



POWER PURCHASE AGREEMENT

BETWEEN

TC'S ENERGY LIMITED

AND

ELECTRICITY COMPANY OF GHANA LIMITED

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THE AGREEMENT

THIS POWER PURCHASE AGREEMENT ("PPA") is made on the 14th day of JULY in the Year of Our Lord Two Thousand and Fourteen (2014)

BETWEEN

- (1) **TC'S ENERGY LIMITED** a Limited Liability Company registered under the Laws of Ghana, and acting per its Chief Executive Officer, of P. O. Box CO 756, Tema (hereinafter referred to as the "Seller" which expression shall, where the context so admits or requires, includes its successors, agents and assigns) of the one Part and
- (2) **ELECTRICITY COMPANY OF GHANA LIMITED** a Limited Liability Company registered under the Laws of Ghana, and acting per its Managing Director of P.O. Box GP 521, Accra (hereinafter referred to as the "Buyer" which expression shall, where the context so admits or requires, includes its successors agents and assigns) of the other Part.

WHEREAS: The Buyer is granted a permit by the Energy Commission under the Energy Commission Act 1997, (Act 541) to distribute and sell Electrical Energy; and

WHEREAS: The Seller is licensed (License No: EC/GWSL/10-13-023) by the Energy Commission under the Energy Commission Act 1997, (Act 541) and is engaged in the production and sale of renewable Electrical Energy; and

WHEREAS: The Seller has submitted a proposal to the Buyer for the sale of Electrical Energy from a sea wave and tidal power production facility in Ada, Ghana; and

WHEREAS: The Seller's sea wave and tidal power production project and tender of Electrical Energy for sale is recognised as a Renewable Energy Producer by the Energy Commission and in compliance with the Renewable Energy Law of 2011; and

WHEREAS: The Buyer is permitted to purchase Electrical Energy under the applicable laws and regulations of the Republic of Ghana; and

WHEREAS: The Seller proposes to sell and to deliver, and the Buyer has agreed to purchase and to accept delivery of, the offered Electrical Energy to be produced by the Seller, all pursuant to the terms and conditions as set forth in the PPA.

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NOW THEREFORE THE PARTIES TO THIS CONTRACT AGREE AS FOLLOWS:

1.0 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, the following words and phrases shall have the meanings given to them below:

“Act”: means the Energy Commission Act, 1997, Act 541, as may be amended from time to time;

“Agreement”: means this Power Purchase Agreement, inclusive of all Schedules; Appendices; Annexes; as may be amended or supplemented from time to time as provided herein;

“Annual Contract Volume”: means the estimated volume of energy agreed by the Parties to be delivered to in the relevant Contract Year as detailed in Schedule 7;

“Annual Energy”: means the aggregate of net electrical output of the facility within a calendar year;

“Arbitrator”: means an arbitrator appointed in accordance with the dispute resolution procedure set out in Clause 22;

“Authorisation”: means any approval, consent, licence, permit, authorisation or other permission granted or to be granted by a Government Authority required for the enforcement of rights or performance of obligations under this Agreement by a Party;

“Authorised Person”: means, in the case of the Seller, the person nominated from time to time to represent the Seller;

“Billing Period Invoice”: means a monthly invoice from the Seller to the Buyer setting forth payments due in accordance with Clause 8;

“Buyer”: means Electricity Company of Ghana Limited;

“Change in Law”: means the occurrence of any of the following after the execution of this Agreement:

- a) The enactment of a new Ghanaian law;
- b) The repeal or modification or re-enactment of any existing Ghanaian law;
- c) The commencement of any Ghanaian law which has not yet entered into effect;
- d) A change in the interpretation or application of any Ghanaian law by any Governmental Authority having direct authority for its interpretation or application;
- e) The imposition by a Governmental Authority of a requirement for any authorisation which did not exist at the date of this Agreement which establishes a material increase or material reduction in revenue as a consequence of any requirement for the design, construction, financing, ownership, operation or maintenance of the Project that is materially more restrictive than the most restrictive requirements (i) in effect as of the date of this Agreement (ii) specified in any connection with such application for any Authorisation;

"Check Meter" – means any of the check meters owned, operated and maintained by the Buyer at the Points of Delivery to check the Metered electrical energy. The Check Meter is more specifically identified and described in Schedules 2;

"Commencement Date": means the date in which each facility is commissioned for operation;

"Commercial Operation Date" or "COD": means the date that the Seller notifies the Buyer the Facility is Commissioned and Available for operation, which notice shall include the Commissioning Test Report and refer to clause 8.3.;

"Contracted Capacity": means the sum of the Stage 1 Unit Contracted Capacity, Stage 2 Unit Contracted Capacity, Stage 3 Unit Contracted Capacity, Stage 4 Unit Contracted Capacity, Stage 5 Unit Contracted Capacity and Stage 6 Unit Contracted Capacity being approximately One Thousand Megawatts (1,000) MW;

"Consequential Loss": means all losses, costs and financial harm not directly (whether or not foreseeable) resulting from any breach by a Party of its obligations hereunder;

"Contract Year": means the period from 1st January in any year until and including 31st December in the same year, or as the Parties may agree in writing;

"Day" or "day": means a period of twenty-four (24) Hours beginning at 00:00 Hours on a day and ending at 24:00 Hours on that day;

"Dispatch Instruction": means an instruction given by ETU to dispatch the generating station forming part of the Project;

"Dispatch Schedule": means a schedule showing the periods when the Seller's power station is expected to be dispatched;

"Distribution System": means the distribution system below 161KV including but not limited to all distribution lines and equipment, transformers and associated equipment, relay and switching equipment and protective devices and safety and communications equipment owned and/or operated by the Buyer;

"Due Date" in relation to any Invoice means the forty-fifth (45th) day after the Invoice is received by the Buyer (or, if that day is not a Working Day, the immediately following Working Day);

"Effective Date": means the date on which all of the conditions set forth in Clause 3.1 have been satisfied or waived by the Parties;

"Emergency Conditions": mean conditions giving rise to an emergency as defined in the Grid Code of the Republic of Ghana;

"Environmental Attributes": means all municipal, regional or national issued offsets, allowances, Renewable Energy Certificates, carbon credits, Green-certifications, investment tax credits, production tax credits or other credits, entitlements, products, certificates or valuations earned by or in connection with, or otherwise attributable to, (a) the Project, (b) the electricity produced by the System, or (c) the System's displacement of conventional energy generation under or with respect to any state or federal renewable portfolio standards, including, without limitation, the renewable portfolio standards of Ghana laws or regulations that provide offsets, allowances, or credits related to emissions or electricity generation;

"Electrical Energy": means electricity measured in MWh delivered by the Seller to the Buyer;

“Energy Commission”: means the Energy Commission established under the Act;

“ETU” means the prevailing Electricity Transmission Utility in its capacity as the operator of the National Interconnected Transmission System (NITS) in accordance with the Grid Code;

“Event of Default”: means an event constituting grounds on which a Party may terminate this Agreement, as set out in Clause 19;

“Facility”: means the Seller’s power station to be built near Ada, Ghana, comprising the Stage 1 Unit, the Stage 2 Unit, Stage 3 Unit, Stage 4 Unit, Stage 5 Unit and the Stage 6 Unit, and all associated equipment of the Seller’s Swedish origin sea wave and tidal energy generation plant used for the production of electricity;

“Feed-In-Tariff (“FIT”): means the approved price by the PURC for the electricity generation from the sea wave and tidal energy facilities and shall have the meaning ascribed to such term in Clause 8.1 (b);

“Force Majeure Event”: means an event constituting Force Majeure as defined under Clause 20;

“Ghc”: means the currency that is the legal tender of the Republic of Ghana;

“Governmental Authority”: means any department, authority, instrumentality, agency or other relevant entity from which an Authorisation is to be obtained from time to time and any authority, body or other person having jurisdiction under the Laws of Ghana with respect to the Seller;

“Gigawatt hours” (“GWh”): means one thousand megawatt hours of Electrical Energy;

“GridCo”: refers to the company established in accordance with the Energy Commission Act, 1997, (Act 541) and the Volta River Development (Amendment) Act, 2005 Act 692, which is the current operator of the NITS;

“Grid Code”: means the existing National Electricity Grid Code, Republic of Ghana, as may be amended from time to time which contains the technical and operational rules of practice and standards of performance developed and approved by the Board of Energy Commission to facilitate the operations related to the bulk transmission of electricity within the NITS;

“Grid Point”: means the connection stud of the last line side isolator located on the NITS of the Buyer;

“Hour”: means each continuous period of sixty (60) minutes commencing with the first minute of each of the twenty-four (24) denominated hours in any Day;

Independent Power Producers” (“IPPs”): mean power and energy producing companies;

“Interconnection Point”: means the location where the Seller System interconnects with the National Interconnected Transmission System;

“kV”: means kilovolts or 1,000 volts;

“kW”: means a kilowatt or 1,000 watts;

“kWh”: means one (1) kilowatt hour or one unit;

“Laws of Ghana”: means the laws of Ghana and all orders, rules, regulations and judgments as may be modified or amended from time to time;

“Legal Requirement”: means any requirements established under any statute, law, regulation or other legislation, order or directive emanating from any Governmental Authority of the Republic of Ghana, in respect to the Seller;

“LIBOR”: means the London Inter-Bank Offered Rate of interest for three-month deposits of Euro-Dollars displayed on page “LIBOR01” of the Reuters Money Rates Service (or any other page that replaces “LIBOR01” for the purpose of displaying the British Bankers Association (“BBA”) interest settlement rates for such deposits of Euro-Dollars in the London Inter-Bank market) on the date of determination, or in the event that the Reuters Money Rates Service, or any successor thereto, no longer provides such information, such other service as may be agreed by the Buyer and the Seller that provides the BBA interest settlement rates for such deposits of Euro-Dollars in the London Inter-Bank market and any other information previously provided on the page “LIBOR01”;

“Liquidated Damages” means an on demand development bond drawn on an internationally recognised bank or a recognised bank in Ghana acceptable to the Buyer and/or in a form agreed by both parties.

“Main Meter”: means main meter and associated metering equipment owned, operated and maintained by ETU at the Point of Delivery and used to measure and record Metered electrical energy at the Point of Delivery. The Main Meter is more particularly identified and described in Schedule 2;

“Market Operator”: means special purpose individual entity charged with conducting wholesale transaction (bids and offers) of electricity;

“Metered Electrical Energy”: is the electricity (expressed in MWh), as recorded by the Main Meter or the Check Meter or estimated and computed in accordance with Schedule 3;

“Metering System”: means the Main Meter and the Check Meter and all associated equipment;

“Month”: means a calendar month;

“Must Run Facility”: means the Seller has the operating control over the amount and timing of Electrical Energy to be generated by the facility, subject only to emergencies and such directions as may be issued by the Buyer for the protection of its electrical system;

“MW”: means a megawatt or 1000 kilowatts or 1,000,000 watts;

“MWh”: means one (1) megawatt hour;

“National Interconnected Transmission System” (“NITS”): means the electric high voltage transmission system, including but not limited to all transmission lines and equipment, transformers and associated equipment, relay and switching equipment and protective devices and safety and communications equipment owned and/or operated by the ETU and required for the performance by ETU of its obligations under this Agreement;

“Notice of Intent to Terminate”: shall have the meaning ascribed thereto in Sub-clause 20.1;

“Safety Operational Procedures”: means the detailed procedures for switching in the electric system to be developed by the Parties and to be attached to the PPA, described under Section 33;

“Party” or “Parties”: means the entities executing this PPA;

“Performance Bond” means an on demand performance bond in an amount of USD20,000,000 drawn on an internationally recognised bank or a recognised bank in Ghana acceptable to the Buyer and/or in a form agreed by both parties.

“Point of Delivery”: has the meaning set out in Clause 5.2;

“Point of Supply”: has the meaning set out in Clause 5.1;

“Power Factor”: means the cosine of an angle whose tangent is a ratio of reactive power to active power;

“Prudent Operating Practice”: means generally accepted industry operating and maintenance practices as required by the Grid Code and other Regulations;

“PURC”: means Public Utility Regulatory Commission of the Republic of Ghana;

“Renewable Energy Certificate” or “REC”: means a certificate, credit, allowance, green tag or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a specified quantity of energy from a renewable energy source by a renewable energy facility;

“SCADA”: means Supervisory Control And Data Acquisition, in the context of this Agreement being a system that allows an electric system operator to remotely monitor and control elements of an electric system and retrieve data recorded by the Metering System;

“Schedules”: means the schedules attached to this Agreement and forming an integral part of this Agreement;

“Scheduled Outage”: means the interruption of the flow of Energy as a consequence of the disconnection of generation or transmission facilities in a previously scheduled program;

“Stage 1 Unit” means the 3 - 5MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment and auxiliary equipment, but excluding the Stage 2 Unit, Stage 3 Unit, Stage 4 Unit, Stage 5 Unit and the Stage 6 Unit;

“Stage 2 Unit” means the 200MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment, auxiliary equipment and Stage 1 Unit equipment, but excluding the Stage 3 Unit, Stage 4 Unit Stage 5 Unit and the Stage 6 Unit;

“Stage 3 Unit” means the 400MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment and auxiliary equipment, the Stage 1 Unit and Stage 2 Unit equipment, but excluding Stage 4 Unit, Stage 5 Unit and the Stage 6 Unit;

“Stage 4 Unit” means the 600MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment, auxiliary equipment, Stage 1 Unit, Stage 2 Unit, and the Stage 3 Unit equipment but excluding the Stage 5 Unit and the Stage 6 Unit;

“Stage 5 Unit” means the 800MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment, auxiliary equipment, Stage 1 Unit, Stage 2 Unit, Stage 3 Unit and the Stage 4 Unit equipment but excluding the Stage 6 Unit;

“Stage 6 Unit” means the 1,000MW rated sea/tidal wave turbine generator and associated equipment to deliver Capacity and Energy to the Buyer, including all other related energy producing equipment, auxiliary equipment, Stage 1 Unit, Stage 2 Unit, Stage 3 Unit, Stage 4 Unit and the Stage 5 Unit;

"Stage 1 Unit Contracted Capacity" means 3 - 5MW from the Commercial Operation Date;

"Stage 2 Unit Contracted Capacity" means approximately 200MW from the Commercial Operation Date;

"Stage 3 Unit Contracted Capacity" means approximately 400MW from the Commercial Operation Date;

"Stage 4 Unit Contracted Capacity" means approximately 600MW from the Commercial Operation Date;

"Stage 5 Unit Contracted Capacity" means approximately 800MW from the Commercial Operation Date;

"Stage 6 Unit Contracted Capacity" means approximately 1,000MW from the Commercial Operation Date;

"Seller System": means the electric power network, the lines, equipment and associated protective devices, safety and communication equipment owned by the Seller.

"Supply Period": means the period commencing on the first Commercial Operations Date and concluding on the expiration of the Term or the earlier termination of this Agreement;

"Supply Point": means point at which the Seller delivers Electrical Energy to the ETU to be delivered at the Point of Delivery of the Buyer;

"Term": has the meaning ascribed thereto in Clause 2;

"Termination Notice": shall have the meaning ascribed thereto in Sub-clause 20.2;

"Unscheduled outage": means any interruption in the flow of Energy due to a fault or defect of the facility that results in an immediate disconnection of the facility, or as soon as the manoeuvre of the electric systems allows;

"US Dollars" or "US \$": the lawful currency of the United States of America;

"Working Day": means any Day of the week other than a Saturday or Sunday, or other day on which banking institutions are required by law to remain closed;

1.2 Interpretation

In this Agreement:

1.2.1 References in the singular shall include references in the plural and vice versa, and words denoting natural persons shall include corporations and any other legal entity and vice versa;

1.2.2 References to the word "including", "includes" and "include" are deemed to be followed by the words, "without limitation";

1.2.3 Except to the extent that the context requires reference to a particular Clause, Sub-clause or Schedule shall be references to that Clause, Sub-clause or Schedule in or to this Agreement;

1.2.4 Except to the extent that the context requires any reference to "this Agreement" or any other agreement or document is a reference to it as amended, supplemented or notated from time to time and

includes a reference to any document which amends, is supplemental to, notates, or is entered into, made or given pursuant to or in accordance with any terms to it;

1.2.5 The headings and paragraph numbers are inserted for convenience only and are to be ignored for the purposes of construction;

1.2.6 Calculations carried out pursuant to this Agreement will be rounded to four (4) decimal places; and

1.2.7 The language of negotiation of this Agreement has been English, this Agreement is executed in English, and this English text shall prevail for the purposes of determining the intention of the Parties and in any construction of this Agreement.

1.2.8 Capitalized terms used in this Agreement shall have the same meaning specified in Section 1.1 (*Definitions*).

1.2.9 The words "herein", "hereby", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to a particular section or subsection of this Agreement.

1.2.10 References to this Agreement shall include a reference to all appendices, annexures, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

1.2.11 References to any agreement, document or instrument shall mean such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time, but only to the extent such amendment, modification, supplement or replacement is not prohibited by the terms of this Agreement.

2.0 TERM/DURATION OF AGREEMENT

2.1 This Agreement shall continue in force and effect for a period of Twenty (20) years following from the Effective Date, unless earlier terminated or extended in accordance with the terms of this Agreement.

3.0 CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT

The obligations in Sections 3.1 (*The Seller Conditions Precedent*) and Sections 3.2 (*The Buyer Conditions Precedent*) shall be binding on the Parties from the Signature Date. Each Party shall use all reasonable endeavours to satisfy the Conditions Precedent for which it is responsible prior to the Effective Date. A Party for whose benefit a Condition Precedent is given may waive the requirement for the satisfaction of that Condition Precedent prior to the Effective Date. Any such waiver shall be made in writing and signed by the Party giving the waiver. The Parties shall jointly certify the achievement of the Effective Date within five (5) Business Days after the occurrence of same.

3.1 The Seller Conditions Precedent

- (a) The Seller shall have been granted by and received in writing from the relevant regulatory or governmental bodies, all required Consents and approvals necessary for operation of and sale of electricity from the Facility;
- (b) The Seller shall have received the Connection Agreement;
- (c) The Seller shall have received certified true copies of the constitutional documents of the Buyer;

- (d) The Seller shall have received certified true copies of resolutions adopted by the Buyer's Board of Directors authorising the execution, delivery and performance by the Buyer of this Agreement;
- (e) The Seller shall have received an applicable feed in tariff from the Public Utilities Regulatory Commission, providing for rates and terms of service in accordance with this Agreement;
- (f) The Seller shall have received from the Energy Commission a permit for construction and a license to operate the power plant
- (g) The Seller shall have delivered to the Buyer a written notice confirming that the Effective Date has occurred.

3.2 The Buyer Conditions Precedent

- (a) The Buyer shall have received certified true copies of the constitutional documents of the Seller;
- (b) The Buyer shall have received certified true copies of resolutions adopted by the Seller's Board of Directors authorising the execution, delivery and performance by the Seller of this Agreement;
- (c) The Buyer shall have received a notice from the Public Utilities Regulatory Commission, of the applicable feed-in-tariff (including with respect to adjustments from time to time) in this Agreement pursuant to the terms of the Sellers generation licence;
- (d) The Buyer shall have received the written notice from the Seller confirming that the Effective Date has occurred.

3.3 Either Party may terminate this Agreement by giving written notice to the other Party if any of the Conditions Precedent has not been satisfied or waived twenty-four (24) months after the Signature Date, provided that if the Seller is satisfying agreed project milestones shown in Schedule 6 and proceeding diligently with its obligations under this Agreement then the Buyer shall not be entitled to terminate this Agreement pursuant to the foregoing provisions of this Clause unless the Buyer has paid all verifiable costs incurred by the Seller in meeting its obligations prior to the date of termination.

3.4 Subject to clause 3.3, if this Agreement is terminated due to the failure of the Effective Date to occur, neither Party shall have any liability to the other Party whatsoever.

4.0 SALES AND PURCHASE OF ENERGY

4.1 With effect from the Commercial Operations Date, the Seller shall, during the term of this Agreement, supply and sell Electrical Energy to Buyer at Point of Delivery on the NITS as indicated in Clause 5, and the Buyer shall take and purchase the same from the Seller under the terms and conditions of this Agreement.

4.2 The Buyer shall make its own arrangement with the ETU for the transmission of the Electrical Energy from the Point of Delivery to the Buyer.

4.3 Starting from the Commercial Operation Date of the first unit, the Buyer is obligated to buy all energy produced. The Buyer shall pay the agreed feed-in-tariff (as specified in Schedule 1 (*Determination of Rates*)) corresponding to the energy that is not taken by the Buyer, but that is produced by the Seller according to the Energy Production Program for the corresponding month.

4.4 The Annual Energy and Monthly Energy used to define the price of the Energy sold under this Agreement is 8,072.3GWH and 672.7GWH respectively.

4.5 In the event that a Market Operator, independent from the Seller or the Buyer, is put in place, the determination of the portion of the Annual Energy scheduled to be delivered on each day of the week ahead shall be made by the Market Operator.

4.6 The Parties hereby declare and recognize that the Energy contracted pursuant to the PPA is sole object of this PPA and that any other profits or charges that may be generated by the sea/tidal wave Facility belong to the Seller, unless otherwise noted in Section 30.2.

5.0 POINT OF SUPPLY AND DELIVERY

5.1 The point of supply shall be the transmission pole that shall be immediately adjacent to the facility and the Seller's connection at the Seller's switchyard ("Connection Point").

5.2 The ownership of and the risk of loss to the Energy delivered in accordance with this Agreement shall pass from the Seller to the Buyer at the Delivery Point.

5.3 The Seller shall ensure that its Interconnection Agreement with the ETU is in accordance with the existing Grid Code and any amendment thereto.

5.4 The Seller shall provide information to the ETU, on its availability and the expected Dispatch Schedule for its generating facilities in a format and frequency as may reasonably be requested by the ETU.

5.5 In accordance with the information provided under Clause 5.4, the Seller shall dispatch the generating facilities and deliver Electrical Energy to the Point of Supply, subject to clause 5.6.

5.6 Under Emergency Conditions, the Seller shall dispatch the generating facilities in accordance to with Dispatch Instructions provided by the ETU.

6.0 ANNUAL ENERGY REPORTING OF SELLER

6.1 The Seller shall prepare an Annual Energy Production Program which shall consist of two each of six (6) months' production programs to be commenced on January 1 and July 1 of each year. Production programs shall be based upon net production. The Seller shall inform the Buyer of the Annual Energy Production Program relating to energy to be produced during the year, including Unit Commercial Operating Dates of each unit, no later than November 30th of the preceding year.

6.2 The Annual Program shall contain the following:

- Estimated average energy production by the facilities on an annual, and monthly basis.
- Annual load curve not including forced outages
- Anticipated level of forced outages (for information only)
- The dates and estimated commencement and termination hours for maintenance pursuant to a maintenance schedule.

6.3 The Buyer may request revisions to the maintenance schedule proposed by the Seller in the Annual Program in order to accommodate the annual load and maintenance requirements of the NITS and other power plants connected to the NITS. The Buyer may not request revisions which inhibit the Seller to comply with maintenance requirements of the facilities, or to comply with applicable laws and regulations and the terms of this Agreement. The Buyer shall utilize its best efforts to accommodate the generation and maintenance requirements of the facilities, at

least as much as the generation and maintenance requirements of other power plants connected to the NITS.

- 6.4 Within 30 days following the end of each fiscal year during the Commercial Operations of the facilities, the Seller shall submit to the Buyer the annual report relating to the plant(s) operations and statistical data of the facilities for the previous year.

7.0 MONTHLY ACTIVITY REPORT

- 7.1 The Seller shall prepare monthly activity reports for the Facility covering the activities for the previous month by the first week of each month and the Commercial Operation Date and shall submit the same to the Buyer.
- 7.2 The Seller represents and warrants that as of Commercial Operation Date it will have installed capacity sufficient to meet the production per the Annual Energy Production Program. Thereafter, not less than 30 days before the end of each Contract Year, the Seller shall confirm in writing with the Buyer that it continues to have sufficient power and energy to satisfy the production per the Annual Energy Production Program.

8 COMMISSIONING AND COMMERCIAL OPERATION DATE

8.1 Buyer Cooperation

The Buyer shall cooperate with the Seller so as to enable the Seller to Commission the Facility in accordance with this Section 8 (*Commissioning and Commercial Operation Date*) and, in particular will, subject to any constraints on NITS, assist in managing the interface with the ETU in respect of the connection to NITS and otherwise facilitate in terms of dispatch or providing the requisite load to the extent reasonably required by the Seller for such purposes.

8.2 Commissioning Tests

- (a) Prior to the Commercial Operations Date, procedures for the Commissioning Test shall be agreed between the Seller and the Buyer.
- (b) The Seller shall give the Buyer no less than 10 Days' notice of the date of each Commissioning Test and the Buyer shall have the right to attend and witness the Commissioning Tests.
- (c) The Seller shall provide to the Buyer in respect of the Facility a Commissioning Notice that includes the Certificate of Approval to Connect received from the ETU pursuant to the Connection Agreement.

8.3 Commercial Operation Date

The Facility shall be commissioned and the Commercial Operations Date shall occur on the Day following the issuance of the Commissioning Test Report confirming the Capacity of the Facility at Stage 6 Unit.

8.4 Liquidated Damages

- (a) The Buyer should cooperate with the Seller so as to enable the Seller to commission the Facility subject to any constraints on the NITS, and in managing the interface with the ETU in respect of the connection to the NITS and otherwise facilitate in terms of dispatch or providing the requisite load to the extent reasonably required by the Seller for such purposes.
- (b) In the event that the Commercial Operation Date does not occur by the Scheduled Commercial Operation Date, liquidated damages shall be payable by the seller to the buyer at a rate of USD 200,000 per day for each day that the Commercial Operation

Date is delayed beyond such date and the Buyer shall have the right to draw from the Performance Bond the amount of the liquidated damages.

8.5 Performance Bond

- (a) On or prior to the Effective Date and with effect therefrom the Seller shall provide to the Buyer the Performance Bond of twenty million United States Dollars (USD20,000,000) issued by a reputable bank acceptable by the Buyer.
- (b) Unless payment in full of the Performance Bond is earlier demanded by the Buyer under Section 8.5(a) and paid, the Performance Bond shall continue in force until three months after the date on which Commissioning Certificate has been delivered and the liability for liquidated damages calculated by the Seller and stated in a letter to the Buyer and immediately thereafter the Performance Bond shall be deemed to have elapsed and shall be returned to the Seller.
- (c) In the event that the Buyer exercises its rights pursuant to section 8.4, the Buyer may take all steps necessary to obtain the requisite payments under the Performance Bond (which is provided therein, shall be the Buyer's sole and exclude remedies against the Seller for any direct or indirect loss, cost or expense the Buyer incurs as a result of the event described in Section 8.4 (Liquidated Damages)

9.0 PRICING AND PAYMENTS

9.1 The Buyer shall pay to the Seller:

- (a) the charges for Metered electrical energy delivered to the Buyer at the Point of Delivery in accordance with Schedule 1 to this Agreement ("agreed tariff") or pursuant to the Annual Energy Production Program, whichever is deemed applicable.

9.2 The Seller shall prepare and submit to the Buyer not later than the 5th of each month following any month during which Metered electrical energy is supplied to the Buyer, the result of the meter readings (including time and date of the reading) to the Buyer.

9.3 The Seller shall submit to the Buyer or its designated agent by the 15th day of the ensuing month an invoice (the "Billing Period Invoice") showing all intermediate calculations and shall state:

- (a) the metered quantities comprising the Electrical Energy delivered by the Seller to the Buyer determined in accordance with Schedule 3 to this Agreement;
- (b) the agreed tariff stated in Schedule 1 to this Agreement; and
- (c) any other sums payable by the Buyer to the Seller under this Agreement.

9.4 The Billing Invoice shall contain enough details about the consumption of Electrical Energy at the Point of Delivery and under each other applicable charge, in order to allow the Buyer to confirm the accuracy of the charges with respect to the Agreement.

9.5 The Billing Period Invoice shall be sent to the Buyer initially by fax mail or e-mail followed by a hard copy.

9.6 From the Commercial Operation Date until the expiry or earlier termination of the Agreement, for every Quarter, the Seller shall enter an Exchange Rate Hedge Agreement for Ghana Cedi converting to US Dollar between Seller and a reputable Commercial Bank in Ghana which gives the most competitive rate. And the Seller shall provide the Buyer true copies of the Exchange Rate Hedge Agreement which spells out the applicable GH Cedi to US Dollar Exchange Rate. This rate shall be communicated from time to time to PURC and if acceptable to PURC, shall be used in converting the tariff for the Seller.

- 9.7 The agreed tariff shall be invoiced monthly in US Dollars and shall be payable in Ghana Cedis. The Ghana Cedi conversion shall be done using the exchange rate established by the Exchange Rate Hedge Agreement for the relevant calendar month.
- 9.8 The Buyer shall make payments not later than forty-five (45) days (i.e. the Due Date) following the delivery of the Billing Period Invoice, by direct bank transfer to a nominated bank account notified to the Buyer by the Seller in this Agreement. In event that the Buyer fails to make payment thirty (30) days after the Due Date (seventy-five days) the Buyer would have defaulted.
- 9.9 The Buyer shall provide a guarantee of payment as follows:
- a) A Bank Guarantee (BG) acceptable to the Seller with a world class international bank acceptable to the Seller. The instrument shall be in favour of the Seller for an initial amount of Five Million USD (USD 5,000,000.00). The purpose of this BG is to guarantee that the power will be purchased and paid for by the Buyer when the project is in operation. See Schedule 4 for an example of the BG.
- b) After the Commercial Operations Date the BG shall serve as a security deposit ensuring that the Buyer will fulfil its obligations as set forth in this Agreement and accept and pay for the power supplied upon construction completion. Thereafter, the BG shall serve as a guarantee of payment to the Seller.
- 9.10 Not used
- 9.11 The Seller shall have the right to instruct the ETU to disconnect supply to the Buyer where bills (except for amounts in dispute) for Electrical Energy consumed remains unpaid for a period of 30 days after the due date. Any amount in arrears beyond the due date shall bear no interest.
- 9.12 The Seller shall instruct the ETU to restore power to the Buyer after disconnection provided the Buyer has fully liquidated its indebtedness to the Seller.
- 9.13 Any start requested by the Buyer or the ETU in excess of Permitted Starts (fifty (50) Starts each Year) shall be an "Excess Start". The Seller shall be entitled to collect Excess Start Charge of One Thousand US Dollars (\$1,000.00) for each start to recover the costs.
- 9.14 Compensation or penalty for failures to receive or deliver Annual Energy

From the second year following the Stage 6 Commercial Operation Date until the expiry or earlier termination of this Agreement, for every single year, the Parties shall perform a calculation of the actual annual Energy supplied from the Seller's Facility to the Buyer not later than 10th January of the ensuing year. If the actual annual Energy hereby is less than the contracted Annual Energy (7,817.4 GWH) (a) for reasons attributable to the Seller, the Seller shall pay the Buyer the cost difference in Energy that as a result of the Seller's failure to deliver the contracted Annual Energy, the Buyer has purchased at the system marginal price or from the spot market; (b) for reasons attributable to the Buyer, the Buyer shall pay the seller the Annual Compensation according to the following formula:

$$AC = (7,817.4 - CB) \times AG \times 10^6$$

Where,

AC = the Annual Compensation to be paid by the Buyer to the Seller in US Dollars;

CB = the actual annual energy taken by the Buyer in GWh under the aforesaid calculation (In case CB is over 7,817.4GWh, AC shall be zero)

AG = the Agreed Tariff, which is 10US Cents per KWh

The compensation shall be paid immediately into the entitled Party's designated bank account before the end of January of the following year in US Dollars or its equivalent Cedis converted in accordance with agreed Hedged Exchange Rate specified in Clause 9.6.

9.15 Discount on the excess energy beyond contract Annual Energy

From the first year of operation starting from the Stage 6 Commercial Operation Date until the expiry or earlier termination of this Agreement, for every single year, the Parties shall perform a calculation of the actual annual Energy supplied from the Seller's Facility to the Buyer not later than 10th January of the ensuing year. If the actual annual Energy hereby is more than 8,327.3GWh), the Buyer shall be entitled to get a discount from the Seller which is according to the following formula:

$$DC = (CB - 8,327.3) \times AG \times 50\% \times 10^6$$

Where,

DC = the Discount the Buyer shall be entitled to get from the Seller on the excess energy beyond contract Annual Energy, which is in US Dollars;

CB = the actual annual energy taken by the Buyer in GWh under the aforesaid calculation (In case CB is below 8,327.3GWh, DC shall be zero)

AG = the Agreed Tariff, which is 10 US Cents per KWh

The Discount shall be deducted from the outstanding balance of the Total Energy Charge which the Buyer owing to the Seller. If the balance of The Total Energy Charge is not enough to deduct the Discount, the Discount shall be paid immediately into the Buyer's designated bank account before the end of January of the following year in US Dollars or its equivalent Cedis converted in accordance with agreed Hedged Exchange Rate specified in Clause 9.6.

9.16 Suspension of supply shall not relieve the Buyer of the obligation to pay for already supplied power.

10 STANDARD OF PERFORMANCE

10.1 In performing its obligations under this Agreement the Seller undertakes:

- (a) to operate and maintain the Facility in all material respects in accordance with the Prudent Utility Practices;
- (b) to operate and maintain the Facility in all material respects in accordance with the Grid Code;
- (c) to maintain all consents and approvals necessary for the Seller to fulfil its obligations under this Agreement;

- (d) to provide such assistance and information as the Buyer may reasonably require in connection with the Buyer's discussions regarding its base rate with the PURC.

10.2 In performing its obligations under this Agreement the Buyer undertakes:

- (a) to act in accordance with the Prudent Utility Practices and the Grid Code;
- (b) to co-operate with, and not encumber, impair or diminish the ability of, the Seller at all times, by all means possible, to fulfil the objectives of this Agreement;
- (c) to maintain all Consents and approvals necessary for the Buyer to fulfil its obligations under this Agreement; and
- (d) to provide such assistance and support as the Seller may reasonably require in connection with the Seller's applications for Consents and customs and immigration control procedures.

11.0 METERING AND ENERGY MEASUREMENT

- 11.1 The ETU shall install, own and maintain the Main Meter(s) and Check Meter(s) at the Point of Delivery to measure the Electrical Energy received by the Buyer. The meters, current and voltage transformers and secondary circuits feeding the meters shall be protected against external interference. The circuits and protection thereof once approved by the Parties shall be sealed. These seals shall only be broken by the ETU's personnel in the presence of the Seller and the Buyer.
- 11.2 The Buyer and the Seller shall have the option to install a Customer Check Meter(s) at the Point of Delivery.
- 11.3 The Main and Check Meters shall be equipped with a mechanism preventing its reverse rotation (claw meters) and have the functional capability to determine the metered Electrical Energy quantities as set out in Schedule 2 to this Agreement.
- 11.4 The meter reading data provided shall consist of maximum demand (kW), active energy (kWh), power factor (pf) and apparent power (kVA).
- 11.5 The ETU shall have the Main and Check Meters be re-calibrated at least once every twelve months or whenever either Party has reason to believe that the equipment is no longer performing within the standards of accuracy prescribed and has given notice to the other Party. The testing and re-calibration shall be carried out in the presence of both Parties 'duly Authorised Persons appointed in writing.
- 11.6 The Seller shall use the meter reading data provided by the ETU to determine the Electrical Energy received by the Buyer in accordance with the Grid Code, and any amendment thereto. If for any reason the Main and Check Meters are unserviceable or fails, the Electrical Energy supplied/consumed shall be estimated on the basis that it is the same as for other days, preferably of the same month, on which similar load existed.
- 11.7 The ETU or his representative shall read the meter in the presence of the Buyer and Seller or their representative at 12:00 on the last Day of each successive month (or such other Day as the Parties may agree) for determination of the Electrical Energy received by the Buyer and shall notify the Buyer in writing at least 48 hours in advance of the time of reading the meter.

- 11.8 The representatives of the Seller and the Buyer shall jointly witness the meter reading the report prepared and signed by the ETU or his representative and each Party shall retain a copy thereof.
- 11.9 The date of the meter reading will be extended in case of holidays or inclement weather conditions to the immediately following working day.
- 11.10 If one Party does not arrive for the meter reading within two hours after the agreed the time in Clause 11.7 the other Party can proceed and read the meters and such reading shall be used for billing for that month after the verification by the party who was not present at the reading.
- 11.11 The measuring equipment shall measure and record the Electrical Energy with accuracy of 0.2%. The accuracy of the measuring equipment shall be certified by a recognized independent authority, at a cost to the Seller, at six (6) month intervals. The Seller shall give the Buyer written notice of the time and date of the certifications to be performed not less than seven (7) days prior thereto. The Buyer shall have the right to participate in the certification of the measurement devices.

12.0 BILLING ERROR

- 12.1 An error in the amounts billed in any invoice submitted by the Seller shall be adjusted in the next bill, provided that such a claim has been made by the Seller or the Buyer as applicable.
- 12.2 In the event there is an error in the amounts billed in any invoice submitted by the Seller, such error shall be adjusted by the Seller within thirty (30) days of the detection thereof.
- 12.3 Any erroneous amount paid to the Seller by the Buyer as a result of a billing error shall be refunded to the Buyer within fifteen (15) days.
- 12.4 Any amount not paid by the Buyer to the Seller as a result of a billing error, shall be invoiced by the Seller and paid by the Buyer within fifteen (15) days.

13.0 DISPUTED BILLING

- 13.1 Not used.
- 13.2 No later than ten (10) working days after payment, the Buyer shall submit in writing to the Seller its concerns of the questioned billing.
- 13.3 Not later than ten (10) working days after receiving the inquiry, the Seller shall submit the back-up materials necessary to support the billing.
- 13.4 If the back-up materials are not provided in a timely manner, the Buyer shall subtract the amount in dispute from the next month's billing total.
- 13.5 After receipt of the Seller's written clarification or justification of the disputed items, the Buyer shall notify the Seller of its agreement or disagreement with such clarification or justification.
- 13.6 If the Buyer disagrees therewith, the dispute shall be resolved in accordance with the terms of Clauses 22.1 and 22.2.
- 13.7 Notwithstanding the foregoing, at any time before the expiry of six (6) months after the date of an invoice, any Party may notify the other Party in writing that an invoice is in dispute.

- 13.8 The dispute shall be resolved in accordance with Clause 22 of this Agreement and any payment that has been ordered to be made pursuant to the arbitration shall be paid within thirty (30) days after the Parties have been notified in writing of the same.

14.0 ADJUSTMENT OF MEASUREMENT DEVICES

- 14.1 In the event it is determined that the reading from any measuring device has been inaccurate, the Seller, the ETU or the Buyer as is necessary, shall correct the inaccuracy and adjust the readings of the affected devices and the appropriate billing corrections shall be reflected in the next regular monthly invoice delivered hereunder.
- 14.2 If for any reason any of the meters become unserviceable, the Electrical Energy consumed shall be estimated on the basis that it is the same as for other days, preferably of the same month, on which similar load existed or the average of the consumption of the last one month during which the meters were serviceable.
- 14.3 If, as a consequence of the certification required in Section 11.11, it is determined that the measuring equipment is measuring or recording the Electrical Energy without the accuracy of 0.2%, then the inaccurate equipment shall be so corrected, not excluding replacement, so as to measure and record the Electrical Energy with accuracy as to closest to zero (0) as possible.

15.0 UNDERTAKINGS AND WARRANTIES OF THE PARTIES

- 15.1 The Seller Undertakes to:

- 15.1.1 Be responsible for all the technical, logistical, environmental, commercial and any other matter whatsoever relevant to the provision of the services required under this Agreement.
- 15.1.2 Maintain supply within the limits in accordance with the Grid Code, and any amendment thereto.
- 15.1.3 Deliver, at the Point of Delivery, alternating current (AC) three (3) phase Power up to the required Connected Capacity, having frequency of fifty (50) Hertz and at the agreed nominal voltage of 161 kV. The frequency shall be subject to normal variations of three percent (+/-3%), and the voltage shall be subject to normal variations of five percent (+/- 5%). Variations outside the ranges specified herein are permitted provided any such variations do not have durations longer than five (5) minutes at a time. If a Regulatory Agency issues regulations with respect to these matters, the Seller shall comply with such regulations.
- 15.1.4 Provide voltage and frequency control equipment to ensure smooth interconnection with the Grid Code, and any amendment thereto.
- 15.1.5 Present to the Buyer, prior to the commencement of this Agreement, the Performance Test Report made by an independent qualified engineer in accordance with the related technical standards.
- 15.1.6 Co-operate with the Buyer at all times, by all commercially reasonable means possible, to fulfil the objects of this Agreement.
- 15.1.7 Not used
- 15.1.8 Comply with the standards of performance prescribed by the Energy Commission under the Energy Commission Act 1997.

15.1.9 Furnish to the Buyer, prior to the commencement of this Agreement, and on or before 1st December of each subsequent year, an annual forecast that includes the following:

(a) Annual Energy Production Program, and

(b) Scheduled outages for the upcoming year;

provided, however, the Seller has no liability to the Buyer and shall be subject to no penalty in the event that the actual amount of Electrical Energy delivered to the Buyer, or the times of said delivery, differ from the amounts or times shown in Annual Energy Production Program.

15.1.10 Notify the Buyer one month in advance of scheduled outages, including an estimate of expected length, and as soon as possible of any unscheduled outages, including an estimate of the expected length of such unscheduled outages.

15.1.11 Deliver the Electrical Energy in such manner that the ratio of MW demand to the megavolt-amperes (MVA) demand (read simultaneously) is as near to unity as practicable, but not less than ninety percent (90%) or better.

15.1.12 To agree with the Buyer and the ETU on setting of protective relays in order to achieve selectivity on fault clearing and ensure that the running of its system is done in synchronism with the NITS.

15.1.13 Notwithstanding that the Seller's Facility is a Must Run Facility, whenever Buyer's system or the systems with which it is directly interconnected experience an emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the systems with which it is directly or indirectly interconnected to, the Buyer may, at its sole discretion, curtail or interrupt the taking of all or a portion of Energy Output thereunder, provided such curtailment or interruption shall continue only as long as it is reasonably necessary under Prudent Operating Practices.

15.1.14 To ensure that the Harmonic content of the current due to its network and further downstream, should not exceed five percent (5%) of the magnitude of the total current.

15.1.15 In order to comply with its obligations under the PPA, the Seller is hereby obliged and undertakes to install and put into commercial operation a One Thousand (1,000) MW sea wave and tidal electricity generation Facility in Ada, in the Greater Accra Region of Ghana, in accordance with the licensing requirement of the Energy Commission of Ghana.

15.1.16 The Seller understands that the section of transmission line required between the Facility and the Interconnection to the NITS shall be facilitated and be the sole responsibility of the ETU.

15.1.17 The Seller undertakes to ensure that the Facility comes into commercial production within a deadline of not more than three (3) years from the signing of the PPA.

15.1.18 The Seller shall maintain and operate the Facility under optimum conditions of operation and always working, bearing in mind at all times the particular nature of producing electricity from sea wave and tidal energy. Moreover, the Seller shall bear all the costs and expenses of operation and maintenance; and to comply with all of the requirements and conditions laid down in current regulations.

15.2 The Buyer Undertakes to:

15.2.1 Contract with the ETU to take the Electrical Energy at the Point of Supply in a safe manner, in accordance with good engineering practices.

- 15.2.2 Maintain consumption within the contracted quantity in accordance with this Agreement,
- 15.2.3 At all times, to take the Electrical Energy in such manner that the current shall be taken from the three phases equally as nearly as practicable, and, in any event, the difference between any two phases shall not be greater than five percent (5%). If at any time the said difference exceeds five percent (5%), the Buyer shall so adjust its load as to comply with the requirements of this Clause.
- 15.2.4 Co-operate with the Seller at all times, by all commercially reasonable means possible to fulfil the objects of this Agreement.
- 15.2.5 Pay in full (except for amounts in dispute) immediately available funds by bank wire transfer into the bank account designated by the Seller, the Seller's electricity bills and to make such payment within the time stipulated in this Agreement.
- 15.2.6 Use the power in such a manner that the ratio of MW demand (read simultaneously) is as near to unity as practicable, but not less than ninety percent (90%).
- 15.2.7 To use, at all times, suitable, standard commercial apparatus and plant, and to operate and maintain the apparatus and plant so as to minimize disturbance to or fluctuation in the Seller's energy supply or system.
- 15.2.8 In its sole discretion, curtail or interrupt the taking of all or a portion of Electrical Energy Output thereunder, provided such curtailment or interruption shall continue so long as it is reasonably necessary under Prudent Operating Practices whenever the Buyer's system or the systems with which it is directly interconnected experience an emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the network with which it is directly or indirectly interconnected.

16.0 CONTINUITY OF SUPPLY

- 16.1 The Seller shall supply Electrical Energy in a continuous manner every day at the Point of Delivery, except as otherwise provided in this Agreement.
- 16.2 The Seller and the Buyer shall use their best efforts to remove or to assist in removing the cause of any interruption in the supply of energy with the minimum of delays, and, as soon as practicable, after the removal of any such cause, to resume or normalize the supply of energy under the terms of this Agreement.
- 16.3 The Seller shall have the right at all times to discontinue the supply of energy to the Buyer at the Point of Delivery for the purpose of safe-guarding life or property, or for the purpose of operation of the interconnection between the Seller's facility and the Buyer's facility. All such interruptions shall be of a minimum duration and, when possible, in coordination with the Buyer, or if the coordination is not possible, after a notice has been given to the Buyer with the utmost urgency.
- 16.4 In the event of any interruption or restriction to the Seller's supply of energy, the Buyer may, with notice to the Seller, pursue alternative arrangement with third parties to meet the shortfall in supply of Annual Energy by the Seller.
- 16.5 When the Seller confirms that the interruption is removed or rectified, the Buyer shall, upon reasonable notice to the Seller, resume the acceptance of the energy.

17 FORCE MAJEURE

17.1 Definition of Force Majeure

For the purposes of this Agreement, "Force Majeure" means any circumstance, event or condition (or combination thereof) beyond the reasonable control, directly or indirectly, of the affected party ("Affected Party") but only to the extent that:

- (a) such circumstance, event or condition, despite the exercise of diligence, cannot be prevented, avoided or overcome by the Affected Party;
- (b) such circumstance, event or condition prevents the performance by the Affected Party of its obligations under or pursuant to this Agreement (save for payment obligations);
- (c) the Affected Party has taken all reasonable precautions, due care and measures to prevent, avoid or overcome the effect of such circumstance, event or condition on its ability to perform its obligations under this Agreement and to mitigate its consequences;
- (d) such circumstance, event or condition is not the direct or indirect result of a breach or failure by the Affected Party to perform any of its obligations under this Agreement or any other Project Agreement;
- (e) such circumstance, event or condition is without fault or negligence of the Affected Party;

and shall include the following events or circumstances to the extent that they satisfy the preceding definition:

- (i) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, military or other usurpation of power, blockade, embargo, political revolution, insurrection, civil commotion, sabotage or act of terrorism, after the Signature Date;
- (ii) an act of God including but not limited to lightning, earthquakes, volcanic activity, floods, storms;
- (iii) epidemics, plagues or quarantines.

17.2 Duty to Report Force Majeure

- (a) The Affected Party, when claiming relief for Force Majeure under this Section 17 (*Force Majeure*), shall notify the other Party in writing of the occurrence of a Force Majeure as soon as reasonably practicable, and in any event within seven (7) days after the Affected Party becomes aware of its occurrence and that Force Majeure would be likely to have an impact on its performance of its obligations under this Agreement.
- (b) Any notice pursuant to Section 17.2(a) (*Duty to Report Force Majeure*) shall set out full particulars of:
 - (i) the nature of the events or circumstances constituting Force Majeure which is the subject of any claim for relief under this Agreement;
 - (ii) the effect which such Force Majeure is having on the Affected Party's performance of its obligations under this Agreement; and

- (iii) the measures which the Affected Party is taking, or proposes to take, to mitigate the impact of Force Majeure.
- (c) For so long as the Affected Party continues to claim to be affected by Force Majeure, it shall provide the other Party with progress reports describing:
 - (i) the measures which the Affected Party is taking, or proposes to take, to mitigate the impact of Force Majeure; and
 - (ii) such other information as the other Party may reasonably request about the Affected Party's claim.

17.3 Duty to Mitigate

- (a) For so long as an event of Force Majeure which is the subject of any claim under this Agreement is continuing, the Affected Party shall take such steps as are reasonably practicable in accordance with the Prudent Utility Practices to minimise the duration and severity of the impact of such Force Majeure and to restore the Affected Party's ability to perform its obligations under this Agreement as soon as reasonably practicable following the cessation of such Force Majeure.
- (b) With respect to the Seller only, if a Force Majeure occurs that impacts the Seller, such event may be invoked only with respect to any Unit or Units affected by such event and not with respect to any other Unit or other part of the Facility not so affected if it is capable of independent or partial operation in accordance with Prudent Utility Practice.

17.4 Consequences of Force Majeure

Subject to Section 17.5 (*Payments During Force Majeure*), if the Affected Party claims relief in respect of Force Majeure in accordance with this Section 17 (*Force Majeure*), then the Affected Party shall be deemed not to be in breach of its obligations under this Agreement to the extent that the events or circumstances constituting such Force Majeure prevent, delay or impede the Affected Party from performing such obligations.

17.5 Payments During Force Majeure

- (a) Upon the occurrence of any Force Majeure event after the Commercial Operation Date affecting the Seller, then during such Force Majeure event, the Buyer shall be required to make payment to the Seller for Energy delivered to the Buyer at the Delivery Point.
- (b) Immediately upon the occurrence of any Force Majeure event after the Commercial Operation Date affecting the Seller, then during such Force Majeure event, the Seller shall be required to notify the Buyer of such event and declare to the Buyer the quantum of Energy it anticipates it will be capable of producing over a specified period of time (being the period the Seller believes it will be affected by the Force Majeure event) as a result of the occurrence of the Force Majeure event.
- (c) The Buyer shall not be entitled to claim Force Majeure in respect of its payment obligations pursuant to the terms of this Agreement.

18.0 LIABILITY AND INDEMNITY

- 18.1 Except for events of Force Majeure (as defined in Clause 17) and or maintenance requirements, the Seller shall continue to produce and deliver all the Electrical Energy produced to the Buyer in accordance with the terms of this Agreement.
- 18.2 Not used
- 18.3 The process of cost gathering with reference to Clause 9 (*Pricing and Payments*) shall be made transparent to the Buyer by the Seller.
- 18.4 Subject to the provisions of this Agreement specified hereunder, to the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party and affiliated companies, and those with whom it might be associated in a joint venture, and other directors, employees and agents of any of the foregoing, from and against any loss, damage, claim, suit, fine, liability, other cost of litigation and judgment thereon, arising out of personal injury, death or disease, including but not limited to, employees of those entities mentioned above and their respective subsidiaries or subcontractors, or from pollution resulting wherefrom, incidental or in connection with the operation or performance of this Agreement, except to the extent that the injury, disease, death or damage is caused by the negligence and/or omission of the entity otherwise indemnified.
- 18.5 The other Party shall have the right, but not the duty, to participate in the defence of any such claim or suit.
- 18.6 Any party shall, as soon as practicable after receiving notice of any suit brought against it, deliver to the other party, full particulars within its knowledge thereof and shall render all reasonable assistance requested by any party in the defence of such suit. The obligations, indemnities and liabilities assumed by the Parties hereunder shall not be limited by any limits on insurance contained within this Agreement.

19.0 DEFAULTS

19.1 Defaults by Seller

- 19.1.1 If the Seller fails to supply an adequate amount of Electrical Energy to the Buyer to the extent that over a period of continuous 30 days, the aggregate electrical energy supplied to the Buyer is less than 50% of the amount per the Annual Energy Production Program in Schedule 7, the Seller shall be deemed to have defaulted on its obligations under this Agreement.

19.2 Defaults by the Buyer

- 19.2.1 If the Buyer fails to pay for the Electrical Energy purchased under this Agreement within the time stipulated in Clause 8.5, and this failure is not rectified within 30 days, the Buyer shall be deemed to have defaulted on its obligation under this Agreement.

19.3 Rectification of Default

- 19.3.1 Once a default has occurred, the non-defaulting Party has the right to request in writing that the other Party remedies the default. After receipt of the notice of default, the defaulting Party shall take immediate measures to remedy the default.

- 19.3.2 If either Party defaults, the other Party has the right to request for compensation for the losses incurred during the period of default, including the loss of revenues, expected profit and damages.

20.0 TERMINATION

20.1 Termination upon Default

- 20.1.1 The Agreement may not be terminated at the request of the Buyer. In the event the Seller defaults on a contractual obligation and within thirty (30) days after receipt of such written notice from the Buyer specifying the default, does not cure the default, the Seller shall inform the Buyer of the corresponding program of activities to cure the default. In the event the Buyer is not in agreement with the said cure, the Seller shall hire the services of an independent expert, to be approved by the Buyer, to recommend the work program required to cure the default. If the Seller is unable to cure the default after sixty (60) days, the Buyer will have the right to select a new expert and prepare a work program that is satisfactory to the Buyer. The Seller shall bear the costs of any work program deemed necessary to cure the default.

- 20.1.2 The Agreement may be terminated at the request of the Seller in the event the Buyer fails to fulfil its obligation of payment, without justified cause or when the Buyer defaults on a contractual obligation hereunder after receipt of written notice from the Seller specifying the default. The Buyer will have thirty (30) days to take the necessary action and shall notify the Seller of the corresponding program to remedy the default. Upon termination, the Seller has the right to remove all installed equipment and other assets on the property at the expense of the Buyer. In the event of termination for non-payments of bills, the Seller may utilise a payment guarantee to partially or fully defray its costs.

- 20.1.3 Termination of this Agreement shall not relieve a defaulting Party from any liability that has accrued prior to the effective date of termination and shall not relieve the Buyer of its obligation to pay for Electrical Energy already supplied.

- 20.1.4 Either Party shall have the right of termination in the event the other Party goes into liquidation/ bankruptcy.

20.2 Termination upon Other Grounds

- 20.2.1 This Agreement will continue on a year to year basis following the expiration of the Term provided that the Seller has renewed its Generation and Wholesale Supply Licence. Either Party shall have the right to terminate this Agreement effective after the expiration of the Term upon giving the other Party two (2) year written notice.

- 20.2.2 Either Party shall have the right to terminate this Agreement upon the occurrence of the following:

- (a) the other Party applies or is applied for bankruptcy or liquidation;
- (b) a breach by the other Party of a material obligation under this Agreement that is not cured within 30 days following written notice of such breach; or
- (c) at the request of one of the Parties and accepted by the other Party, for reason of Force Majeure.
- (d) mutual agreement of the Parties

- 20.2.3 Upon expiration or termination of this PPA the facility shall be owned and operated by the Seller with the Electrical Energy produced by the facility to be available for sale by the Seller.

21.0 WAIVERS

- 21.1 Any waiver by the Seller or Buyer or failure by the Seller or the Buyer to exercise its rights or enforce its remedies shall be limited to the particular instance and shall not be deemed to be a waiver of any other right or remedy, or extend to any other matter under this Agreement or in any other way affect the validity of this Agreement.

22.0 SETTLEMENT OF DISPUTES

22.1 Amicable Disputes:

- 22.1.1 If any dispute shall arise between the Parties hereto in connection with any matter arising out of this Agreement, the Parties shall use their best efforts to resolve the dispute.

- 22.1.2 If the dispute is not settled within the first thirty (30) days after one Party declares in writing to the other the existence of the dispute, any of the Parties may declare in writing its intention to solve the dispute by means of arbitration.

22.2 Arbitration:

- 22.2.1 Dispute resolution shall be by arbitration, in accordance with the London Court of International Arbitration and the Laws of Ghana.

- 22.2.2 If the Parties fail to resolve a dispute, either Party may, with notice to the other, submit the dispute to arbitration by three (3) arbitrators, unless the Parties otherwise agree. In composing the arbitral panel, each Party shall nominate one (1) arbitrator, and the two (2) arbitrators so appointed, shall together appoint a third arbitrator who shall be the umpire.

- 22.2.3 Place of arbitration shall be London, England. The arbitration shall be conducted in the English language and each Party will be responsible for the translation into English as required of any documents placed in evidence in the arbitration.

23.0 TRANSFER AND ASSIGNMENT

- 23.1 This Agreement shall not be assigned or subcontracted in any way without the written approval of both parties.

- 23.2 Unless the consent to transfer would conflict with Ghana law, the Buyer agrees not to withhold its consent to transfer for an unreasonable period of time.

- 23.3 The Seller's receivable, which will arise with this Agreement, may be assigned and pledged to a joint venture partner, as the guarantee for its financial agreements made by the Seller in connection with the facilities.

24.0 AMENDMENT

- 24.1 The terms of this Agreement shall be subject to review at the request of either Party to take into account any profound changes in circumstances that a Party believes to have occurred. If the Parties agree that because of such profound changes in circumstances any of the provisions

hereof impose an inequity or undue burden upon the other Party, such that the balance of benefits and equities reasonably contemplated by the Parties when they entered into this Agreement have been materially altered to the disadvantage of one Party, the Parties may in good faith endeavour to amend or supplement this Agreement.

The Parties agree that amendments to the Agreement may be required to satisfy requirements of the Seller's lender/investor. In the event amendments are required, the Parties hereby agree to execute a separate amendment to which will become a part of this Agreement and fully enforceable under the terms and conditions of this Agreement.

25.0 CONFIDENTIAL INFORMATION

25.1 Any information marked confidential that is disclosed by either Party to the other relating in any way to the subject matter of this Agreement shall be kept confidential by the receiving Party (or its agents, officers, employees and others acting on its behalf) during the term of the Agreement and for five (5) years from the termination of this Agreement.

25.2 However, a Party may make disclosures:

- (a) as required by law and/or regulation;
- (b) at the request of a governmental authority;
- (c) at the request of a lender in connection with providing a loan to the Seller or the Buyer as the case may be; and
- (d) at the request of a potential Buyer of an ownership interest in either Party or of all or substantially all of the assets of a party, subject to the recipient's agreeing to maintain confidentiality; and
- (e) upon advance written approval of either Party for purposes of national publicity or marketing of the project to other potential sea wave and tidal energy customers.

25.3 However, a Party may disclose any information that:

- (a) is in the public domain other than by a breach hereof;
- (b) prior to the effective date of this Agreement, was already known by the receiving Party; or
- (c) became known to the receiving Party through a source lawfully in possession of the information and owing no obligation of confidentiality under this Agreement.

25.4 The Seller and the Buyer acknowledge and agree that the disclosure of confidential information may cause serious and irreparable harm to the disclosing Party which could not adequately be compensated for in damages and in the event of a breach, or an anticipated breach, by a Party of any of such provisions such Party hereby consents to an injunction being issued against it restraining it from such anticipated breach or any further breach of such provision (as applicable), but such action shall not be construed as limiting the remedies available to the other party in the event of such breach or anticipated breach.

26.0 SEVERABILITY

- 26.1 If any provision of this Agreement is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original provision if the remainder of this Agreement is not materially affected by such declaration to the extent permitted by law.

27.0 RELATIONSHIP OF THE PARTIES

- 27.1 It is expressly understood that the Buyer, on the one hand and the Seller on the other hand, intend by this Agreement to establish the relationship of independent contractors, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership between them or their respective successors in interests. Neither the Buyer, on the one hand, nor the Seller, on the other hand, shall have any authority to create or assume, in the name or on behalf of the other Party any obligation expressed or implied, nor to act or purport to act as the agent or the legally empowered representative of the other Party hereto for any purpose whatsoever

28.0 NOTICES

All notice hereunder shall be deemed as given when addressed and delivered by hand or dispatched by registered mail or facsimile in the case of the Seller, to:

The Chairman
TC'S Energy Limited
P. O. Box CO 756
Tema, Ghana


And, in the case of the Buyer, to:

The Managing Director
Electricity Company of Ghana Limited
Electro Volta House
P.O. Box GP 521
Accra, Ghana
Telephone: 233-0302-6786762 or 233-0302-676747
Fax: 233-0302-666262

29.0 GOVERNING LAW

The governing law of this Agreement shall be the laws of the Republic of Ghana.

30.0 ENVIRONMENTAL ATTRIBUTES

- 30.1 The Seller, or Seller's successors or assignee, shall retain ownership of all right, title and interest in any and all Environmental Attributes, including any RECs generated therefrom. The Buyer shall comply with the reasonable demands of Seller, if any, to ensure that Seller's interest in the Environmental Attributes has priority over any Parties in accordance with the Applicable Laws.

- 30.2 The Seller and Buyer mutually agree to work together to maximize the value of the environmental attributes of the project and to the extent any value is derived from the sale of any Renewable Energy Certificates (RECs), share in the proceeds. The Seller agrees to allow the Buyer the right to receive 50% of any proceeds recovered from any sale.

31.0 INSURANCE

- 31.1 The Seller shall take and maintain adequate insurance policies to cover the Buyer in respect of damage or injury including death to the Buyer's personnel or property and the Buyer's customers or property only if such damage, injury or death to the Buyer's property or personnel or customers, as the case may be, is the direct result or consequence of the Seller's negligence or default in the discharge of its obligations under this Agreement.

32.0 ENVIRONMENT PROTECTION REQUIREMENTS

- 32.1 The Seller shall provide to the Buyer written assurances on its policies, procedures and conduct regarding Environmental matters, in compliance with appropriate laws.

33.0 SAFETY OPERATIONAL PROCEDURES

- 33.1 The detailed Operational Procedures for switching and protection settlement shall be developed by the Parties and be attached to this Agreement.
- 33.2 The Parties agree to comply with the provisions of such Operational Procedures in managing the network under this Agreement.

34.0 DOCUMENTATION

- 34.1 At the request of one of The Parties, the other Party must hand over the information requested, provided this information concerns the PPA.

IN WITNESS WHEREOF the Parties hereto have hereunto caused this Agreement to be signed on the behalf by their authorized representatives on the day, month and year first above within

SIGNED, SEALED AND DELIVERED on behalf of
TC'S ENERGY LIMITED

By: Mr. Anthony Opoku

TC'S ENERGY LTD

SIGNED, SEALED AND DELIVERED on behalf of
ELECTRICITY COMPANY OF GHANA LIMITED

By: Rev. Ing. William Hutton-Mensah



In the presence of:

SCHEDULE 1: DETERMINATION OF RATES

1) The company shall be paid a flat rate of US Cents 10.00 per kWh delivered to the Buyer.

The Total Energy Charge at the Delivery Point is calculated in accordance with the following formula:

$$TEC = TE \times EB$$

Where,

TEC = Total Energy Charge at the Delivery Point

TE = Tariff for the Unit Energy in US Dollars per kWh

EB = Electricity generated from the Facility at the Delivery Point in kWh

2) After the end of the first ten years of operation, the price shall be negotiated with the Buyer within the range to be established by PURC. However, all negotiation relating to the price after the expiring of the initial Ten (10) years period shall not be lower than the price per kWh for the initial Ten (10) years. The negotiated price after the initial Ten (10) years shall be for the remaining term of ten (10) years of the PPA.

SCHEDULE 2: METERING AND DETERMINATION OF METERED QUANTITIES

All metering arrangements shall be in accordance with the provisions of the prevailing grid code. All provisions in this schedule shall apply only if the prevailing grid code has not made provision for them

For the purpose of measuring the delivered kWh's metering devices (the "Metering Devices"); measurement circuits at the interconnection substation shall be arranged in accordance with the meter connection arrangement specified in Schedule 3 and shall be installed by the Seller at its own cost. The meter connection arrangement specified in Schedule 3 shall be in line with industry standards.

The Metering Devices shall consist of two groups, namely a main group of Metering Devices and a stand-by group of metering devices. Measuring transformers at the feeding circuits of these two groups shall be separate. Each group shall contain one active and one reactive Metering Device.

Measuring transformer at the feeding circuits of the Metering Devices, installed for measuring the internal need of the facilities, will be selected in accordance with the amount of consumption of the auxiliaries. This will be specified in Schedule 3 separately. The active Energy consumed during compensator operation shall be determined according to the calculation and/or measurement method to be specified in Schedule 3.

The amount of Energy recorded and consumed by the Metering Devices in powerhouse switchyard will be deducted from the amount of Energy to be sold to Buyer, as per the conditions of Schedule 3.

The location connections and (if necessary) direction of the Metering Device groups shall be as set out in a separate schedule and approved by the Parties.

All the Metering Devices shall be equipped with a mechanism preventing its reverse rotation (claw meters) and shall be sealed with a special seal agreed by the Parties.

Measuring transformer feeding the measurement circuits and active Metering Devices shall be of maximum 0.5 class. Reactive Metering Devices shall be chosen of any class from 0.5 to 3.0.

The Metering Devices and measurement circuits at any substations shall also conform to international specifications. The ETU shall be responsible for the installation, maintenance and repair of the Metering Devices and measurement circuits at its own substation and shall bear all costs relating thereto. The Metering Devices and measurement circuits at the substations shall be inspected and tested in manner similar to the provisions herein and the ETU shall bear the cost thereof.

2) SEALING THE MEASUREMENT SYSTEM

The measurement system consists of Metering Devices, current and voltage transformers and secondary circuits feeding the Metering Devices, and after these circuits are protected against external interference, and the circuits and the protection thereof are approved by the Parties, the necessary points shall be sealed. These seals shall only be broken by the Buyer's personnel in the presence of representative of the Seller during inspection, testing and adjustment of Metering Devices.

3) READING OF METERING DEVICES

The ETU or his representative shall read the meter in the presence of the Buyer and Seller or their representative at 12:00 on the last Day of each successive month (or such other Day as the Parties may

agree) for determination of the Electrical Energy received by the Buyer and shall notify the Buyer in writing at least 48 hours in advance of the time of reading the meter.

The sum of Energy measured in all months of the year should be the same as the Energy taken at the end of the year. If there were a difference the affected part would be compensated by the same amount within a Month.

4) INSPECTION AND TESTING – Testing of metering devices shall be in accordance with the pre-commissioning testing routine designated in the EPC build contract and prior to the final commissioning system testing for issuance of system certificate of completion.

4.1) REGULAR TESTING

One month prior to the Unit Commercial Operation Date of first unit and at intervals of not less than six months, but not more than eighteen months thereafter and provided that at least two weeks prior the necessary notice is issued by the Buyer to the Seller, the accuracy and calibration of the Metering Devices shall be tested by representatives of both Parties in accordance with the testing procedures enclosed herein, the cost of which shall be borne equally by the Parties. The said procedure shall be in line with industry standards applied in other power generating plants. The Metering Devices at the substation shall also be tested in accordance with the procedure set out above, and the cost shall be borne by the Buyer.

In the event that any component of the Seller's Metering Devices is found to be beyond the acceptable sensitivity limits for that class of Metering Device set herein, or functionally defective, the Seller shall have its Metering Devices or components repaired and recalibrated and such Metering Devices shall be retested in the presence of the representatives of both Parties after it is mounted in its place.

4.2) REQUESTED TESTING

If at times other than the test dates either party claims that any Metering Devices are functioning inaccurately after the inspection, the contesting party by written notification may request that such Metering Devices should be tested in the presence of the representatives of both Parties. In this case, such Metering Devices shall be tested in compliance with the testing procedure specified herein at a pre-notified and mutually agreed date or seven days after the date of notification. The said testing procedure shall be in line with international industry standards applied in power generating plants. If any fault is detected beyond the accuracy limits the parties shall utilize the standby Metering Devices, and if any fault is detected also on the stand-by Metering Devices beyond the acceptable tolerances for that class of Metering Devices, the parties shall utilize the Metering Devices at the substation, where the measurement shall be adjusted for line losses between the facilities and the substation. The kWh's delivered not measured correctly shall be adjusted according to the Agreement, and the adjustment shall be established by a memorandum which shall be signed by the Parties to evidence such adjustment.

If any Party claims that the measurement system is faulty as stated in the Agreement, but upon testing such Metering Devices are found to be accurate, the testing expenses shall be borne by the contesting party, but otherwise the test expenses shall be borne equally by the Parties.

4.3) TESTING OF METERS

Meters shall be tested according to the Buyer's meter testing procedures.

5) LOCATION AND CONNECTIONS OF METERING EQUIPMENT

The energy meters and timer devices that measure the operation period of units during which time they operate as compensators, shall be installed in a suitable section of the power plant building.

6) ENERGY DELIVERY POINT

Delivery point shall be a point as shown on the drawing in Schedule 5 named "-----" and "-----".

7) ENERGY SUPPLY POINT

Supply point shall be the point as shown in the attached in Schedule 5 "-----" and "-----".

8) PRE-COMMISSIONING INVERTERS & SCADA

Contractor shall arrange for mechanical and electrical tests on the Inverter and related SCADA equipment once the corresponding electrical circuit testing, see Electrical System Pre-commissioning, has been completed. Testing shall include:

- Verification by Inverter Manufacturer representative that unit is ready to be placed into service
- Software and Parameter updates by Inverter Manufacturer representative to ensure the latest firmware is installed and units are configured to the optimal run settings given the selected Sea/Tidal Wave Module and its project specific electrical configuration.
- Verification that Inverter is properly communicating with SCADA components
- Verification that met sensors are all calibrated and displaying true values on SCADA.

Station power, generators, or other means of temporary power may be used to energize Inverters and SCADA components prior to utility back feed.

Inverter/SCADA Pre-Commissioning shall be completed no later than ten (10) days prior to scheduled system commissioning date.

SCHEDULE 3: METERED ELECTRICAL ENERGY COMPUTATION

1) METER CONNECTION ARRANGEMENT

Metering shall be performed with the main and standby meters installed at the Supply Point, as shown in the design drawings. Incoming and outgoing energy shall be metered at the line and transformer feeders.

Outgoing energy meter and incoming energy meter shall be represented by (HG) and (HD), respectively.

If new lines are added in future to this power plant then, new meters shall be installed according to the same principle;

2) METERING OF THE ACTIVE ENERGY CONSUMED DURING COMPENSATORY OPERATION

The amount of active energy consumed by the owner operator will be metered separately and known as "compensatory meter" (CM) during operation and the CM meter is to be read semiannually, the data collected is known as the owners compensator usage. This amount of usage can be allowanced (based on Operators Load Justification form) and reconciled (Subtracted against or credited) upon the allowanced energy through the regular billing to the power buyer.

During in trial run operation, the Seller shall procure all the necessary devices requested by the Joint Operation Committee for making the measurements. The active power consumed during the operation of the Unit as a compensator, and the consumption of the necessary auxiliary equipment still at the same time, shall be included in the calculation made for finding the average consumption during operation as a compensator.

3) THE BASIS OF ENERGY SALE

The energy to be invoiced shall be found by reading the "Supply Meter" (SP) at the outgoing AC side of the inverters as described in Schedule 3 line 7, and schedule 5 drawings. The amount of compensator consumption will be subtracted semiannually from the amount of billable supplied energy.

The amount of energy sold that shall be invoiced as E_i and stated as kWh or MWh.

Energy to be invoiced (E_i) = (SP- CM)

SCHEDULE 4: SAMPLE BANK GUARANTEE

BANK GUARANTEE VIA SWIFT MT760

From:
Address:
Type of Document:
Number Document:
Issue Bank:
Currency:
Amount:
Beneficiary:
Issue Date:
Maturity Date:
Expiration Date:
Origin of Funds ISIN Code:
Nominal Currency:
Common Code:
Operation Common Code:
Operation CUSIP Number:
Validity General Code:
Transaction Reference Number:
Block Date:
Block Time:

As per instructions of our client, CLIENT NAME, with account number XXXXXXXXXXXXXXXX, we BANK NAME AND ADDRESS, hereby confirm with full bank responsibility that on DATE, we issued a Bank Guarantee in favor of BENEFICIARY NAME, with cash backed, good, clean, clear and of non-criminal origin funds, free of any liens and encumbrances. We also confirm with full banking responsibility that we acknowledge and agree that the above referenced bank instrument has been reserved and is blocked for a period of one year and one day from this date in favor of BENEFICIARY NAME, the final beneficiary. This bank instrument can be confirmed on bank to bank basis.

We the undersigned, ISSUING BANK NAME AND ADDRESS, hereby open our irrevocable, transferable, divisible, assignable, cash backed and confirmed Bank Guarantee in favor of BENEFICIARY NAME for the amount of US\$XXXXXXXXXXXX (XXXXXXXXXXXX). We, ISSUING BANK NAME AND ADDRESS, irrevocably and unconditionally without protest or notification promise to pay against this Bank Guarantee Number XXXXXXXX in favor of BENEFICIARY NAME or assigns at maturity date the sum of US\$XXXXXXXXXXXX (XXXXXXXXXXXX) in the lawful currency of COUNTRY upon presentation of this Bank Guarantee at our counters at BANK ADDRESS or at first written demand via swift wire system on maturity date, but not later than fifteen days after the maturity date. Such payment shall be made without set-off and clear of any deductions, charges, fees or withholdings of any nature, now or hereafter imposed, levied, collected, withheld or assessed by the government of the Issuing Bank or any political subdivision or authority thereof or herein. This Guarantee is transferable, assignable and divisible without presentation to us or payment of further fees. This Bank Guarantee is an operative instrument which is callable at the issuing bank and is subject to the Uniform Customs practice of documentary credit (1983 Revision) and shall be governed and construed by the laws of Hong Kong, European community and USA in accordance with ICC Publication 500/600 latest version, Paris France.

Bank Officer 1:
Authorized Signatory
Name:
Title:
Code:

Bank Officer 2:
Authorized Signatory
Name:
Title:
Code:

BANK STAMP / SEAL

Reviewed and accepted by

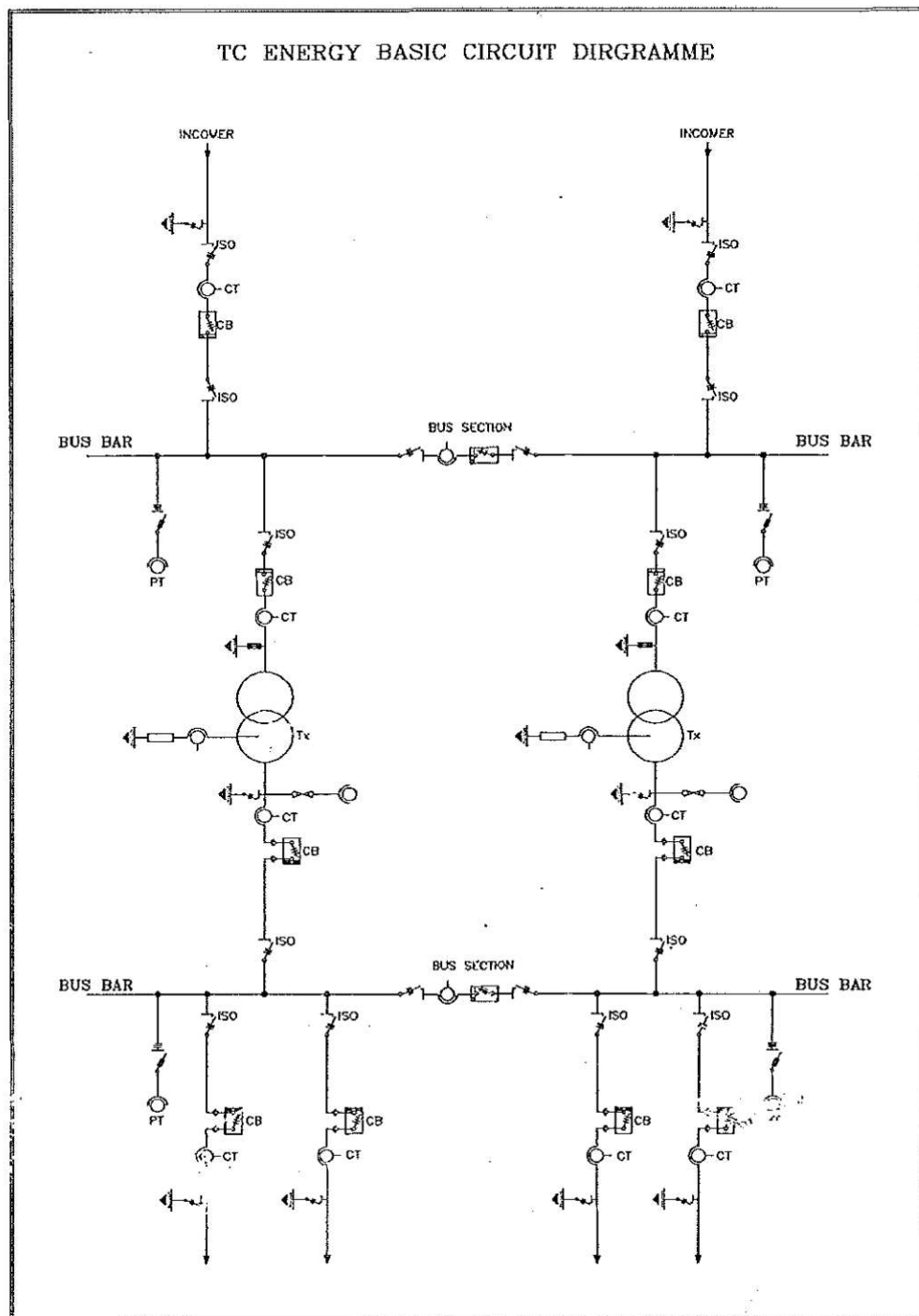
PRINCIPAL SIGNATURE

NAME:

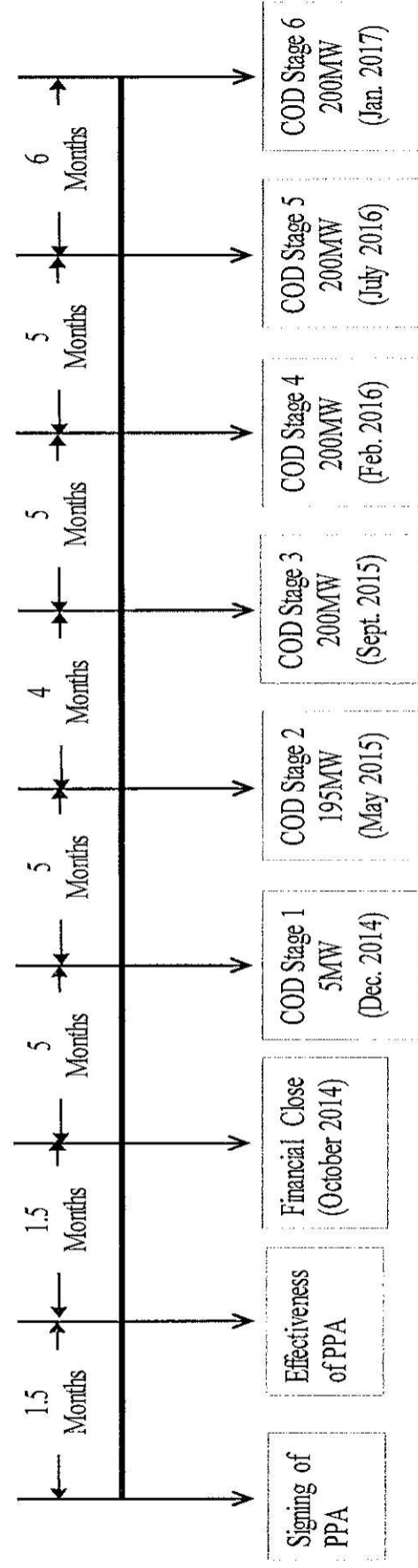
PHYSICAL ADDRESS:

SCHEDULE 5: DIAGRAM OF SUPPLY AND DELIVERY POINTS

TO BE ATTACHED IN PDF FORMAT



SCHEDULE 6: PROJECT MILESTONES



SCHEDULE 7: ANNUAL ENERGY PRODUCTION SCHEDULE

		Stages	Year	Nominal Capacity	Dependable Capacity	Maximum Energy	Minimum Energy	Average Energy
				MW	MW	GWh	GWh	GWh
Hours in a year	8760	Stage 1	Dec. 2014	5	4.9	3,536	3,320	3,428
Dependable Capacity	3% per year	Stage 2	May. 2015	200	194.0	1,665	1,563	1,614
Availability (Average)	95%	Stage 3	Sept 2015	400	388.0	3,331	3,127	3,229
Availability (Minimum)	92%	Stage 4	Feb 2016	600	582.0	4,996	4,690	4,843
Availability (Maximum)	98%	Stage 5	July 2016	800	776.0	6,662	6,254	6,458
		Stage 6	Jan. 2017	1000	970.0	8,327	7,817	8,072
		Stage 6	2018	1000	970.0	8,327	7,817	8,072
		Stage 6	2019	1000	970.0	8,327	7,817	8,072
		Stage 6	2020	1000	970.0	8,327	7,817	8,072
		Stage 6	2021	1000	970.0	8,327	7,817	8,072
		Stage 6	2022	1000	970.0	8,327	7,817	8,072
		Stage 6	2023	1000	970.0	8,327	7,817	8,072
		Stage 6	2024	1000	970.0	8,327	7,817	8,072
		Stage 6	2025	1000	970.0	8,327	7,817	8,072
		Stage 7	2026	1000	970.0	8,327	7,817	8,072
		Stage 8	2027	1000	970.0	8,327	7,817	8,072
		Stage 6	2028	1000	970.0	8,327	7,817	8,072
		Stage 6	2029	1000	970.0	8,327	7,817	8,072
		Stage 6	2030	1000	970.0	8,327	7,817	8,072
		Stage 6	2031	1000	970.0	8,327	7,817	8,072
		Stage 6	2032	1000	970.0	8,327	7,817	8,072
		Stage 6	2033	1000	970.0	8,327	7,817	8,072
Annualized					970	8,327	7,817	8,072

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