feasibility Study – 1) Technical and Financial Study 2) Environmental and Social Impact Assessment Study
- c. the Basic Design
- d. the Resettlement Action Plan
- e. the Social Action Plan
- f. the Ethnic Minority Development Plan (if any)
- g. the Environmental and Social Management and Monitoring Plan
- h. the Shareholders Agreement, and

The Implementing Agency shall retain responsibility for the preparation of:

- a. the Concession Agreement (including all Annexes thereto and, in particular, the annex comprising the Project's integrated social and environmental obligations);

The GOL, in coordination with any relevant offtaker, shall retain responsibility for the preparation of:

- b. the Tariff MOU - Domestic
- c. the Tariff MOU - Export

The Developer shall obtain the prior written approval of the GOL before signing any Tariff MOU.

- (b) The Developer shall also be responsible, during the Mandate Period:

- a. to procure the formal endorsement of the RC in relation to the Project's social aspects;
- b. to advance the Financing Documents to the extent that the Implementing Agency is satisfied that all requisite financing for the Project (including both equity and loan amounts sufficient to cover the total Project cost) is likely to be available as and when needed, so as to avoid any delay by the Project Company in achieving the Scheduled Commercial Operation Date; and
- c. to prepare the draft Engineering, Procurement and Construction Contract ("EPC Contract") and any related bidding or other documents required for awarding the EPC Contract.

- (c) All Project Documents shall be prepared:

- a. in good faith;
 - b. in accordance with the requirements of this PDA, including Schedule 7 hereto;
 - c. expeditiously;
 - d. in accordance with good commercial practice, internationally recognized contract principles, all applicable standards and Good Electricity Industry Practice; and
 - e. in accordance with the requirements of Lao PDR Law (provided, however, that the Financing Documents and the EPC Contract may be governed by the laws of any relevant country).
- (d) With regard to the preparation of the Project Documents, the following drafting principles shall be adhered to:
- a. Drafts of Project Documents and any related agreements and documents shall be prepared, discussed and revised on a consultative approach, and finalized after the completion of negotiations.
 - b. Neither Party shall be obligated to accept or to sign any Project Document or any related agreements or documents until and unless such document has been modified to accurately reflect final negotiations between the Parties.
- (e) In addition to any Lao PDR Law requirement that various Project Documents must receive the approval and/or certification of Relevant Authorities:
- a. the Implementing Agency reserves the right (but shall have no obligation) to review and provide comments to the Developer on the drafts of any and all Project Documents;
 - b. the Implementing Agency will notify the Developer in writing, from time to time, as to which Project Documents it wishes to review in draft and to comment on;
 - c. in the course of finalizing the Project Documents and in order to ensure the continued successful development of the Project, the Developer shall take due account of any comments provided to the Developer by the Implementing Agency ; and
 - d. in regard to the Developer's preparation of the Final Feasibility Study, the Implementing Agency shall have the right to require the Developer, prior to finalizing or obtaining any requisite approval of the Final Feasibility Study, to carry out such further and/or additional investigations, studies and reports, whether technical or otherwise, in accordance with Lao PDR Law and as the Implementing Agency may determine to be required for the GOL's comprehensive, prudent and careful evaluation of the Project.
 - i. The Developer shall expeditiously undertake, and bear all costs of, any such investigations, studies and reports that may be required by the Implementing Agency.
 - ii. The Developer shall ensure that all such work is professionally done in accordance with applicable standards and any conditions thereto that may be imposed by the Implementing Agency.

8. ADDITIONAL KEY OBLIGATIONS

- (a) During the Mandate Period, the GOL shall:
- a. allow the Developer all needed access to Project Land for inspection and examination purposes;
 - b. assist the Developer to coordinate with local authorities concerning approvals needed to carry out Project activities under this PDA during the Mandate Period;

- c. designate the Implementing Agency to lead negotiations with the Developer to finalize the terms of the Concession Agreement and its annexes;
 - d. designate any other Relevant Authority(ies), as appropriate, to comment on, negotiate or finalize, as the case may be, the terms of any other Project Documents; and
 - e. carry out all other actions and make all other decisions required of the GOL as provided in this PDA.
- (b) During the Mandate Period, the Developer shall:
- a. prepare and finalize each Project Document and related documentation in accordance with the requirements of this PDA and Schedule 7;
 - b.
 - c. shall take all necessary steps to into a Project Company and shall apply for an investment license in accordance with applicable laws; and
 - d. expeditiously carry out each of its other obligations under this PDA.

9. PROGRESS REPORTS

- (a) On the final Business Day of each calendar quarter (i.e., end of March, June, September and December) during the Mandate Period, the Developer shall submit to the Implementing Agency four (4) hard copies and one (1) soft copy of a Progress Report for the Project.
- a. Such Progress Report shall:
 - i. be prepared and signed by the Developer; and
 - ii. address in detail the topics specified in Schedule 4.
 - b. The Implementing Agency reserves the right to specify, and from time to time to adjust, the required format and contents to be adhered to by the Developer in the preparation of any Progress Report.
- (b) Any failure of the Developer to submit such Progress Report to the Implementing Agency on the required submission date:
- a. shall constitute a breach of this PDA; and
 - b. may trigger the issuance to the Developer by the Implementing Agency, of a notice of breach.
- (c) If the Developer fails to rectify such Progress Report submission failure within ten (10) days of Developer's receipt of a notice of breach, such failure shall be considered as a Default of the Developer under this PDA.
- (d) The Implementing Agency shall have the right to reject any Progress Report if:
- a. the Progress Report fails to contain the required contents;
 - b. the Progress Report has not been presented in the required format; or
 - c. the Implementing Agency is otherwise not satisfied with any aspect of the Progress Report (provided that, in such situation, the Implementing Agency shall provide Developer with a written indication as to the reason(s) for the Implementing Agency's dissatisfaction).
- If the Implementing Agency rejects a Progress Report, the Developer shall immediately revise such Progress Report to correct such defect(s) and then re-submit it to the Implementing Agency.
- (e) In addition to addressing in detail the topics specified in Schedule 4, each Progress Report shall contain:
- a. an update as to the progress to date and current status of the Developer's and/or Project Company's completion of any social and environmental obligations applicable to the Project; and

- b. an update as to the progress to date and current status of the completion of other relevant Project development milestones under this PDA, in accordance with Schedule 3.

10. JOINT ACTION ON SOCIAL IMPACTS

- (a) The GOL, through the Implementing Agency, shall appoint the Energy and Mines Department at the provincial level ("PDEM") to work closely with the Developer's Project team:
 - a. to facilitate the Developer's comprehensive and effective analysis of the social impacts expected to be caused by the development and implementation of the Project; and
 - b. to help clarify and quantify the Developer's compensation obligations with regard to such social impacts.
- (b) A Resettlement Committee (the "RC") and Resettlement Management Unit (the "RMU") shall be established to oversee the public consultation process.
 - a. Such public consultation process shall involve Project-affected persons in regard to:
 - i. Project design, environment and social mitigation measures; and
 - ii. the development of new and sustainable livelihoods.
- (c) Relevant aspects of such Project-related public consultation process and the information and results derived therefrom shall be duly incorporated into the Project Documents.
- (d) The RC and/or the RMU shall prepare its or their Project-related work plan(s) and budget plan(s) in accordance with:
 - a. Lao PDR Law,
 - b. the requirements and applicable policies of Relevant Authorities having responsibility for the Project, and
 - c. any other specific circumstances and considerations relevant to the Project, andshall submit such plans to the Developer through the Implementing Agency.
- (e) During the Mandate Period, the Developer shall promptly:
 - a. allocate sufficient budgets for the effective and timely achievement of Project-related work plan(s) and other activities to be carried out by the RC and the RMU, as described in Schedule 6 hereto; and
 - b. provide all other financial support reasonably required by the GOL, PDEM, RC and RMU to carry out the work indicated in this Article 11.
- (f) Any and all budget amounts to be provided by the Developer and/or the Project Company to PDEM, RC, RMU, Implementing Agency and/or any other Relevant Authority or agency of the GOL for the performance of any Project-related work or other activities, as required by or in connection with this PDA, shall not be considered or treated as state budget or GOL revenue.

11. MATTERS REQUIRING NATIONAL ASSEMBLY APPROVAL

- (a) The prior written approval of the National Assembly and/or its Standing Committee to the PDA signing may be required if the Project:
 - a. has installed capacity more than 100 MW; or
 - b. has a catchment area of more than 10,000 ha; or
 - c. has the potential to adversely affect or impact on the people whereby more than 500 households need to be resettled.
- (b) The Developer has carried out a comprehensive and detailed review of the Project Land, taking into account the possible impact of the Project on any relevant forested areas and on any persons located in the vicinity of the Project.
- (c) Prior to the PDA signing, the Developer has presented the results of such review to the Implementing Agency and obtained the confirmation of the Implementing Agency that:

EITHER

[no approval of the National Assembly is required as per the relevant provision of the Electricity Law prior to PDA signing.]

OR

[the prior approval of the National Assembly is required as per the relevant provision of the Electricity Law before this PDA is signed by the Parties hereto, and such approval of the National Assembly has been duly obtained.]

12. DEVELOPMENT TIMETABLE

The Developer shall complete its obligations under, and the activities described in, this PDA in accordance with the terms of this PDA and the Project development timetable set forth in Schedule 3 hereto.

13. PROJECT OFFICES

The Developer shall:

- (a) within [_____] days of PDA signing, establish (and maintain throughout the Mandate Period):
 - a. its representative office in Vientiane Capital, and
 - b. its field office in the province where the Project is located;
- (b) ensure that the Project director and all senior Project staff shall work on the Project on a full time basis, unless the GOL has otherwise agreed in writing; and
- (c) inform the Implementing Agency of the name and address of any person authorized by the Developer to communicate with the GOL with respect to this Project, within sixty (60) days of PDA signing.

14. LAO PREFERENCE

The Developer shall give preference to Lao nationals and to entities established in the Lao PDR in its sourcing of materials, equipment, goods, services and labor required to carry out its obligations under this PDA.

15. EQUITY ARRANGEMENTS AND PROJECT FUNDING

- (a) The Developer shall ensure that the Project Company:
 - a. is duly established and registered in accordance with:
 - i. Lao PDR Law;
 - ii. the terms of the Shareholders Agreement; and
 - iii. the terms of this PDA, and
 - b. receives and duly records all equity contributions and commitments from each shareholder of the Project Company as required by the Concession Agreement, the Shareholders Agreement and the Financing Documents.
- (b) The Project Company shall:
 - a. own one hundred percent (100%) of the Project;
 - b. be established in the Lao PDR as a special purpose limited liability company; and
 - c. be liable to suit under Lao PDR Law, with any judgment rendered against the Project Company enforceable against the Project Company's assets in the Lao PDR and elsewhere.
- (c) The Developer shall:

- a. except as otherwise expressly permitted under the terms of this PDA, at all times during the Mandate Period retain full equity ownership and control of the Project Company;
 - b. prior to signing the Concession Agreement, demonstrate to the satisfaction of the GOL that the Project Company will have the financial, technical and operational capability to successfully design, finance, build, own, operate and maintain the Project;
 - c. use all reasonable efforts:
 - i. to identify, discuss and negotiate with potential Lenders during the Mandate Period as to the possibility of financing the Project on a limited recourse project financing basis; and
 - ii. to advance negotiations on the credit facility agreement and other Financing Documents to the extent necessary, so as to achieve Financial Close (except for those conditions precedent for the effectiveness of the credit facility agreement as required by the Lenders); and
 - d. arrange (but with no obligation itself to provide) any requisite equity funding for the GOL, if requested by the GOL to do so.
- (d) The GOL shall have the right (whether as a direct shareholder or via one or more GOL-nominated shareholders in the Project Company) to participate:
- a. up to [twenty five percent (25%)] of the total equity in the Project Company; and
 - b. in any profits generated by the Project on terms and conditions identical to the profits participation rights of the Developer and any other holders of equity in the Project.
- (e) The Parties shall:
- a. provide equity funding for the Project in proportion to their respective ownership interests in the Project Company;
 - b. cooperate to identify potential sources of external funding; and
 - c. in the event that any applications to international development agencies are proposed to be made by or on behalf of the GOL, jointly submit such applications.
- (f) The equity participation of the GOL in the Project Company, if any:
- a. shall be determined in the Shareholders Agreement;
 - b. shall depend, among other things, upon the availability of funds to be raised by the GOL with the Developer's assistance; and
 - c. may be contributed by the GOL in the form of:
 - i. a reduction or deferral in the payment of royalties and/or taxes, fees or charges that would otherwise be payable by the Project Company to the GOL during the Project concession period;
 - ii. the reinvestment of projected and/or actual dividends earned during the concession period by the GOL from the Project Company;
 - iii. external sources, including without limitation grants or loans from international development agencies;
 - iv. cash available to the GOL;
 - v. any other funding source or mechanism as the Parties may agree in the Shareholders Agreement or as the GOL and the Project Company may agree in the Concession Agreement; and/or
 - vi. any combination of the above.
- (g) The terms upon which the GOL shall make any non-cash equity contribution(s) to the Project Company shall be agreed between the Parties and reflected in the Shareholders Agreement.

16. ELECTRICITY SALES

The Project is intended to be developed to generate and supply electric energy:

- (a) [exclusively] / [up to / not less than [_____ percent (___%) of total generation]] for domestic sale to the Offtaker (Domestic) for purposes of Lao PDR consumption, and
- (b) [exclusively] / [up to / not less than [_____ percent (___%) of total generation]] for export sale to the Offtaker (Foreign),

in accordance with the requirements of this PDA, the Concession Agreement, if any, and any relevant PPA.

17. GOL FINANCIAL BENEFITS

- (a) Under the terms of the Concession Agreement and the Shareholders Agreement, as relevant, and in accordance with applicable Lao PDR Law, the GOL shall have the right to enjoy, receive and/or participate in the following financial benefits arising from the development and implementation of the Project:
 - a. profits earned by the Project Company, in the form of dividends payable to shareholders;
 - b. royalties for the use of natural resources;
 - c. corporate income taxes applicable to the Project Company, its contractors and subcontractors;
 - d. personal income taxes applicable to employees of the Project Company, its contractors and subcontractors;
 - e. value added taxes;
 - f. import taxes, duties and charges;
 - g. such other taxes, fees and charges as are imposed by Lao PDR Law; and
 - h. benefit sharing in accordance with the provisions of the Concession Agreement, in the event there is a greater than anticipated return on Project investment.
- (b) After the Developer has provided the GOL with:
 - a. all relevant and/or GOL-requested financial assumptions relating to the Project, and
 - b. the Potential Benefits Report in accordance with Schedule 7 and Article 8(a),the GOL will review its position on royalties, taxes, duties, fees and charges to be imposed on the Project and shall inform the Developer as to the outcome of such review.
- (c) If the GOL has any concern with respect to the terms or conditions of any Project Document that might adversely affect the GOL's financial benefits, or as to any financial information, assumptions (including Project costs) or projections provided to the GOL by the Developer, the Parties shall discuss in good faith to reach and record a consensus understanding.
 - a. If the Parties cannot reach agreement as to acceptable Project costs and/or any other relevant financial parameters, an independent consultant (to be engaged by the GOL at the Developer's sole cost) shall be instructed to review such Project costs and other financial parameters.
 - b. The GOL reserves the right to carry out financial due diligence of the Project as a whole, in order to ensure its successful development and implementation.
 - c. The cost of engaging any such independent consultant shall be added to the Project cost.

18. PROJECT COSTS

- (a) Project costs shall include:
 - a. any Project-related cost incurred by the GOL during the course of development of the Project (such as the cost of GOL advisors as indicated in Article 20(c) and Schedule 5

hereto, and the cost of the Contract Engineer and any other consultants required by or for the GOL);

- b. Project Development Expenditures;
 - c. costs of construction, goods, materials, equipment and Project-related structures;
 - d. costs of the Developer's and/or Project Company's professional services and consultants, and costs of office staff based in the Lao PDR, rent, travel, etc. during Project construction phase;
 - e. costs attributable to [internal consultants] and project management staff;
 - f. reasonable Project-related overheads and miscellaneous costs and expenses incurred in the Lao PDR, such as insurance, supplies, communications, travel, etc.
 - g. financial and audit costs;
 - h. interest incurred on Project loans during the Project construction period; and
 - i. actually incurred contingencies in the Lao PDR.
- (b) Valid Project costs shall be subject to mutual confirmation and acceptance by the Parties.

19. PROJECT DEVELOPMENT EXPENDITURES

- (a) Project development expenditures validly incurred by the Parties ("Project Development Expenditures") shall include:
- a. all directly attributable Project development costs which have been incurred in good faith and are necessary and justifiable;
 - b. the cost of undertaking any pre-feasibility study for the Project that has been carried out by any agency or other entity appointed by the GOL; provided, however, that:
 - i. such cost shall be treated as a Project Development Expenditure incurred by the GOL, and
 - ii. such cost shall be discussed in good faith between the Parties during the Mandate Period;
 - c. costs of professional services, audit, advisors and consultants,
 - d. costs of local Lao PDR office staff, rent and travel for staff of the Developer who are based in the Lao PDR and who work solely for the Project;
 - e. overheads and miscellaneous costs and expenses, including insurance, supplies, communications, travel, and financial cost;
 - f. costs and expenses and per diem amounts of the GOL personnel indicated in Schedule 5, provided that:
 - i. such costs and expenses shall be borne by the Developer;
 - ii. such amounts shall not be considered to constitute any GOL revenue or financial benefit;
 - iii. the GOL has nominated such GOL personnel for Project purposes; and/or
 - iv. such GOL personnel (or the personnel of any relevant committee or task force of the GOL) are required by the Developer to join fieldwork or to participate in discussions with potential international lenders or any Offtaker; and
 - g. any other cost discussed and agreed by the Parties to be a Project Development Expenditure.
- (b) Project Development Expenditures shall exclude:
- a. any and all costs and expenses of the Developer's home office or any other non-Lao PDR office of the Developer; and

- b. all travel, airfare, accommodation, communication and related costs incurred by or in connection with any visits to the Lao PDR by any of the Developer's (or any other potential shareholder's) senior management.
- (c) If the GOL deems it to be necessary, the Developer shall provide financial support to the GOL (not exceeding any overall amount that has been specified in Schedule 5 hereto) to engage an international engineer and/or legal advisor to assist the GOL with:
 - a. review of the Project design,
 - b. cost estimation(s) and assumptions,
 - c. review of Project Documents, and
 - d. drafting, negotiation and completion of the Concession Agreement and its annexes.
- (d) Schedule 5 shall be applied up to the effective date of the Concession Agreement, provided, however, that additional funding from the Developer may be required:
 - a. to allow the GOL to engage an international engineer to perform the work of the Contract Engineer; and
 - b. as detailed in the Concession Agreement.
- (e) Project Development Expenditures shall be subject to audit by an international auditing firm acceptable to the GOL.
 - a. Prior to the finalization of the total Project cost and the signing of the Concession Agreement, the Developer shall submit to the GOL the results of such audit in the form of a report.

20. CONCESSION AGREEMENT

- (a) The Concession Agreement, if any, shall be based upon and duly reflect:
 - a. the contents of the latest model hydroelectric power project concession agreement and associated annexes (the "GOL Model CA"), as prepared and updated from time to time by MEM, and provided that:
 - i. the Developer shall be responsible to request and obtain from the Implementing Agency such latest GOL Model CA;
 - ii. The Implementing Agency shall be responsible for preparing the initial draft Concession Agreement, based upon the latest GOL Model CA and reflecting such minor adaptations as may be necessary or appropriate for use with the Project, taking the Project's specific circumstances into consideration;
 - b. any adjustments to the GOL Model CA as are mutually agreed by the GOL and the Developer / Project Company; and
 - c. any terms of the MOU and/or this PDA, to the extent deemed appropriate by the GOL.
- (b) Concession Agreement negotiation by the GOL acting through the Implementing Agency and the Developer shall not commence unless and until the Implementing Agency has confirmed that:
 - a. each of the following Project Documents has been duly completed in accordance with this PDA, the final version thereof having been submitted to and approved by the Relevant Authority:
 - i. the Final Feasibility Study – 1) Technical & Financial Study 2) Environmental and Social Impact Assessment Study
 - ii. Potential Benefits Report
 - iii. the Basic Design
 - iv. Grid Connectivity
 - v. the Environmental and Social Management and Monitoring Plan

- vi. the Health Impact Assessment
 - vii. the Tariff MoU – Domestic/Export
- b. each of the foregoing finalized and approved Project Documents as being satisfactory to the Implementing Agency;
 - c. any required approval of a Relevant Authority has been given in respect of any other activity required to be carried out by the Developer pursuant to this PDA; and
 - d. the financial and commercial viability of the Project (including without limitation the proposed means and manner of funding Project construction) has been confirmed in writing to the Implementing Agency, after the completion of review by relevant line agencies of the GOL as having been satisfactorily (albeit preliminarily) established by the Developer.
- (c) In order to meet the Project's implementation schedule, it is the intention of the Parties to commence negotiations on the draft Concession Agreement in parallel with the Developer's negotiations of PPA(s) and the Financing Documents.
 - (d) Concession Agreement signing by the GOL and the Project Company shall not take place unless and until:
 - a. the Developer has satisfied its obligations under this PDA;
 - b. The Implementing Agency has issued written confirmation(s) that the Implementing Agency [accepts / has no further comments on] the final submitted versions of each of the Project Documents listed in Article 8(a);
 - c. the Relevant Authority has issued its written approval / certificate for or concerning each of the Project Documents listed in Article 8(a); and
 - d. negotiation of the Concession Agreement and all annexes thereto has been successfully completed, to the mutual satisfaction of the GOL and the Project Company.

21. INTELLECTUAL PROPERTY

- (a) At all times during the Mandate Period, each Party shall retain full legal right, title and interest in and to any and all intellectual property that it has legally and in good faith acquired, created or developed in the course of implementing the MOU and this PDA ("Intellectual Property").
- (b) The Developer, freely acting on its own behalf and on behalf of the Project Company, hereby grants to the GOL a license to the Project-related Intellectual Property of the Developer and of the Project Company that is:
 - a. irrevocable,
 - b. perpetual,
 - c. royalty-free,
 - d. exclusive (except as to retained rights of the Developer and the Project Company, as the case may be),
 - e. fully assignable by the GOL to any third party(ies) without any restriction whatsoever, and
 - f. fully re-assignable by any assignee to any other third party(ies) without any restriction whatsoever.
- (c) Such license hereby authorizes and allows the GOL (and any third party assignees of the GOL or of any assignee) to:
 - a. possess,
 - b. use,
 - c. commercially exploit,

- d. modify, and
- e. otherwise wholly enjoy, with no limit or restriction whatsoever

any and all Project-related Intellectual Property of the Developer and of the Project Company, for any and all GOL purposes and in the GOL's sole discretion (including, without limitation, the future development of the Project or any substitute project of the Project by the GOL, EDL or any third party).

- (d) In no event shall the GOL or any assignee of the GOL be requested or obliged to reimburse or compensate, in any amount or to any extent whatsoever, the Developer or the Project Company for or in respect of any cost, value or other aspect any Intellectual Property that has been licensed to the GOL in accordance with the terms of this PDA and regardless of the expiry of the Mandate Period or the Term or any earlier termination of this PDA by either Party for any reason.
- (e) If the Mandate Period expires without the Concession Agreement having yet come into legal force and effect, or this PDA is early terminated by either Party for any reason, the Developer shall neither attempt to interfere with nor lodge claim against the GOL, any Relevant Authority or any third party assignee of the GOL with respect to, or seeking compensation or other payment for, the possession, use, commercial exploitation, modification or other enjoyment by the GOL or any assignee of any and all Project-related Intellectual Property of the Developer and/or the Project Company that has been licensed to the GOL pursuant to this PDA.

22. CONFIDENTIALITY

- (a) Each Party shall:
 - a. treat as confidential all Confidential Information received from the other Party, and
 - b. only use such Confidential Information to administer this PDA or as permitted by the terms of this PDA in the exercise of a Party's rights (including without limitation the GOL's license to use certain Intellectual Property in accordance with Article 22).
- (b) Until the date which is two (2) years after the end of the Term, neither Party shall, without first obtaining the prior written consent of the other Party:
 - a. suffer or permit its personnel, consultants or agents to divulge any Confidential Information to any person, or
 - b. make any public statements as to any Confidential Information.
- (c) Notwithstanding the above, the confidentiality restrictions herein shall not apply to the disclosure by either Party of any information which:
 - a. is or becomes public other than by reason of a breach hereunder;
 - b. is required by Lao PDR Law to be disclosed;
 - c. is information already known to a Party:
 - i. on a non-confidential basis, and
 - ii. prior to being furnished to such Party by the other Party;
 - d. has been published pursuant to Lao PDR Law;
 - e. has been published by the GOL as part of any reports or summaries which do not identify Project-specific confidential or proprietary information;
 - f. relates to any non-compliance of the Developer or the Project Company with any applicable Lao PDR Law and/or the provisions of the MOU or this PDA; or
 - g. has otherwise been agreed between the Parties to be disclosable.
- (d) Neither Party shall be prevented from disclosing any information:
 - a. to permit the issuance of any authorizations which the GOL or any Relevant Authority may issue under or in regard to this PDA;

- b. to any of its own personnel, consultants or advisors who reasonably require such information in connection with Project purposes, provided that any intended consultant or advisor recipient shall first sign a confidentiality agreement; or
 - c. to any Relevant Authority as required under, or reasonably to advance the purpose of, this PDA.
- (e) Notwithstanding the above, the GOL shall have the right to disclose, in any manner and media it sees fit, including without limitation on the any Government agency's website and in public fora and newspapers:
- a. relevant (non-commercial) portions of the Final Feasibility Study (Technical & Financial Study and Environmental & Social Impact Assessment Study) 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;
 - b. any reports or other communications with the Contract Engineer and any independent experts concerning the quality of work;
 - c. any and all instances of non-compliance with:
 - i. applicable Lao PDR Law and any other law,
 - ii. the terms of the MOU or of this PDA and its Schedules,
 - iii. any signed and effective Project Document, and
 - iv. the approved ESIA of the Project
 by the Developer and/or the Project Company or by their contractors and subcontractors;
 - d. any fines or penalties imposed on and/or collected from the Developer or the Project Company;
 - e. the names of any contractor, subcontractor or other person or entity engaged by the Developer or the Project Company and blacklisted by the GOL, and the basis for taking such action;
 - f. the names, positions and office contact information of the responsible officers of the Developer and of the Project Company; and
 - g. such other information concerning the status of Project implementation, Project Documents and compliance with this PDA as the GOL may deem to be of interest to the public.
- (f) The GOL shall have no liability to the Developer or the Project Company or to any of its or their contractors and subcontractors in regard to any such disclosures by the GOL.
- a. The Developer shall not have any right and nor shall it attempt to take any legal or other action to delay, prevent or otherwise interfere with the making of any such disclosures by the GOL.
 - b. The Developer shall ensure that neither the Project Company nor any contractors or subcontractors of the Developer or the Project Company shall have any right and nor shall they attempt to take any legal or other action to delay, prevent or otherwise interfere with the making of any such disclosures by the GOL

23. BREACH AND DEFAULT

- (a) The failure by a Party to meet any obligation of that Party which has been expressly provided in this PDA shall constitute a breach of this PDA by such Party.
- (b) The breaching Party shall be liable to the non-breaching Party for any foreseeable damages suffered by the non-breaching Party, provided always, however, that:
 - a. any such damages arise from, and are attributable to, such breach; and
 - b. with respect to any breach of this PDA by the GOL, in no event shall the GOL or any Relevant Authority be legally or financially liable or otherwise obliged to reimburse or

compensate, in any amount or to any extent whatsoever, the Developer or the Project Company for or in respect of any claim, damages, costs, expenses, opportunity cost, foregone benefit or any other aspect relating to or claimed to arise from such breach.

- (c) If a Party breaches any provision of this PDA and fails to rectify such breach within sixty (60) days after receipt of notice (a "Notice of Breach") from the other Party, specifying such breach and requiring the breach to be rectified, then that breaching Party shall be in default under this PDA (a "Default").
- (d) Upon the occurrence of a Default, a non-breaching Party shall have the right to terminate this PDA by a notice to that effect ("Notice of Termination") to the Party in Default, whereupon this PDA shall immediately terminate.
- (e) Any:
 - a. Notice of Breach issued by the GOL under this PDA shall only be issued by the Implementing Agency; and
 - b. Notice of Termination issued by the GOL under this PDA shall only be issued by MEM.

24. EFFECTIVENESS

This PDA shall become legally effective, binding upon and enforceable against the Parties upon PDA signing.

25. TERM

The term of this PDA shall be twenty four (24) months from PDA signing (the "Term"), subject to:

- (a) any extension made in accordance with Article 27, and
- (b) any earlier termination made in accordance with Article 28.

26. EXTENSION

- (a) The GOL shall have the right, in its absolute discretion, to decide whether to extend the Term:
 - a. for any further period or periods, provided the Developer or Project Company completes at least two third of its obligations under this PDA;
 - b. subject to any conditions which the GOL may impose in connection therewith; and
 - c. subject to the signing by the Parties of an amendment to this PDA in accordance with Article 37(e), to memorialize such extension and any applicable conditions thereto.
- (b) If, prior to the expiration of the Term, the Concession Agreement has been duly signed and all annexes thereto have been duly signed or initialed (as relevant) by each of the GOL (and/or any Relevant Authority) and the Project Company, then the Mandate Period shall automatically extend until the earlier to occur of the date:
 - a. on which the Concession Agreement has come into full legal force and effect (in accordance with the terms and conditions set forth in the Concession Agreement);
 - b. which is twelve (12) months after the date of due signing of the Concession Agreement (or such other date as the GOL and the Project Company may agree), provided, however, that:
 - i. a notice of termination has been issued (in accordance with the terms and conditions set forth in the Concession Agreement) in connection with the failure of one or more conditions precedent to the legal effectiveness of the Concession Agreement, and

- ii. that notice of termination has not been revoked within any period of time allowed by the Concession Agreement and provided in such notice; and
 - c. on which the GOL has terminated this PDA in accordance with its terms for reason of any uncured Default of the Developer.
- (c) Not less than sixty (60) days prior to the date of expiration of the Mandate Period (or any previously granted extension thereof), the Developer may submit to the Implementing Agency a formal written request seeking the extension (or further extension) of the Mandate Period. The Developer shall, simultaneously with the submission of such request, also submit to the Implementing Agency:
- a. a detailed written report clearly specifying the reasons for the Developer's delay in performing the Project development activities, and
 - b. supporting evidence therefor.
- (d) The GOL shall give due consideration to any request of the Developer for extension of the Mandate Period, the submitted report and any supporting evidence, but shall have absolute discretion to decide whether or not to grant any extension of the Mandate Period, the period of any such extension, and any conditions imposed by the GOL in connection with such extension.

27. TERMINATION

- (a) This PDA:
- a. shall terminate automatically, upon the expiration of the Term without any further extension thereto having been given by the GOL, provided that:
 - i. neither Party shall have any obligation to notify the other Party as to such expiration;
 - b. shall terminate automatically, when:
 - i. all conditions precedent to the legal effectiveness and enforceability of the duly signed Concession Agreement have been unconditionally satisfied or have been waived in writing by the GOL or the Project Company, as relevant, and
 - ii. the Concession Agreement has become legally effective and binding upon, and enforceable against, the GOL and the Project Company;
 - c. shall terminate automatically, when Developer or Project Company carries out any transfer or assignment of, or any attempt to transfer or assign, any right or interest in the Project including any shareholding or other equity interest in the Project Company, without having first obtained the express written approval of the GOL which shall be informed to Developer or Project Company by the Implementing Agency;
 - d. shall terminate at any time, upon the mutual written agreement of the Parties;
 - e. may be terminated by a non-defaulting Party (the "non-Defaulting Party"), in the event that:
 - i. the other Party is in Default (the "Defaulting Party");
 - ii. the Defaulting Party has failed to cure that Default within sixty (60) days of the Defaulting Party's receipt of a Notice of Breach in regard thereto; and
 - iii. the non-Defaulting Party issues a Notice of Termination to the Defaulting Party; and
 - f. may be terminated unilaterally by the GOL upon sixty (60) days prior notice to the Developer, in any of the following circumstances:
 - i. the Potential Benefits Report submitted by the Developer in accordance with Schedule 7 and Article 7(a) is unsatisfactory to:
 - 1. the Implementing Agency, and/or
 - 2. the Investment Promotion and Supervision Committee,

- ii. two (2) consecutive Progress Reports fail to demonstrate:
 - 1. reasonable progress by the Developer to advance the implementation of this PDA, and/or
 - 2. the expeditious development of the Project, and
 the Developer's written justification (if any) for such failure is not satisfactory to the the Implementing Agency ;
 - iii. failure of the Developer and/or the Project Company expeditiously to advance negotiations and drafting of, and timely to enter into, all relevant Project Documents;
 - iv. failure of the Developer to arrange acceptable equity funding support for the GOL as provided in Article 16(c)d;
 - v. any attempt being made by the Developer or the Project Company to terminate this PDA other than in accordance with its terms and conditions;
 - vi. actual or constructive abandonment of the Project by the Developer for more than ninety (90) days; and
 - vii. insolvency of the Developer (or any analogous proceedings in which the Developer faces or seeks liquidation, winding-up, reorganization, dissolution, protection or relief from creditors) during the Term.
- (b) Upon expiry of the Term or the earlier termination of this PDA, this PDA shall cease to have legal force and effect except as provided in Article 30 (*Survival*) or otherwise expressly provided herein.
- (c) Neither Party shall have any right or claim whatsoever against the other Party for any cost, loss, liability, damage or otherwise following the expiry of the Term or the earlier termination of this PDA, except with respect to any right or claim or liability which:
- i. has arisen prior to such expiry or earlier termination;
 - ii. has not lapsed or been waived; and
 - iii. is unrelated to such expiry or earlier termination.
- (d) The Developer absolutely and irrevocably waives any right to bring any claim whatsoever against, or otherwise to seek any compensation, reimbursement or other relief whatsoever from, the GOL arising from or in connection with the expiry of the Mandate Period or the Term or the earlier termination of this PDA in accordance with its terms.
- (e) In no event shall the GOL be legally or financially liable or otherwise obliged to reimburse or compensate, in any amount or to any extent whatsoever, the Developer or the Project Company for or in respect of any damages, costs, expenses, opportunity cost, foregone benefit or any other aspect relating to or asserted or claimed to arise from the expiry of the Mandate Period or the Term or the earlier termination of this PDA by either Party for any reason.
- (f) Neither Party shall be liable to the other Party in its performance of or failure to perform this PDA or any provision of this PDA, whether in contract, tort, breach of statutory duty or otherwise, for any loss of or anticipated loss of profit, loss of or anticipated loss of revenue, loss of use, business interruption, loss of use of any equipment, loss of any contract, other business opportunity or good will or for any indirect or consequential losses or damages; provided, however, that the application of this provision shall not prevent or otherwise interfere with the right of GOL duly to call any guarantee that has been provided pursuant to the requirements of this PDA or to retain fully all proceeds of any guarantee that has been so called.

28. ASSIGNMENT

- (a) The rights, obligations and interests of the Developer under this PDA and in respect of the Project are personal to the Developer. No right, obligation or other interest of the Developer under this PDA or in respect of the Project shall be assigned or transferred to any third party without the prior written consent of the GOL.

- (b) The GOL has the absolute right, to be exercised in the GOL's sole discretion and without the need to provide any explanation, reason or justification, not to accept, approve and/or consent to any proposed transfer or assignment by the Developer or the Project Company of any right, obligation or other interest of the Developer under this PDA and/or of the Developer or the Project Company in respect of the Project to any third party.
- (c) The GOL reserves the right not to approve a transfer or assignment of any right, obligation or interest under this PDA or in the Project or of any shareholding or other equity interest in the Project Company to any entity which, in the opinion of the GOL, lacks to any degree or extent sufficient qualifications to substitute for or replace the original Developer, taking into consideration, among other things, the experience, track record, technical and other capabilities and the financial ability of any such entity successfully to implement the Project.
- (d) In no event shall the GOL allow any transfer or assignment under this PDA if such transfer or assignment is proposed to be made from the Developer to any entity which:
 - a. has been blacklisted by the GOL; or
 - b. is regarded by the GOL as being a Paper Company.

29. SURVIVAL

The provisions of Articles 5(d), 7(c), 7(e), 7(f), 22, 23, 24(b), 28(c), 28(d), 28(e), 28(f), 30, 31, 32, 34 and 37(d), shall survive the expiration of the Term and any earlier termination of this PDA, together with any other provisions expressly indicated in this PDA to so survive.

30. GOVERNING LAW

All aspects of this PDA, including without limitation any rights and obligations of any Party hereunder, shall be governed exclusively by Lao PDR law.

31. DISPUTE

- (a) The Parties shall amicably discuss, and use their best efforts to resolve, any dispute, controversy or claim (a "Dispute") between the Parties arising under or in connection with this PDA, including without limitation any question regarding its existence, validity, implementation, interpretation, or termination.
- (b) Upon the written request of either Party, the Parties shall meet promptly in Vientiane Capital in an effort amicably to resolve any such Dispute.
- (c) If the Parties are unable amicably to resolve any Dispute, each Party shall have right to submit the Dispute to the People's Court in Vientiane to decide in accordance with the provisions of this PDA and applicable Lao PDR Law.

32. FORCE MAJEURE

- (a) Neither Party shall be liable for any non-performance of any of its obligations under this PDA where:
 - a. such non-performance is attributable to an act of God, war, act of terrorism, riot, civil disturbance or any other cause beyond the reasonable control of the Party whose performance is affected ("Force Majeure");

- b. such excuse for a Party's non-performance 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 promptly thereupon to resume performance of its affected obligations) had the affected Party properly and expeditiously acted to remedy and mitigate the effects of such Force Majeure; and
 - c. provided, always, that the affected Party has promptly notified the other Party in writing within five (5) days of the date of occurrence of the Force Majeure;
- (b) No extension of the Mandate Period or Term shall be made by reason of the occurrence of any event of Force Majeure affecting either Party (or affecting any third party or other entity), unless the Developer has, in respect of such Force Majeure, specifically requested an extension in writing and the GOL, in its sole discretion, has granted such extension in accordance with the provisions of Article 27(d).

33. WAIVER

- (a) The rights and remedies of the Parties shall not be affected by any failure or delay in exercising any right or remedy, or by the giving of any indulgence to a Party by the other Party, or by anything whatsoever except a specific waiver or release in writing.
- (b) Any such waiver or release shall not prejudice or affect any other rights or remedies of the Parties.
- (c) No single or partial exercise of any right or remedy by a Party shall prevent any further or other exercise thereof by such Party, or the exercise of any other right or remedy.

34. REPRESENTATIVES

- (a) Each Party shall appoint a representative (its "Representative") to facilitate communications between the Parties with regard to this PDA. The initial Representatives shall be:
 - a. For the GOL: Director General
 Department of Energy Business
 - b. For the Developer: [Managing Director]
- (b) A Party may change its Representative at any time by giving fourteen (14) days' advance notice in writing to the other Party.
- (c) Each Party may appoint an alternate Representative to represent that Party in the event of any unavailability of its nominated Representative.
- (d) Except as otherwise provided in this PDA, each Party shall bear the costs of its own Representative.

35. NOTICE

Any notice given under this PDA:

- (a) must be
 - a. in writing;
 - b. addressed to the recipient at the address shown below, and

- c. signed by a person duly authorized by the sending Party; and
- (b) shall be duly given or made (in the case of delivery in person or by post or fax) when delivered, received or left at the indicated address.

a. To the Developer:

Name [_____]]
Address [_____]]
Tel: [_____]]
Fax: [_____]]
Email: [_____]]

b. To the GOL:

- i. Any request, report, coordination or other communication under or relating to the PDA, and any Notice of Breach, shall be addressed to:

Ministry of Energy and Mines
Department of Energy Business
Nong Bone Road Vientiane, Lao PDR
Telephone: (865-21) 452539
Facsimile: (856-21) 415626
E-mail: energy@deb.gov.la

- ii. Notices regarding extension / Notice of Termination of the PDA shall be addressed to:

Ministry of Planning and Investment
Investment Promotion Department
Luangprabang Rd, Vientiane 01001, Lao PDR
Telephone: (856-21) 217005, 222689
Facsimile: (856-21) 215491

with copy to:

Ministry of Energy and Mines
Department of Energy Business
Nong Bone Road Vientiane, Lao PDR
Telephone: (865-21) 452539
Facsimile: (856-21) 415626
E-mail: energy@deb.gov.la

36. ACKNOWLEDGMENT

- (a) The Parties understand, acknowledge and expressly agree that the GOL does not make any representations or warranties to Developer or Project Company or any other entity, in relation to:
- a. the grant of any concession or other rights in or to the Project;
 - b. the use to which the Project site may be put during the Term;
 - c. the adequacy and/or suitability of the Project site for any purpose;
 - d. the condition of the Project site, including without limitation subsurface conditions;
 - e. any commercial performance or financial return (including tax deductions) to be derived from the Project;

- f. the likelihood of occurrence, nature or extent of any possible climate-related impacts on the Project;
- g. the sufficiency of water or any other natural resource to satisfy Project requirements;
- h. the impacts of local, regional and/or global market forces on the commercial or financial viability of the Project; or
- i. any other project-related matter which has not been expressly represented or warranted in writing by the GOL, in a valid, legally effective, binding and enforceable document that has been duly signed by the GOL.

37. MISCELLANEOUS

- (a) The Schedules hereto form an integral part of this PDA.
- (b) This PDA constitutes the entire agreement between the Parties with respect to the subject matter hereof, wholly superseding:
 - a. the MOU (which shall have no further legal force or effect upon the PDA signing),
 - b. all negotiations and prior discussions, and
 - c. any and all other preliminary agreements or understandings between the Parties in respect of the Project, whether written or oral.
- (c) Any invalid, unenforceable or illegal provision of this PDA shall not prejudice or affect the remaining provisions of this PDA, which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.
- (d) The Developer absolutely and irrevocably waives any right to bring any claim whatsoever against or otherwise to seek any compensation, reimbursement or other relief whatsoever from the GOL arising from or in connection with the expiration of the Mandate Period or the Term.
- (e) No modification, variation or amendment of this PDA shall be valid or effective unless such modification, variation or amendment has been recorded in a writing duly signed by both Parties.
- (f) The relationship between Parties under this PDA is strictly and exclusively that of independent contractors. Neither Party (and no employee, agent or representative of either Party) shall be an agent, partner, co-venturer or employee of the other Party.
- (g) Neither Party shall have any right, power or authority to incur any liability in the name of or on behalf of the other Party.
- (h) The Developer shall strictly comply with all applicable Lao PDR Law in exercising its rights and carrying out its obligations under this PDA, throughout the Term.
- (i) This PDA is signed in English only. In the event of any conflict or other inconsistency between the signed English version of this PDA and any Lao translation hereof, the English version shall prevail.

38. DEFINITIONS

“Access Routes” means all routes and other rights to access which are necessary or expedient to gain and maintain access to the Project Land.

“Basic Design”	has the meaning set forth in Schedule 7(c).
“Business Day”	means a day on which offices of the Government agencies are generally open to the public for the conduct of business.
“Concession Agreement”	means the concession agreement for the development and implementation of the Project as contemplated by this PDA and subject to the conditions set forth in Article 21, to be concluded between the GOL and the Project Company.
“Confidential Information”	means all confidential information provided by either Party to the other Party in relation to the Developer, the Project Company or the Project during the Term.
“Contract Engineer”	means the contract engineer to be appointed by the GOL for the purposes of this PDA and with funding provided by the Developer.
“Default”	has the meaning set forth in Article 24(c).
“Developer”	means [_____] and any proposed additional shareholder(s) in the Project Company that has been approved by the GOL.
“Dispute”	has the meaning set forth in Article 32(a).
“Economic Life”	means the total continuous elapsed time for each component of the Project facilities from the Commercial Operation Date to the point at which complete refurbishment or replacement, as the case may be, is required for the component to remain safe and operational in accordance with applicable standards and Lao PDR Law, assuming that good operating practices have been continuously and consistently implemented; and provided, always, that such period of time shall be: (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 any transmission network comprised within the Project; 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 Lao PDR Law or any successor or assign of that entity.
"Environmental and Social Impact Assessment" Study or “ESIA” Study	means the written assessment prepared in accordance with, and meeting the requirements of, applicable Lao PDR Law and the [Ministry of Natural Resources and Environment], establishing the Developer's ability to successfully complete the Project, with due attention paid to any foreseeable adverse Project-related environmental and social impacts and outlining appropriate measures to be taken by the Project Company to mitigate such adverse impacts, and which has been: (i) prepared in accordance with, and meets the requirements of, Schedule 7(d); (ii) approved by the Relevant Authority; and (iii) accepted by the Implementing Agency

"Environmental and Social Management and Monitoring Plan" or "ESMMP"	means the environmental and social management and monitoring plan for the Project: (i) having been prepared by the Developer during the Mandate Period in accordance with, and meeting the requirements of, Schedule 7(e), applicable Lao PDR Law and the [Ministry of Natural Resources and Environment], (ii) having been approved by the Relevant Authority; and (iii) having been accepted by the Implementing Agency
"Final Feasibility Study"	means 1) Technical and Financial Feasibility Study 2) ESIA Study
"Technical and Financial Feasibility Study"	means the written study/analysis establishing the Developer's ability to successfully complete the Project and which: (i) has been prepared in accordance with, and meets the requirements of, Schedule 7(b) and Article 7(e)d; (ii) has been approved by the Relevant Authority; and (iii) has been accepted by the Implementing Agency
"Financial Close"	means the point in time, as certified by or on behalf of the Lenders to the Project Company, when the Lenders are first committed to finance the Project under the terms of the Financing Documents.
"Financing Documents"	means the agreements to be entered into by the Project 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.
"Force Majeure"	is defined in Article 33(a).
"GOL"	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.
"Good Electricity Industry Practice"	means the exercise of that degree of skill, diligence, prudence, foresight and economic management, as determined by reference to good international practice, which would reasonably be expected from a skilled and experienced asset owner engaged in the construction, operation and management of an independent electricity generating facility and/or a transmission network under conditions comparable to those applicable to the implementation of such electricity generating facilities and/or the grid in the Lao PDR, consistent with applicable law, safety and environmental protection, and taking into account such factors as the relative size, duty, age and technological status such assets and applicable Lao PDR Law.
"Grid Connectivity"	means the due issuance of a certificate by MEM in accordance with [LEPTS] and applicable Lao PDR Law confirming, inter alia, that the Project, if constructed in accordance with the Basic Design and other relevant requirements of this PDA, will be capable of being safely and reliably connected to, and transmitting electricity via, the electric power grid owned and operated by EDL without exceeding any load or other technical or operational parameters of such grid.

"Health Impact Assessment"	means the written assessment prepared in accordance with, and meeting the requirements of, applicable Lao PDR Law and the [Ministry of _____], establishing the Developer's ability to successfully complete the Project with due attention paid to any foreseeable adverse Project impacts on health and outlining appropriate measures to be taken by the Project Company to mitigate such adverse impacts, and which has been: (i) approved by the Relevant Authority; and (iii) accepted by the Implementing Agency
"ICOLD"	means the International Commission on Large Dams.
"IEC"	means the International Electrotechnical Commission.
"Lao PDR Law"	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.
"Lenders"	mean the entities or financial institutions (unrelated to the Developer or the Project Company) which from time to time agree with the Project Company to provide (as required for implementation of the Project) loan, credit or guarantee facilities and other financing facilities such as hedging facilities and, where the context admits, includes guarantors.
"LEPTS"	means the Lao Electrical Power Technical Standards issued by the Department of Energy Management of the MEM.
"Mandate"	is defined in Article 5(a).
"Mandate Period"	means the period of time referred to in Article 4.
"MEM's Decision on Domestic Tariff"	means MEM's temporary decision on power to be purchased by EDL, No. 0825/MEM, dated 3 May 2015.
"Notice of Breach"	is defined in Article 24(c).
"Notice of Termination"	is defined in Article 24(d).
"Offtaker (Domestic)"	means EDL or any other GOL-approved, Lao PDR-based offtaker of electricity for domestic sale within the Lao PDR, and any successor or assign thereof;
"Offtaker (Foreign)"	means [EGAT / EVN] or any other GOL-approved, international offtaker of electricity for export sale within any international market, and any successor or assign thereof;
"Paper Company"	means a corporate entity (other than the Project Company) established for any purpose in any jurisdiction, which is non-operating or thinly capitalized.
"Potential Benefits Report"	means the written report to be prepared by the Developer and submitted to the Implementing Agency in accordance with Schedule 7 and Article 7(a).

“Power Purchase Agreement”

"PPA - Domestic" means the power purchase agreement to be entered into (after the Concession Agreement has been signed) by and between the Project Company and the Offtaker (Domestic), which will: (i) reflect certain agreements set forth in the Tariff MOU - Domestic, and (ii) detail the terms and conditions upon which the Project Company will sell electrical energy to the Offtaker (Domestic).

"PPA - Foreign" means the power purchase agreement to be entered into (after the Concession Agreement has been signed) by and between the Project Company and the Offtaker (Foreign), which will: (i) reflect certain agreements set forth in the Tariff MOU - Foreign, and (ii) detail the terms and conditions upon which the Project Company will sell electrical energy to the Offtaker (Foreign).

"PPA" means, as the context may require, either the PPA - Domestic, the PPA - Foreign, or both.

“Preliminary Construction Work”

means any Project-related preliminary construction work (including without limitation with respect to access road(s), workers' camp, construction power, etc.) that takes place prior to the construction phase of the Project, provided that: (i) the Developer or the Project Company shall have obtained the prior written approval of the GOL, specifying the nature, extent, timing and any other conditions applicable to the implementation of such preliminary construction work, and (ii) the Developer or the Project Company shall have prepared, at its sole cost, an environmental management and monitoring plan for each item or group of related items, as the case may be, of preliminary construction work, submitted such plans to the GOL for consideration and obtained the written approval of the GOL to such environmental management and monitoring plans prior to the date of commencement of such preliminary construction work.

“Progress Report”

means the written Progress Report periodically prepared / updated by the Developer and submitted to the Implementing Agency in accordance with Article 10.

“Project Company”

means the limited liability special purpose Company to be formed to complete the development and implementation of the Project in accordance with the requirements of the Concession Agreement and other Project Documents, being an association of the Developer and the GOL.

“Project Development Agreement” or "PDA"

means this Project Development Agreement and all Schedules hereto, as the same may from time to time be amended or supplemented.

“Project Development Expenditures”

means valid, Project-related expenditures that have been incurred as necessary for, and in connection with, the development of the Project prior to Financial Close, as indicated in Article 20.

“Project Documents”

means, for purposes of this PDA, the Project-related documents identified as such in Article 8 and clarified in Schedule 7.

“Project Land”

means the area comprising the planned reservoir/pond, the penstock/tunnel, and the power station, and including the watershed adjacent to and serving the reservoir/pond, the river valley to a location

downstream from the power station, the planned transmission line route, and the route of any access road(s) to be constructed for the Project.

“Qualified Bank”	means an international commercial bank with a branch office located in Vientiane acceptable to the Implementing Agency and which has, as of the date of issuance or renewal, as the case may be, of a Guarantee: (i) a long-term counterparty credit rating of at least “A” by Standard & Poors, or (ii) a long-term deposit (foreign) rating of at least “A2” by Moody’s; and provided, always, that the applicable rating agency has not placed such bank on “negative credit watch”, “negative outlook” or any similar status designation.
"Relevant Authority"	means any particular entity (or entities) that comprise the GOL, including the lawful legislative body (the National Assembly and Standing Committee) and all relevant public authorities, State enterprises, governmental departments, ministries, commissions, boards, bureaux, agencies, 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 (such as EDL in its capacity as offtaker under the domestic PPA, and any State enterprise in its capacity as shareholder in the Project Company).
“Resettlement Committee” or “RC”	means the Provincial Resettlement and Livelihood Restoration Committee for the Project.
“Resettlement Management Unit” or “RMU”	means the Resettlement Management Unit, which will be the secretariat unit of the RC.
“Scheduled Commercial Operation Date” or “SCOD”	means the date on which the Parties shall have agreed to start the commercial sale of electricity generated by the Project to the Offtaker (Domestic) and the Offtaker (Foreign) in accordance with the terms and conditions of the Concession Agreement and the relevant PPA.
“Shareholders Agreement”	means the agreement to be entered into between the Developer, any other approved shareholders and the GOL nominated representative / entity in relation to the Project Company.
“Tariff MOU - Domestic”	means the Memorandum of Understanding to be entered into between the Developer and the Offtaker (Domestic) as referenced in Schedule 7(g) and Article 8(a), which will set forth certain key terms and conditions (including the price of domestic energy) relevant to the successful conclusion of the Concession Agreement and the PPA that is intended to be signed with the Offtaker (Domestic).
“Tariff MOU - Export”	means the Memorandum of Understanding to be entered into between the Developer and the Offtaker (Foreign) as referenced in Schedule 7(h) and Article 8(a), which will set forth certain key terms and conditions (including the price of export energy) relevant to the successful conclusion of the Concession Agreement and the PPA that is intended to be signed with the Offtaker (Foreign).
“Taxable Income”	means the Project Company’s annual profit in any tax year determined by deducting royalties, levies and charges, operation and maintenance charges and straight line depreciation or amortization from the generating revenue in the same tax year, all in accordance with Lao PDR Law and international accounting standards.

“Term”

is defined in Article 26.

“Transmission Line”

means the [dedicated] transmission line [comprising a part of and otherwise] serving the Project as identified in the Final Feasibility Study and subject to the review and approval of the GOL in compliance with LEPTS.

.....

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to sign this PDA on the date first indicated above.

*SIGNED FOR AND ON BEHALF OF
The Government of the Lao People's
Democratic Republic*

MINISTRY OF ENERGY AND MINES

Name:
Title: Vice Minister

**MINISTRY OF PLANNING AND
INVESTMENT**

Name:
Title: Vice Minister

WITNESS

Name:
Title: Provincial Department of Energy and Mines

*SIGNED FOR AND ON BEHALF OF
The Developer*

[_____ COMPANY]

Name:
Title:

WITNESS

Name:
Title:

SCHEDULE 1: PROJECT FEATURES

Broad Project Details:

(Note: to be revised based on the project specification)

- Capacity in MW
- Delivery Point
- Dam(s)
- Reservoir/Pond
- Powerhouse
- Other civil structures and components
- Electro mechanical equipment
- Auxiliaries
- Water intake and discharge
- Metering equipment
- Other equipment
- Transmission line(s)
- Other associated infrastructure and facilities
 - Camping facilities
 - Store and workshops
 - Drinking water facilities
 - Construction power
 - Access road (Permanent road)
 - Road up gradation from [] to [] :
 - New access road to project area :
 - New access bridge from [] to [] :

Project location:

- Province
- District
- Longitude
- Latitude
- Nearest airport

Hydrology:

- Catchment Area :
- Annual Average Rainfall :
- Average Annual Yield :
- Average Flow :
- Design Flood (PMF/ 1:10000/1000/100) :
- Construction Flood :

Detailed specifications of the Project:

Dam /Weir

- Type :
- Crest Elevation :
- Crest Length (Non-overflow block) :
- Crest Length (Spillway) :
- Foundation Level :
- Maximum Height :

Reservoir

- Type (Annual/monthly/weekly/daily storage, no storage) :
- Normal High Water Level (N HWL) :
- Minimum Operating Level (MOL)/Low Water Level (LWL) :
- Surface Area at NWL :
- Live Storage Volume :
- Dead Storage Volume :

Diversion Facilities

- Length :
- Diameter / Cross-section :
- Diversion Flow :
- Cofferdams :

Settling Basin (desilting) if any

- Type :
- Number :
- Length :
- Dimensions :
- Discharge :

Intake

- Number of intake :
- Size :
- Invert level :

Water Conductor System (Tunnel / Pipe / Canal)

- Shape (Circular, D or horse shoe shaped, rectangular) :

- Type (free flow/ Pressurize flow) :
- Length :
- Size :
- Design discharge :

Forebay / Surge Tank

- Dimensions :

Valve House (if any)

- Dimensions :
- Type and size of valve :

Penstock

- Type (surface, buried, underground) :
- Length :
- Diameter of penstock :
- Liner thickness :
- Number of penstock :
- Design discharge :

Power Station

- Power Station Type :
- Machine hall dimensions BxL :
- Building dimensions BxL :
- Building height h :
- Normal Tailrace water level :
- Minimum Tailrace water level :

Tailrace canal connection to Original River

- Structure :
- Dimensions (Bxh) :
- Total length L :

Hydro-Mechanical Equipment

Turbine

- Turbine Model :
- Turbine type :
- Design discharge for each unit Q_o :
- Gross Head (max) H_g :
- Gross Head (min) H_g :
- Net Head (max) H_n :
- Net Head (min) H_n :
- Rated output (Max) P_t :
- Rated output (Min) P_t :
- Number of units (7.5MW) :
- Rated Speed n_t :
- Efficiency :

Generator

- Generator Model :
- Generator type :
- Rated Power (max) P_g :
- Rated Power (min) P_g :
- Installed capacity P_{gmax} :
- Installed capacity P_{gmin} :
- Number of units z_g :
 - Rated Voltage :
 - Frequency :
 - Rated Speed n_g :
 - Efficiency :
 - Power factor :

Total Energy

- Energy Product per year :
- Plant factor PF :

Transformers

Step-up Transformer type:

- Transformer model :
- Rated output :
- Ratio :
- Phase and frequency :
- Number of units :
- Frequency :

Transmission line

(Note: to be confirmed and approved by MEM)

High voltage transmission line:

- Voltage :
- Circuit :
- Direction Length to [name] substation :
- Conductor Type :
- Conductor size :

Switchyard

- Type

Generation

- Designed Primary energy
- Designed Secondary Energy

SCHEDULE 2: THE PROPOSED LOCATION OF THE PROJECT

The Proposed Location of Hydroelectric Power Plant

(Note: the Map shall be confirmed and approved by MEM after consultation with relevant agencies)

The proposed location of the hydroelectric power plant shall be provided by the Developer. The developer shall also submit other details based on their own assessment such as impact of the project on downstream projects, whether the project location is under any reserved forest area or any protected areas, impact on biodiversity and biological corridors, water navigation, impact on other activities like irrigation, fishery, water supply etc.

Upon receiving the proposed project location map along with the other details from the Developer, the Implementing Agency shall review it in consultation with the other relevant agencies mainly

- Department of Water Resources under MoAF
- Ministry of Planning and Investment
- Ministry of Forest
- Land Department under MONRE
- Cultural Department
- Department of Energy Policy & Planning
- Department of Planning and Cooperation
- Department of Legal
- Department of Archaeology
- Department of Irrigation
- Department of Fishery
- Any other relevant agencies deemed necessary

Tariff MoU negotiation & Singing									
PPA negotiation									
Shareholder Agreement									
Financial Arrangement									
Finalization of SESO									
Project Company formation/registration									
CA Negotiation									

The Implementing Agency reserves full rights under this Agreement to request for monthly schedule for all the activities or any activity from the Project Developer.

Failure to submit such monthly schedule shall be considered as breach under this Agreement.

SCHEDULE 4: TENTATIVE CONTENT OF QUARTERLY REPORT

1) Introduction: A brief introductory section including below mentioned details:

- Description of the Project including maps
- Project Layout including transmission line route
- Energy for Export and/or Domestic sale

The Developer shall provide reasons in case any of the above three changes in subsequent project progress reports.

2) Summary of Report: It shall include brief of all major activities which developer required to perform during PDA stage. The list of activities are Final FS (Technical & Financial Study and ESIA Study), Tariff MoU, PPA, Basic Design, Shareholders Agreement, Project Company Registration etc.

The Developer shall clearly specify the % of work completed of each activities in the summary. Tentative items to be included under each activities shall be

- What is the percentage of work completed?
- Budget allocated for every major activity/sub-activity
- What is the percentage of allocated budget spent?
- By how much is the activities are within or outside budget?
- List any changes made to the scope of work/ terms of reference of each activity
- Reasons for change in scope of work/terms of reference is any
- Does the change in scope of work/terms of reference have any financial implication?

Sample format below:

Activity	% Completion	% to be completed as per the implementation schedule or timeline	Brief of reasons for delay
Final Feasibility Study	15%	20%	xxxxxxxx

Activity	Budget Allocated	% Budget Spent	Is within budget	Reasons
Final Feasibility Study	15%	No	xxxxxxxx	

Activity	Change in ToR	Does it have any financial implication	Reasons
Final Feasibility Study	Yes	No	xxxxxxxx

3) Detailed Progress of Technical and Financial Feasibility Study

It should also include a table depicting the different activities. Sample format as below:

Major Tasks and Activities under Technical and Financial FS in this Quarter			
Task/Activity Item & Description	Start Date	Completion Date	Explain Variance if any
Technical and Financial Feasibility Study			
List out activities under Technical and Financial FS			
1			Detailed explanation
2			

3		
4		
etc.		
The Implementing Agency to decide on the major activities under Technical and Financial FS to be included here		

- 4) Details of Environmental and Social Impact Assessment (ESIA) Study: It should also include a table depicting the different activities under ESIA. Sample format as below:

Major Tasks and Activities under ESIA in this Quarter			
Task/Activity Item & Description	Start Date	Completion Date	Explain Variance if any
ESIA Study			
List out activities under ESIA			
1			
2			
3			
4			
etc.			
The Implementing Agency in consultation with relevant Government agencies to decide on the major activities under FS to be included here			

- 5) Consulting Service Agreements
- 6) Actual implementation status vs Implementation schedule
- 7) Detailed justification for deviation in actual implementation status vs implementation schedule if any including all necessary evidence
- 8) Conclusions & Recommendations (including work plan and next quarter's activities)
- 9) Any other information that the Implementing Agency deems necessary

SCHEDULE 5: DEVELOPER FUNDING OF GOL ACTIVITIES

1. The Parties shall agree from time to time upon the number of GOL representatives from relevant department(s) that shall participate in the Project-related activities contemplated in this Schedule 5.
2. The Developer shall fund the GOL's Project-related activities / bear the GOL's Project-related costs and expenses, as follows:
 - a. Travel expenses of GOL personnel, including:
 - i. Airline Tickets (including Airport Tax). All bookings to be made through or by the Developer's Project Office.
 - ii. Taxi / airport limousine fares to and from each Airport
 - iii. Taxi fares to / from business appointments and hotels.
 - b. Entry / exit visa fees
 - c. Per diem allowances in US\$ (or equivalent):
 - i. For Thailand / Vietnam / Malaysia, including hotel accommodation, meals and out-of-pocket expenses:

1. Officer	250
2. Head of Department or equivalent	270
3. Vice Minister or equivalent	300
 - ii. For China / Japan / North America / Europe, hotel accommodation shall be paid (or reimbursed) separately by the Developer. Allowance for meals and out-of-pocket expenses:

1. Officer	200
2. Head of Department or equivalent	220
3. Vice Minister or equivalent	250
 - iii. For field work in the Lao PDR (outside Vientiane), transportation costs to the field to be paid separately by the Developer against invoices. Allowance for meals, accommodation and out-of-pocket expenses of:

1. Officer	50
2. Head of Department or equivalent	60
3. Vice-Minister	70

2. The Developer's Payment for the GOL's Project development costs and expenses.
 - a. In order to enter into a fair and balanced Concession Agreement acceptable to the lending community, the GOL may need international advisors to advise and assist its relevant agencies in drafting and reviewing the Project Documents.
 - b. Such international advisors may comprise a legal advisor, a financial advisor and an international engineer advisor.
 - c. The currently estimated total professional fees likely to be incurred by such advisors is approximately US\$ [_____].
 - d. Payments to such advisors shall be made directly by the Developer after the Implementing Agency's endorsement of invoices.
 - e. The final allocation of the budget for professional fees among the three professional advisors (legal, financial, engineering) shall be at the discretion of the GOL.

Before implementation, a funding agreement for each advisor shall be concluded between the Parties.

SCHEDULE 6: TERMS OF REFERENCE

- ToR for Final FS: To be attached
- ToR for ESIA: To be attached
- ToR for Basic Design: To be attached

SCHEDULE 7: PROJECT DOCUMENTS --REQUIREMENTS

Responsibility for drafting Project Documents and any other documents listed below shall be as follows:

(a) *Potential Benefits Report.*

- a. The Developer shall obtain from the Implementing Agency an outline of the required format and contents to be covered in such Report, and shall prepare and submit the draft Report to the Implementing Agency in accordance with that outline and the PDA.
- b. Based upon: (i) the Final Feasibility Study Report, and (ii) other Project-related studies, each as conducted by the Developer and approved by the relevant authorities and confirmed to be acceptable by the Implementing Agency in accordance with this PDA, prepare a draft of a comprehensive report (the "Potential Benefits Report") substantiating the potential [economic, social, technological and other] benefits which the Project is expected to yield to the Government and describing in detail how the Project aligns with GOL plans and policies.
- c. The Developer shall submit a completed draft of the Potential Benefits Report to the Implementing Agency for review and comment not later than [_____].
- d. The Developer shall incorporate and reflect in the Potential Benefits Report any comments of the Implementing Agency, finalize and submit the completed final version of the Potential Benefits Report to the Implementing Agency for further action in accordance with the requirements of the PDA.

(b) *Final Feasibility Study.*

- a. Prepare the Final Feasibility Study:
 - i. in full accordance with Terms of Reference of Final Feasibility Study attached in Schedule 6 of this Agreement;
 - ii. by a qualified engineering firm having extensive experience in the design of hydroelectric power projects [and confirmed in writing to be acceptable to the Implementing Agency];
 - iii. taking into account and duly reflecting all legal, economic, technological, scheduling and other critical aspects of the Project;
 - iv. in accordance with relevant Lao PDR Law;
 - v. in a manner which will ensure that the Project's development and implementation will be consistent with the policy objectives of the GOL concerning hydropower power sustainability; and
 - vi. in accordance with international standards and LEPTS.
- b. The contents of the Final Feasibility Study shall [as relevant to hydroelectric power projects] include:
 - i. topographical, hydrological, sedimentation and geo-technical studies
 - ii. project layout and optimization
 - iii. description of project components and parameters
 - iv. bill of quantity (BOQ) of all components of the Project providing details of all construction materials, fuel, other petroleum based products, steel bar, cement and other materials, goods and equipment intended to be used for the construction of the Project
 - v. infrastructure and construction planning
 - vi. construction schedule
 - vii. social and environmental aspects
 - viii. transmission line and route
 - ix. load flow studies
 - x. conceptual design

- xi. design of environmental release gate
 - xii. any construction related to irrigation
 - xiii. projection of monthly energy production
 - xiv. preliminary financial analysis for the estimation of the Project cost, and
 - xv. any other investigations, studies, reports, assessments, analyses and information that relevant Government agency/the Implementing Agency may require to be undertaken by the Developer in respect of the Project.
- c. (Maps) any and all maps used for or included in the Final Feasibility Study shall be based on Lao reference/contouring points as confirmed by the relevant GOL authority.

The Final Feasibility Study shall have two components

- Technical and Financial Feasibility Study
 1. The Developer shall prepare the Technical and Financial Feasibility Study:
 - i. in full accordance with the Terms of Reference as attached in Schedule 6 of this Agreement ;
 - ii. by a qualified [Lao] firm(s) having extensive experience in all technical and financial aspects of Lao hydroelectric power projects [and confirmed in writing to be acceptable to the Implementing Agency];
 - iii. taking into account and duly reflecting all technical, financial and other critical aspects of the Project;
 - iv. in accordance with relevant Lao PDR Law; and
 - v. in accordance with recognized international standards applicable to the planning and preparation of technical and financial assessments for hydroelectric power projects.
 2. The contents of the Technical and Financial Feasibility Study shall include:
 - i. Project Features;
 - ii. Project Layout/Feasibility Stage Design and Drawings;
 - iii. Technical, Economic and Financial results;
 - iv. Power Market Survey and Demand Forecast;
 - v. Energy Production/Output;
 - vi. Project Cost;
 - vii. Project Development and Construction Schedule ;
 - viii. Risk Analysis;
 - ix. Reservoir Operation;
 - x. Estimated project term and the life of major structures, equipment, and components, specific to the particular project;
 - xi. Estimated electricity price and market for distribution;
 - xii. Details regarding construction, installation, and commencement date of electricity supply;
 - xiii. Alternative Study and Optimization on Project Scheme; and
 - xiv. Any other assessment, analysis that the Implementing Agency or relevant Government agency deems necessary.
 3. The Developer shall undertake and provide any other technical and financial assessment(s), analysis and information that the relevant Government agency/the Implementing Agency may deem to be necessary or appropriate.

- ESIA Study
 1. The Developer shall prepare the ESIA:
 - i. in full accordance with the Terms of Reference of ESIA attached in Schedule 6 of this Agreement ;
 - ii. by a qualified [Lao] firm(s) having extensive experience in all environmental and social aspects of Lao hydroelectric power projects [and confirmed in writing to be acceptable to the Implementing Agency];
 - iii. taking into account and duly reflecting all environmental, social, socio-economic and other critical aspects of the Project;
 - iv. in accordance with relevant Lao PDR Law; and
 - v. in accordance with recognized international standards applicable to the planning and preparation of environmental and social impact assessments for hydroelectric power projects.
 2. The contents of the ESIA shall include:
 - i. comprehensive assessment (both EIA and SIA) of the entire Project-related area(s), including:
 - a. construction site(s)
 - b. camp site(s)
 - c. waste and dump site(s)
 - d. transmission line(s)
 - e. substation(s)
 - f. reservoir / pond
 - g. resettlement area(s)
 - h. watershed
 - i. proposed biodiversity offset area(s)
 - j. Any other aspect as deemed necessary by the relevant Government Agency
 - ii. Environmental release.
 3. The Developer shall invite the Implementing Agency and other Relevant Authority (ies) responsible for environmental and social matters to participate in public consultation meeting which may be organized from time to time in accordance with the ESIA procedures.
 4. The Developer shall undertake and provide any other environmental and social assessment(s), analysis and information that the relevant Government agency/the Implementing Agency may deem to be necessary or appropriate.

(a) **Basic Design.**

- a. The Developer shall establish all applicable basic design criteria, calculations, requirements and conditions for the Project deriving from, and in strict accordance with:
 - i. in full accordance with Terms of Reference of Basic Design attached in Schedule 6 of this Agreement;
 - ii. the requirements of LEPTS, ICOLD and IEC,
 - iii. any technical guidance or recommendations provided by the Implementing Agency ,
 - iv. the requirements of the Implementing Agency's then latest model Concession Agreement,
 - v. the achievement of expected Economic Life, in order to serve the long-term interests of the GOL, and
 - vi. international standards and criteria applicable to [large dam] design.

- b. The Developer shall carry out the basic design of the Project (the "Basic Design") in strict accordance with the terms of this PDA.
- c. The Developer shall notify the Implementing Agency in writing, and seek the approval of the Implementing Agency, with regard to each instance in which any aspect or element of the Basic Design of the Project may not satisfy the requirements of this PDA, and provide a complete and detailed explanation.
- d. The Developer shall make revisions to the Basic Design of the Project if so required by the Implementing Agency, in order to ensure compliance with the requirements of this PDA.

(b) ***Environmental and Social Management and Monitoring Plan.***

- a. The Developer shall prepare the EMMP:
 - i. in full accordance with any Model EMMP Terms of Reference;
 - ii. by a qualified [Lao] firm(s) having extensive experience in all environmental and social aspects of Lao hydroelectric power projects [and confirmed in writing to be acceptable to the Implementing Agency];
 - iii. taking into account and duly reflecting all environmental, social, socio-economic and other critical aspects of the Project;
 - iv. in accordance with relevant Lao PDR Law; and
 - v. in accordance with recognized international standards applicable to environmental and social management and monitoring with respect to hydroelectric power projects.
- b. The contents of the EMMP shall be as required by the Relevant Government Agency (and any further recommendations of the Implementing Agency).

(c) ***Resettlement Action Plan, Social Action Plan and Ethnic Minority Development Plan.***

- a. The Developer shall prepare each of the RAP, SAP and EMDP:
 - i. in full accordance with any Relevant Authority's Model Terms of Reference for such Plan(s);
 - ii. by a qualified [Lao] firm(s) having extensive experience in all social aspects of Lao hydroelectric power projects (including without limitation matters of resettlement, compensation, livelihood restoration, ethnic minority development, etc.) [and confirmed in writing to be acceptable to the Implementing Agency];
 - iii. taking into account and duly reflecting all environmental, social, socio-economic and other critical aspects of the Project;
 - iv. in accordance with relevant Lao PDR Law; and
 - v. in accordance with recognized international standards applicable to social aspects (including without limitation matters of resettlement, compensation, livelihood restoration, ethnic minority development, etc.) with respect to hydroelectric power projects.
- b. The contents of each of the RAP, SAP and EMDP shall be as required by the Relevant Government Agency (and any further recommendations of the Implementing Agency).

(d) ***Tariff MOU - Domestic.***

- a. The Developer shall be responsible to obtain from the Offtaker (Domestic) and to familiarize itself with the provisions of and annexes and schedules to the latest model tariff memorandum of understanding utilized by the Offtaker (Domestic), reflecting the practices and policies currently applied by the Offtaker (Domestic) to various tariff and related aspects associated with the offtake of electric power by the Offtaker (Domestic) from hydroelectric power projects in the Lao PDR.
- b. After finalization of projected monthly energy production from the Project and the determination of the proposed transmission line route of the Project which is acceptable to both MEM and the Offtaker (Domestic), the GOL shall, through a written communication

issued to the Developer by the Implementing Agency , grant to the Developer the right to negotiate the Tariff MOU - Domestic with the Offtaker (Domestic) within the scope and terms of this PDA.

- c. The Developer shall finalize the Tariff MOU - Domestic in accordance with and subject to the provisions of this PDA and the principles set forth in MEM's Decree on Domestic Tariff, provided, however, that prior to signing the Developer shall:
 - i. submit the draft final Tariff MOU - Domestic to the Implementing Agency for review and comment (if any);
 - ii. have obtained from the Implementing Agency any comments it or either of them may have as to any appropriate revisions to be made to the Tariff MOU - Domestic;
 - iii. incorporate and reflect the comments of the Implementing Agency on the draft Tariff MOU - Domestic into the final signing version of the Tariff MOU - Domestic; and
 - iv. obtain the written approval of each of the Implementing Agency and the Prime Minister to signing the Tariff MOU - Domestic.

(e) *Tariff MOU - Export.*

- a. The Developer shall finalize the Tariff MOU - Foreign in accordance with and subject to the provisions of this PDA and the Concession Agreement, and the requirements of the Offtaker (Foreign).
- b. The Developer shall, prior to signing, submit the draft final Tariff MOU - Foreign to the Implementing Agency for review and comment (if any).
- c. The Developer shall incorporate and reflect the comments of the Implementing Agency on the draft Tariff MOU - Foreign into the final signing version of the Tariff MOU - Foreign.
- d. [The Developer shall obtain the written approval of the Implementing Agency [and _____] prior to signing the Tariff MOU - Foreign with the Offtaker (Foreign).

(f) *Shareholders Agreement, Concession Agreement, EPC Contract, Financing Documents and Other Documents.*

- a. The Developer shall be responsible to prepare each of:
 - i. the Shareholders Agreement,
 - ii. the Concession Agreement,
 - iii. the EPC Contract
 - iv. the Financing Documents, and
 - v. any and all other Project-related documents

in manner, form and substance consistent with the requirements of this PDA and the Concession Agreement, and reflecting any other requirements of the GOL with respect to power projects and the entities (including the Project Company) which engage in this industry.
- b. Following its selection of the intended main EPC contractor for the Project, the Developer shall negotiate and finalize the EPC Contract / any other major construction contract(s) for the Project:
 - i. based on internationally recognized standards and principles;
 - ii. containing key features such as competitive bidding (or open-book basis), guaranteed performance criteria, maximum contract prices, guaranteed completion dates, guaranteed life of all civil, electromechanical parts / equipment and associated auxiliaries, liquidated damages, performance incentives, management of environmental impacts, management of social impacts, other sustainability considerations, etc.; and
 - iii. in coordination with and properly taking into account and reflecting:
 1. the approved Basic Design; and

- 2. the allocation of design, construction and completion risks as set forth in this PDA and the Concession Agreement.
 - iv. The EPC Contract / major construction contract(s) and other construction documents for the Project shall be subject to the written approval of the Implementing Agency.
 - v. The Developer shall commence negotiations on the draft EPC Contract / major construction contract(s) and other construction documents immediately after [the signing of both the Tariff MOU - Domestic and the Tariff MOU - Foreign] and [the completion of the Basic Design].
- (g) **Financing Documents.** Following its selection of the intended Lenders for the Project, the Developer shall negotiate and finalize the Financing Documents for the Project, based on internationally recognized standards and principles.
- a. The Financing Documents shall:
 - i. contain provisions consistent with the project financing of hydroelectric power projects in the Lao PDR;
 - ii. be coordinated with and properly take into account and reflect any pertinent terms and conditions of this PDA and the Concession Agreement; and
 - iii. be subject to the written approval of the Implementing Agency .
 - b. The Developer shall commence negotiations on the draft Financing Documents immediately after [the signing of both the Tariff MOU - Domestic and the Tariff MOU - Export] and [the completion of the Basic Design].
 - c. The GOL reserves the right to attend any and all negotiations on the Financing Documents, as and when it may deem appropriate. The Developer shall provide the Implementing Agency with advance notice of any planned negotiations with Lenders concerning the Financing Documents.
- (h) **PPAs.**
- a. The Developer shall be responsible to obtain from each Offtaker and to familiarize itself with the provisions of and annexes and schedules to the latest model power purchase agreements utilized by such Offtaker and reflecting the practices and policies currently applied by that Offtaker to the offtake of electric power from independent hydroelectric power projects in the Lao PDR.
 - b. The Developer shall use all reasonable, good faith efforts to advance PPA negotiations expeditiously so as to allow the signing of each PPA by the Project Company and the respective Offtaker immediately following the signing of the Concession Agreement (subject to having first received any comments of the Implementing Agency on any draft PPA that is proposed to be signed).
 - c. The signing of the domestic offtake PPA between the Project Company and the Offtaker (Domestic) shall be subject to the prior written approval of the GOL in accordance with this PDA and any applicable Lao PDR Law.
- (i) **Operation and Maintenance Agreement.**
- a. If the Developer has decided that the Project Company will not itself carry out the operation and maintenance of the Project and instead will engage an operation and maintenance contractor to carry out such work, the Developer shall promptly advise the Implementing Agency in writing as to such decision and shall negotiate and finalize the operation and maintenance agreement for the Project by any deadline that may have been agreed between the GOL and the Developer during the course of Concession Agreement negotiations.
 - b. The Developer and the operation and maintenance contractor shall mutually agree as to which party will be responsible for preparing the initial draft operation and maintenance agreement

for use with the Project and how such documentation will be negotiated and finalized, provided, always, that the operation and maintenance agreement shall:

- i. contain key features such as competitive bidding (or open-book basis), guaranteed performance criteria, maximum contract prices, guaranteed completion dates, guaranteed life of all civil, electromechanical parts / equipment and associated auxiliaries, liquidated damages, performance incentives, management of environmental impacts, management of social impacts, other sustainability considerations, etc.;
 - ii. be coordinated with and properly take into account and reflect the final Project design and contracted operating characteristics and all other relevant technical parameters; and
 - iii. be subject to the written approval of the Implementing Agency.
- c. The operation and maintenance agreement (if any) for the Project shall:
- i. be based on internationally recognized standards and principles;
 - ii. comply with the relevant terms and conditions of this PDA, the Concession Agreement and any PPA; and
 - iii. have as a counterparty to the Project Company, an operation and maintenance contractor incorporated in the Lao PDR, nominated by the Project 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 PDA, the Concession Agreement and each PPA, and sufficient financial resources to meet its contractual obligations under the operation and maintenance contract.

(j) *Other Documents.*

Other Project-related documentation shall be drafted by the most appropriate Party or party, as the case may be, provided, however, that the GOL reserves the right to draft any portion of the Project Documents to the extent that, in the opinion of the GOL, such portion relates to:

- i. any right or obligation of the GOL;
- ii. the sovereignty of the Lao PDR;
- iii. the position of the Lao PDR as the host country of the Project; or
- iv. any national interest of the Lao PDR.

SCHEDULE 8: FORM OF GUARANTEE

To: **The Government of the Lao People's Democratic Republic**
acting for and on behalf of the Lao PDR (the "GOL"), care of:

Department of _____
Ministry of Energy and Mines (the "Nominated Representative")
Nong Bone Road
Vientiane Lao PDR
Facsimile: 856 [_____]]
Attention: Director General

[Date]

Sirs,

[_____] **Project – PDA Guarantee**

Bank Guarantee No. [_____]

We, [_____ *name of Bank issuing the Guarantee*] (the "**Bank**"), hereby issue in favour of the GOL this irrevocable bank guarantee no. [_____] (the "**PDA Guarantee**") for the account of [_____] Power Co., Ltd. (the "**Company**") as the bank guarantee required to be put in place pursuant to Article 6 of the project development agreement (the "**PDA**") dated [_____] and made between the GOL and the Company, on the following terms and conditions. Under the PDA, the GOL authorizes the Company, subject to compliance by the Company of its obligations under the PDA, to take various actions in furtherance of the development of a [hydroelectric] power project in Lao PDR. The purpose of this PDA Guarantee is to secure certain obligations of the Company under the PDA up to a maximum amount equal to [_____].

1. When used in this PDA Guarantee, the term "**Banking Day**" shall mean a day (other than a Saturday or a Sunday) when banks are open for domestic and foreign exchange business in [_____ *Issuing Office city*] and New York.
2. This PDA Guarantee shall come into effect on the date of issue hereof and shall be irrevocable, remaining in full force and effect until [_____], at which time (the "**Expiry Date**") the obligations of the Bank under this PDA Guarantee shall, subject to paragraph 10 below, cease with no further liability on the part of the Bank. When the Bank is no longer under any obligation under this PDA Guarantee, the GOL shall return the original of this PDA Guarantee to the Bank.
3. This PDA Guarantee is drawable by the GOL at any time and from time to time, in multiple drawings without limit in number.
4. The maximum amount drawable at any one time by the GOL under this PDA Guarantee (the "**Available Drawable Amount**") shall be the lesser of: (a) United States Dollars _____ (US\$ _____); and (b) the then available drawable amount (being the original amount as adjusted for reductions in respect of any Demands paid by the Bank hereunder, and for increases in respect of any replenishments effected by the Company) to satisfy any Demand by the GOL.
5. Demands for drawings under this PDA Guarantee must be made on a Banking Day prior to the Expiry Date by the GOL delivering, in person, by post or by fax, by no later than 11:00 a.m.

(_____ [insert Issuing Office city] time) on that Banking Day to the Bank at its office (its “**Issuing Office**”) at [_____ Issuing Office address] (or such other address of the Issuing Office in [_____ insert Issuing Office city] as the Bank by not less than five (5) Banking Days written notice may notify to the GOL and the Company) a notice of demand from the GOL in the form set out in Annex A to this PDA Guarantee (“**Annex A**”) duly completed and signed by the Nominated Representative for the GOL as required thereunder (a “**Demand**”).

6. No Demand shall be accepted under this PDA Guarantee if the Available Drawable Amount would, as a result of that acceptance, be a negative number. A Demand may not be given after the Expiry Date.
7. A Demand may not be given if the aggregate of the amount to be paid under that Demand, taken together with all other amounts which have been claimed and already paid under this PDA Guarantee, would exceed [_____].
8. The Bank shall: (a) treat each Demand as conclusive evidence of the matters stated therein; (b) be bound by, and shall honour without delay, any Demand which on its face satisfies all of the requirements of this PDA Guarantee applying to that Demand; and (c) pay to the GOL the amount of any Demand which the Bank is so bound by and required to honour, in United States Dollars in immediately available and freely transferable funds, to such account at such bank as the GOL may specify in that Demand within two (2) Banking Days following the day on which that Demand is received by the Bank.
9. If a Demand under this PDA Guarantee does not on its face satisfy all of the requirements of this PDA Guarantee, then the Bank shall promptly notify the GOL through the Nominated Representative at its address specified above of the discrepancies whereupon the GOL shall be entitled to correct that Demand so that it is in accordance with this PDA Guarantee and to redeliver the same hereunder.
10. The expiry of this PDA Guarantee in accordance with paragraph 2 above shall not affect the obligation of the Bank to pay any unpaid Demand duly submitted by the GOL in accordance with this PDA Guarantee prior to such expiry.
11. Within ten (10) days after: (a) each payment to you of a drawing pursuant to a Demand, and (b) each replenishment of this PDA Guarantee by the Company, as the case may be, we will inform you, by notice to your Nominated Representative at the above address, of the amount of the remaining balance of Available Drawable Amount.
12. This PDA Guarantee: (a) is irrevocable and shall not be assigned or transferred, whether by way of sale or security or otherwise, by the GOL; (b) to the extent permitted by applicable law, is subject to the Uniform Rules for Demand Guarantees (International Chamber of Commerce, Publication No. 758 –2010) (“**URDG 758**”) unless any provision of URDG 758 is inconsistent with any term or condition of this PDA Guarantee in which case that term or condition of this PDA Guarantee shall prevail over that URDG 758 provision; and (c) shall be read and construed in accordance with its terms independently of, and without reference to, the PDA and shall not in any way be modified, amended or restricted by anything contained in the PDA.
13. This PDA Guarantee is governed by, and shall be construed in accordance with, [_____] law.

Yours faithfully

Authorised Signatory
for and on behalf of
[Bank]

[_____] PDA Guarantee

ANNEX A

Form of Demand under [_____] PDA Guarantee

[Bank]

[Address]

Attention: []

[Date]

Sirs

[_____] Project - [_____] PDA Guarantee

Irrevocable Bank Guarantee No. [_____] dated [_____]

We refer to your above bank guarantee issued by you (the “[_____] PDA Guarantee”).

- 1 Terms used in this letter (“**Demand**”) shall have the same meanings used for them in the [_____] PDA Guarantee.
- 2 Pursuant to paragraph [5] of the [_____] PDA Guarantee, we hereby make this Demand for the payment by you under the [_____] PDA Guarantee of the amount of US\$ [_____] (the “**Demanded Amount**”) to be paid to us to the account no. [_____ *insert account details*] in the name of [_____ *insert account details*] at [_____ *insert New York bank details*] [for credit to the account no. [_____ *insert account details*] in the name of [_____ *insert account details*] at [_____ *insert name of bank in the non-New York jurisdiction with which the account is maintained*]] within two (2) Banking Days of the date of this Demand.
- 3 For the purpose of this Demand, we hereby certify to you that:
 - (a) the Demanded Amount comprises [_____ *insert details*] in respect of the period from [_____] to [_____] (inclusive);
 - (b) the calculations of the Demanded Amount appearing in the Schedule to this Demand are true and correct;

- (c) the GOL, under the terms of the PDA, is entitled to make and issue this Demand on you in respect of the Demanded Amount;
- (d) the Demanded Amount has not been the subject of any previous demand which has been met under the [_____] PDA Guarantee;
- (e) the Demanded Amount, when aggregated with all other amounts which have been claimed and paid under the PDA Guarantee will not exceed [_____
_____];
- (f) the date of this Demand is not later than the Expiry Date; and
- (g) the GOL is not otherwise precluded under the PDA from making this Demand on you.

4 The person signing this demand for the GOL certifies that he has been duly authorised by the GOL to do so.

SCHEDULE

Calculation of the Demanded Amount for the purposes of paragraph 3(b)

[Insert calculation details]