

APPENDIX G: FORM OF POWER PURCHASE AGREEMENT

POWER PURCHASE AGREEMENT

---- Between ----

JAMAICA PUBLIC SERVICE COMPANY LIMITED

--- and ---

[NAME OF COMPANY]

relating to the RE power generation plant at [LOCATION OF COMPLEX]

DATED AS OF [DATE OF AGREEMENT]

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This POWER PURCHASE AGREEMENT is entered into as of the ____ day of _____, [YEAR] in Kingston, Jamaica,

B E T W E E N:

(1) JAMAICA PUBLIC SERVICE COMPANY LIMITED (“JPS”), a company duly incorporated under the laws of Jamaica and having its registered office at 6 Knutsford Boulevard, Kingston 5, in the parish of Saint Andrew, Jamaica; and

(2) [COMPANY] (the “Company”), a company duly incorporated under the laws of Jamaica and having its registered office at [Address of Company].

Both JPS and the Company are herein referred to individually as a “Party” and collectively as the “Parties”.

W H E R E A S:

A. The Company has been awarded the right to generate electricity in response to a Request for Proposal (the “RFP”) for Supply of the Associated Energy of up to 100 MW of Net new Capacity to the grid from Renewable Energy Resources on a Build, Own and Operate (BOO) Basis issued by the Generation Procurement Entity (GPE) on September, 18, 2023, and has been awarded by _____, to provide electrical energy from the generation Complex referred to in Recital B below, and JPS has agreed to purchase the electrical energy in accordance with the terms and conditions of this Agreement;

B. The Company plans to design, finance, construct, own, operate and maintain a power generation Complex with a net capacity of [*] MW located in [location or address] in the Parish of [insert parish] Jamaica (as further described in Schedule 2, the “Complex”); and

C. The Company wishes to sell to JPS, and JPS wishes to purchase from the Company, the Net Energy Output of the Complex pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations and warranties, conditions, and promises herein contained, and intending to be legally bound hereby, the Company and JPS hereby agree as follows:

1. INTERPRETATION

In this Agreement:

1.1. Interpretation

1.1.1. Expressions defined in Schedule 1 shall bear the respective meanings set out therein;

1.1.2. The headings and paragraph numbering contained in this Agreement are for convenience only, do not constitute part of this Agreement and shall be ignored in construing this Agreement;

1.1.3. The gender of all words used herein shall include the masculine, feminine and neuter;

1.1.4. The singular includes the plural and vice versa;

1.1.5. References to Articles, Sections, Clauses, Recitals, Preambles and Schedules are, unless the context otherwise requires, references to Sections of, and Schedules, the Preambles and Recitals to, this Agreement;

1.1.6. The terms “hereof”, “herein”, “hereto” and similar words refer to this entire Agreement;

1.1.7. References to any agreement, enactment, ordinance or regulation include any amendment thereof or any replacement in whole or in part;

1.1.8. Wherever the provisions of this Agreement require, provide for or permit an approval, agreement or consent by either Party of or to any action, person, document, or other matter contemplated by this Agreement, the following provisions shall apply:

- a) such approval, agreement or consent shall not be unreasonably or arbitrarily withheld, conditioned or delayed (unless otherwise specifically provided herein);
- b) the Party whose consent is being sought (the “Consenting Party”) shall, within the relevant time period set forth herein or if no time period is specified within thirty (30) Days, advise the other Party by notice either that it consents, agrees or approves or that it withholds its consent, agreement or approval, in which latter case it shall set forth, in reasonable detail, its reasons for withholding its consent, agreement or approval; provided that, if the Consenting Party shall fail to give the other Party the notice contemplated in this Clause 1.1.8(b), the relevant approval, agreement and consent shall be deemed consented to, agreed to or approved by the Consenting Party with no further action;
- c) if the responding notice mentioned in Clause 1.1.8(b) indicates that the Consenting Party does not approve, agree or consent, the other Party may take whatever steps may be necessary to satisfy the objections of the Consenting Party set out in the responding notice and, thereupon, may resubmit such request for approval, agreement or consent from time to time and the provisions of this Clause 1.1.8 shall again apply until such time as the approval or consent of the Consenting Party is finally obtained;
- d) if the disapproval or withholding of consent, agreement or approval mentioned in Clause 1.1.8(c) is subsequently determined to have been improperly withheld, conditioned or delayed by the Consenting Party, such approval, agreement or consent shall be deemed to have been given on the date on which such approval, agreement or consent was originally required, except in instances where it is shown that there may be adverse consequences resulting therefrom to the requesting party; and
- e) for the avoidance of doubt, any dispute as to whether or not a consent, agreement or approval has been unreasonably withheld, conditioned or delayed shall be resolved in accordance with the provisions of Clause 16.

1.1.9. References to any person shall be construed as a reference to such person’s successors and permitted assigns;

1.1.10. References to “includes,” “including” and similar phrases shall mean “including, without limitation”;

1.1.11. In the event of any conflict between the body of this Agreement and any of the Schedules hereto the relevant provisions shall be construed as complementary rather than conflicting wherever possible, but, if a complementary construction is not possible, then the terms and provisions of the body of this Agreement shall take precedence over the Schedules; and

1.1.12. Wherever the provisions of this Agreement require, provide for, or permit notice to be given, “notice” shall mean a five (5) Days written notification unless otherwise specified herein.

2. SALE AND PURCHASE OF ENERGY

2.1. Sale by the Company and Purchase by JPS

Subject to and in accordance with the terms of this Agreement, the Company shall make available and sell to JPS, and JPS, pursuant to the JPS Licence, shall purchase from the Company for the consideration described herein, all such Net Energy Output of the Complex up to the Contracted Net Energy Output (above which Contracted Net Energy Output JPS shall have no obligation (a) to accept any further energy supplied by the Complex or (b) to pay for any such further energy as may be accepted onto the JPS Grid) in accordance with the provisions of Clause 10 and Schedule 6, on and after the Commercial Operations Date; provided the Company has obtained all of the permits, licences, approvals and other government approvals required for the operation and maintenance of the Complex and sale of Net Energy Output and that none of these have expired or been revoked (as notified to JPS by the Company pursuant to the terms of this Agreement or by the Governmental Authority responsible for granting the relevant permit, licence, approval and other government approval). For the purposes of this Clause 2.1, a permit, licence, approval or and other government approval shall not be considered expired or revoked to the extent that such expiration or revocation is stayed during appeal of such expiration or revocation by the Company. Title to, and risk of loss for, Net Energy Output shall pass from the Company to JPS at the Interconnection Point.

2.2. Sale by JPS and Purchase by the Company

Subject to, and in accordance with the terms of this Agreement and the applicable standard terms and conditions of contract governing the supply of electricity to JPS’ customers, JPS shall make available and sell energy to the Company, and the Company may purchase from JPS, capacity and energy, in accordance with applicable rate schedules, as determined by the Office of Utilities Regulation (hereinafter referred to as the “OUR”).

3. TERM

3.1. Initial Term

The initial term of this Agreement shall commence on the Agreement Date and shall end (unless it is extended pursuant to Clause 3.2 or is earlier terminated pursuant to the provisions of this Agreement) on the twentieth (20th) anniversary date of the Commercial Operations Date (“Initial Term”). The termination of this Agreement shall be without prejudice to all rights and obligations of the Parties accrued under this Agreement prior to such termination.

3.2. Renewal Term

Subject to the evaluation and approval of the OUR, this Agreement may be extended for an additional period of up to six (6) years after the Initial Term and on terms and conditions mutually agreeable to the Company and JPS, provided that:

- (a) the Party seeking the extension shall give written notice to the other Party and the OUR not less than five (5) years nor more than six (6) years prior to the end of the initial term indicating its desire to extend the Agreement;
- (b) the Party receiving such notice shall notify the other Party and the OUR within ninety (90) Days after receipt of the notice described in sub-clause (a) above indicating also its desire to extend the Agreement;
- (c) the Parties shall use all reasonable efforts to agree to an extension of this Agreement within twelve (12) Months after receipt of the notice described in sub-clause (b) above;
- (d) the Parties shall submit the terms and conditions of such extension as agreed to the OUR for its consideration, evaluation and approval;
- (e) the Complex shall be in compliance with the Minimum Functional Specifications (save for normal wear and tear, provided however that same does not breach the operational and environmental requirements prescribed in Schedule 2) at the beginning of such additional period;
- (f) there shall be no Event of Default existing on the part of the Party who requested the extension at the material time or at the beginning of the additional period; and
- (g) certificate from a JPS approved independent engineer certifying that the Complex has a further useful life of at least the equivalent duration of the proposed extended period.

4. PRE-OPERATION PERIOD FOR COMPLEX.

4.1. Permits and Licences.

The Company, at its sole cost and expense, shall acquire and maintain in effect all permits, licences and approvals required by all governmental and local agencies, commissions and authorities with jurisdiction over the Company and/or the Complex in order to enable it to perform its obligations under this Agreement.

4.2. Submissions by the Company

The Company shall submit to JPS the documents listed in Clauses 4.2.1 through 4.2.19 below (“PPA Original Support Documents”) on or before the dates specified. In addition, the Company shall provide to JPS any document amending or otherwise modifying a PPA Original Support Document in a timely manner as such information is amended, modified or superseded (all such amendments and modifications, “PPA Amended Support Documents”). Prior to executing or otherwise completing a PPA Original Support Document or PPA Amended Document referred to in Clauses 4.2.2, 4.2.3, 4.2.8, [4.2.9] and 4.2.10, the Company shall obtain the written approval of JPS, which approval shall not be unreasonably conditioned, withheld or delayed. If JPS refuses its approval of any PPA Original Support Document or PPA Amended Support Document, JPS shall provide the Company with a written statement explaining in reasonable detail the basis for such

refusal. Neither the receipt nor approval of any PPA Original Support Document or PPA Amended Support Document shall (a) relieve the Company of any liability, obligation or responsibility under this Agreement resulting from a breach by the Company of this Agreement, or (b) be construed as an endorsement by JPS of the design, financing, construction, ownership, operation or maintenance of the Complex nor as a warranty by JPS of the safety, durability or reliability thereof. In relation to any Dispute as to an approval or refusal under this Clause 4.2, either Party may give Notice of Intention to Refer pursuant to Clause 16.2.2. The documents to be submitted and specified dates are as follows:

4.2.1. On or before the Commencement of Construction, a notice indicating the Scheduled Commercial Operations Date, as such date may be updated by the Company from time to time as long as it does not exceed the Required Commercial Operations Date;

4.2.2. On or before the date one hundred eighty (180) Days prior to the Scheduled Commercial Operations Date, a copy of the Company's proposed plan for the operations and maintenance of the Complex and any O&M Contract entered into by the Company, together with all amendments executed as of that date (but excluding the commercial terms of such O&M Contract);

4.2.3. No later than one hundred and eighty (180) Days after the Agreement Date, the design and settings of the Interconnection Facilities in accordance with Clause 8.2.3.

4.2.4. On or before the date thirty (30) Days prior to the Commencement of Construction, a copy of the Construction Contract entered into by the Company for the Complex, including all schedules, plans and specifications attached thereto, plus all amendments executed as of that date (but excluding the commercial terms of the Construction Contract);

4.2.5. As soon as available, but no later than one hundred and eighty (180) Days prior to the Scheduled Commercial Operations Date, copies of all permits, licences, approvals and other governmental authorizations and relevant concessions that have been issued to the Company for the design, financing, construction, ownership, operation and maintenance of the Complex; provided that where (a) such permits, licences, approvals and other governmental authorizations are not customarily issued by such government entities prior to one hundred and eighty (180) Days prior to the Scheduled Commercial Operations Date in the ordinary course of development, construction and operation, the Company shall provide such permits, licences, approvals and other governmental authorizations and Relevant Concessions to JPS promptly following receipt of the same by the Company; or (b) such permits, licences, approvals and other governmental authorizations and Relevant Concessions are customarily issued by such government entities prior to one hundred and eighty (180) Days prior to the Scheduled Commercial Operations Date in the ordinary course of development and construction, and the Company has failed to receive any of such permits, licences, approvals or other governmental authorizations for the design, financing, construction, ownership, operation and/or maintenance of the Complex, then in the case of (b), the Company shall, as soon as such failure has arisen, but no later than one hundred and eighty (180) Days prior to the Scheduled Commercial Operations Date, notify JPS of its failure to receive any such permit, licence, approval or other governmental authorization or Relevant Concessions,

and provided that the failure to obtain such permits, licences, approvals or other governmental authorizations and Relevant Concessions is not directly or indirectly attributable to the actions, omissions or delay on the part of the Company or such person acting through or on its behalf, the time for the Company to perform its obligations under this Clause 4.2.5 shall be extended by the same period by which the issuing of the required permit, licence, approval or other governmental authorizations and Relevant Concessions is delayed beyond the date one hundred and eighty (180) Days prior to the Scheduled Commercial Operations Date;

4.2.6. Beginning thirty (30) Days after the Agreement Date and ending on the Commercial Operations Date, monthly progress reports substantially in the form set forth in Schedule 8;

4.2.7. As soon as available, but not later than ninety (90) Days after the Agreement Date, general arrangement drawings for the construction of the Complex;

4.2.8. Not later than ninety (90) Days prior to the scheduled commencement of testing and Commissioning of the Complex, a start-up and test schedule for such Commissioning, including, without limitation, appropriate expected milestone dates for such start-up and testing. JPS shall within fourteen (14) days of receipt of the documents referred to in this Clause 4.2.8 (and any revisions thereto) respond to the Company granting or refusing its approval, as the case may be. In the event that no response is received from JPS within the fourteen (14) day period, or such other extended period in accordance with this Agreement, the Commissioning Schedule shall be deemed to be agreed. In the event of objections by either Party, the Parties shall make every effort to have the Commissioning Schedule agreed no later than thirty (30) days prior to the Scheduled Commercial Operations Date. Notwithstanding an agreement or deemed agreement on the Commissioning Schedule, the Parties acknowledge and agree that in the event of an Emergency, JPS may deviate from such Commissioning Schedule without liability during the period of such Emergency;

4.2.9. [As soon as available, draft copies of all Renewable Fuel Feed Stock Supply Agreements, Renewable Fuel Feed Stock Transportation Agreements, and other commitments required to implement the Renewable Fuel Feed Stock Supply Plan for the Complex as applicable, but not later than ninety (90) Days prior to the scheduled commencement of testing and Commissioning of the Complex executed copies of these agreements;¹]

4.2.10. Not later than one hundred and twenty (120) Days prior to the Scheduled Commercial Operations Date, a copy of draft written operating procedures to serve as the basis for the written Operating Procedures to be jointly developed pursuant to Clause 4.3;

4.2.11. Not later than one hundred and twenty (120) Days prior to the Scheduled Commercial Operations Date, a proposed interconnection tripping schedule to serve as the basis for the Interconnection Tripping Schedule to be jointly developed pursuant to Clause 4.3;

¹ This Clause 4.2.9 will only be included for Biomass Technology, otherwise said clause will be excluded and will be “Intentionally left blank”.

4.2.12. Not later than ten (10) Days after the date of purchase of the relevant insurance policy, copies of all certificates of insurance required to be obtained as of the Agreement Date pursuant to Clause 15, together with prompt submission of all amendments executed subsequent to the Agreement Date;

4.2.13. As soon as available, but not later than thirty (30) Days prior to the Commercial Operations Date, final design drawings for the construction of the Complex;

4.2.14. As soon as available, but not later than thirty (30) Days prior to the Commercial Operations Date, certificate(s) signed by one or more licensed professional design engineers of the Construction Contractor stating that the Complex is designed (a) in accordance with the Agreement Criteria, (b) in accordance with Prudent Utility Practice, (c) in accordance with Schedule 2 and (d) to have a useful life of at least twenty (20) Years;

4.2.15. As soon as available, but not later than ten (10) Days prior to the Commercial Operations Date a certificate signed by one or more licensed professional engineers of the Construction Contractor stating that the Complex has been constructed in accordance with (a) the Agreement Criteria, (b) Schedule 2, (c) the Construction Contract, (d) the final design drawings, and (e) Prudent Utility Practice and (f) that the Complex is designed and constructed to have a useful life of at least twenty (20) Years;

4.2.16. As soon as available, but not later than forty-five (45) Days after the Commercial Operations Date, a certificate signed by the Company's licensed professional engineer stating that he has supervised the design and construction of the Complex in accordance with Prudent Utility Practice and that such design and construction has been completed (save for any works which remain to be completed after the Commercial Operations Date and which do not materially affect the safety or operability of the Complex in accordance with this Agreement) consistent with (a) the terms of this Agreement (including the Minimum Functional Specifications), (b) the Construction Contract, (c) Prudent Utility Practice, and (d) that the Complex is designed and constructed to have a useful life of at least twenty (20) Years;

4.2.17. As soon as available, but not later than five (5) Days prior to the Commercial Operations Date, copies of all test results for tests performed on the Complex;

4.2.18. As soon as available, but not later than ninety (90) Days after the Commercial Operations Date, as-built drawings and complete specifications for the Complex; and

4.2.19. Whereby this Agreement the Parties or any one of them is required to perform any act or fulfil any obligation during the Pre-Operation Period within a specified time and for any reason whatsoever that Party cannot perform within the time stated, then that Party may request an extension of the time for performance. Requests for extensions of time shall be given due and reasonable consideration and may be granted on such terms and conditions as the Parties may agree.

4.3. Operating Procedures.

4.3.1. The Company and JPS shall jointly develop and agree on written operating procedures for the Complex no later than ninety (90) Days prior to the Scheduled Commercial Operations Date (the "Operating Procedures"). Such Operating Procedures

shall: (a) be based on, but not limited to, the designs of the Complex, the Interconnection Facilities and the JPS Grid, and on the draft procedures provided by the Company pursuant to Clause 4.2.10; (b) be consistent with the Minimum Functional Specifications; and (c) deal with all operational interfaces between JPS and the Company, including, but not limited to, the method of day-to-day communication, key personnel lists, clearances and switching practices, safety rules and procedures, outage scheduling, energy forecasting and reporting, Generating Unit operations log, and Reactive Power support. The Operating Procedures shall be subject to the prior written consent of JPS, which consent shall not be unreasonably conditioned, withheld or delayed.

4.3.2. The Company and JPS shall jointly develop an Interconnection Tripping Schedule no later than ninety (90) Days prior to the Scheduled Commercial Operations Date. In developing such Interconnection Tripping Schedule, due consideration shall be given to the proposed interconnection tripping schedule provided by the Company pursuant to Clause 4.2.11 and shall be subject to the prior written approval of JPS, which approval shall not be unreasonably conditioned, withheld or delayed.

4.4. Energy Prior to the Commercial Operations Date.

4.4.1. At the Company's request, JPS shall provide electricity supply for the construction, testing and Commissioning of the Complex, subject to availability and JPS' ability to deliver such supply to the Complex. The Company shall pay JPS for such supply pursuant to Clause 2.2.

4.4.2. Prior to the Commercial Operations Date, JPS shall use reasonable efforts to accept all energy produced by the Complex during testing and Commissioning of the Complex and JPS shall pay the Company for such energy at the rate set forth in Clause 10 and Schedule 6, but otherwise on the terms and conditions set out in Clause 2.1 in respect of the purchase of energy on and after the Commercial Operations Date.

4.5. Inspection.

Upon reasonable prior notice from JPS to the Company, JPS and/or its representatives shall have the right to observe the progress of the construction, testing and Commissioning, operation and maintenance of the Complex. Such visits to the Site shall not be construed as an endorsement by JPS of the design of the Complex nor as a warranty by JPS of the safety, durability or reliability of the Complex.

4.6. Access to the Site.

Each Party shall, upon reasonable prior notice from the other Party, and at reasonable times, grant the Party giving notice reasonable passage through any lands (adjacent to the Site), which are owned by, controlled by or in the possession of the Party receiving the notice, that are necessary for designing, financing, constructing, operating or maintaining the Complex or the Interconnection Facilities.

4.7. Delay in Commissioning.

4.7.1. JPS shall cooperate with the Company to facilitate the testing and Commissioning of the Complex in accordance with the Commissioning Schedule.

4.7.2. JPS shall in a diligent and timely manner cooperate with the Company and promptly carry out such reasonable actions as are required of JPS to facilitate the testing and Commissioning in accordance with the Commissioning Schedule, and each party shall make reasonable commercial efforts to avoid any undue delay in the testing and Commissioning. In the event that JPS causes a delay in the Commissioning of the Complex of a period of fourteen (14) Days, the Required Commercial Operation Date shall be extended by each Day of such delay commencing on the day immediately following the fourteenth (14th) Day; provided that no such extension shall be granted to the extent a delay would have nevertheless been experienced had JPS been able to facilitate the testing and Commissioning in accordance with the Commissioning Schedule. In the event of delay in reaching the Commercial Operations Date on or before the Required Commercial Operations Date, for reasons attributable to the Company, the Company shall pay liquidated damages in accordance with Clause 10.4.

5. WARRANTIES AND COVENANTS

5.1. Representations and Warranties of the Company

The Company warrants to JPS that:

5.1.1. The Company is duly organized, validly existing and has complied in all material respects with the requirements of the Laws of Jamaica;

5.1.2. The Company has full power to carry on its business and to enter into, legally bind itself by, and perform its obligations under this Agreement and the other agreements comprising the Material Agreements;

5.1.3. This Agreement has been duly authorized, executed, and delivered by the Company and constitutes its legal, valid and binding obligation;

5.1.4. The execution, delivery, and performance of this Agreement and each Material Agreement to which the Company is a party does not (a) constitute a material violation of (i) the Laws of Jamaica or any other law, statute, judgment, order, decree or regulation or rule of any court, Governmental Authority or arbitrator of competent jurisdiction enforceable against or binding upon the Company, its assets or its businesses, or (ii) the Company's organic documents or any indenture, contract or agreement to which it is a party or by which it or its property may be bound, or (b) require any consent, approval, or authorization of, or filing or registration with, or notice to, any Governmental Authority or other person or entity, except for the consent of the Company's Lenders;

5.1.5. There are no outstanding judgments against the Company, and, to the best knowledge of the Company, no action, claim, suit or proceeding is pending or threatened against the Company before any court, Governmental Authority or arbitrator of competent jurisdiction that could reasonably be expected to affect materially and adversely the financial condition or operations of the Company or the ability of the Company to perform its obligations under this Agreement or any other Material Agreement or which purports to materially affect the legality, validity or enforceability of this Agreement or any other Material Agreement;

5.1.6. The Company, to the best of its knowledge, is not in material breach of any agreement to which it is a party or by which it or its property may be bound, nor in any

material default of any technical or financial obligation, which could have a material adverse effect on the ability of the Company to perform its obligations under this Agreement or any other Material Agreement; and

5.1.7. No information given by the Company in relation to this Agreement, any Material Agreement, or in the Proposal submitted by the Company (a) contains any material misstatement of fact which would be materially adverse to the enforcement of the rights and remedies of JPS, or (b) omits to state a fact which would be necessary to make any statement, representation or warranty contained herein or therein true and correct.

5.2. Representations and Warranties of JPS.

JPS warrants to the Company that:

5.2.1. JPS is duly formed, validly existing and has complied in all material respects with the applicable Laws of Jamaica;

5.2.2. JPS has full power to carry on its business and to enter into, legally bind itself by, and perform its obligations under this Agreement and the other Material Agreements (to which JPS is a party);

5.2.3. This Agreement has been duly authorized, executed, and delivered by JPS and constitutes its legal, valid and binding obligation;

5.2.4. The execution, delivery, and performance of this Agreement and each Material Agreement (to which JPS is a party) does not (a) constitute a material violation of (i) the Laws of Jamaica or any other law, any statute, judgment, order, decree or regulation or rule of any court, Governmental Authority or arbitrator of competent jurisdiction enforceable against or binding upon JPS, its assets or its businesses, or (ii) the Articles of Incorporation or other organic documents or, to the best knowledge of JPS, any indenture, contract or agreement to which it is a party or by which it or its property may be bound, or (b) require any consent, approval, or authorization of, or filing or registration with, or notice to, any governmental authority or other person or entity;

5.2.5. There are no outstanding judgments against JPS, and, to the best knowledge of JPS, no action, claim, suit or proceeding is pending or threatened against JPS before any court, Governmental Authority or arbitrator of competent jurisdiction that could reasonably be expected to affect materially and adversely the ability of JPS to perform its obligations under this Agreement or which purports to affect the legality, validity or enforceability of this Agreement;

5.2.6. JPS, to the best of its knowledge, is not in material breach of any agreement to which it is a party or by which it or its property may be bound, nor in any material default of any technical or financial obligation, which could have a material adverse effect on the ability of JPS to perform its obligations under this Agreement; and

5.2.7. No information given by JPS in relation to this Agreement (a) contains any material misstatement of fact which would be materially adverse to the enforcement of the rights and remedies of the Company or (b) omits to state a fact which would be necessary to make any statement, representation or warranty contained herein true and correct.

5.3. Covenants of the Company.

The Company hereby covenants as follows:

5.3.1. The Company shall design, finance, construct, own, and at all times operate and maintain the Complex, or cause the Complex to be operated and maintained, in accordance with this Agreement, the Minimum Functional Specifications, the Operating Procedures, Prudent Utility Practice, and, where applicable, the relevant environmental guidelines and occupational health and safety standards of Jamaica, and all laws, rules, regulations, standards, codes, orders, directives and ordinances that are enforceable against or binding upon the Company;

5.3.2. The Company shall Commission the Complex on or before the Required Commercial Operations Date;

5.3.3. The Company shall operate and maintain the Complex, or cause the Complex to be operated and maintained, in such a manner so as not to adversely affect JPS' distribution of electricity in contravention of the Interconnection Criteria, including but not limited to adverse effects on JPS' voltage level or voltage waveform, power factor and frequency or produce adverse levels of voltage flicker and/or voltage harmonics; and

5.3.4. The Company shall, in accordance with Prudent Utility Practices, the Minimum Functional Specifications, and any existing Generation Code, install protective relays within the Complex and/or the Interconnection Facilities, having ratings and characteristics approved by JPS, which approval shall not be unreasonably conditioned, withheld or delayed, and shall maintain the settings of all such relays at the level acceptable to JPS. The Company shall not change the settings of such relays without the prior written approval of JPS, which approval shall not be unreasonably conditioned, withheld, or delayed.

6. OPERATION AND MAINTENANCE OF THE COMPLEX

6.1. Take As Available Energy.

JPS shall accept the Net Energy Output of the Complex up to a maximum total energy equivalent of the Contracted Net Energy Output. The Parties acknowledge and agree that the Complex will be a "Take-As-Available" "Generating Unit" as those terms are defined in the Generation Code.

JPS may not reduce or curtail the amount of electricity it accepts from the Complex for any reason during the term of this Agreement except in the following circumstances:

- (a) JPS is required to perform planned or unplanned maintenance on all or part of the Interconnection Facility and (in the case of a planned maintenance outage) provides the Company with prior notice stating the expected length of the outage;
- (b) Interruption to the operation of a material part of the JPS Grid due to a storm or other natural disaster or other cause not within JPS' control. In such circumstances, JPS

shall promptly notify the Company of the outage and its expected length, but failure to do so shall not result in any liability to JPS;

- (c) Upon the occurrence of a Force Majeure event; or
- (d) Where it is required or prudent for JPS to do so (i) when an Emergency arises, or (ii) in order to remain in compliance with the JPS Licence as in force from time to time, the Generation Code, the Interconnection Criteria, Prudent Utility Practice or Relevant Law.

In relation to any outage arising in the circumstances set out in paragraphs (a) to (d) of this Clause 6.1, JPS shall, having due consideration for the limits of the resources available to JPS and the need to maintain the stability and reliability of the JPS Grid as a whole: (i) use reasonable commercial efforts to minimize the length of the outage; (ii) schedule and carry out such work as is required to do so in a way that does not discriminate against the Company as compared to other generators that can supply power to the [insert name] Substation in relation to the resumption of such supply. This provision shall not require JPS in any particular instance, to maintain equality between the Company and any other generator or to treat the Company preferentially to any other generator.

6.2. Operation by the Company.

Commencing with the Commercial Operations Date, the Company shall keep the Control Centre informed as to the capacity and electrical energy available at the Complex and shall immediately advise the Control Centre of any change in this capability.

On and after the Commercial Operations Date, each Day the Company should provide JPS with a daily forecast of the projected electrical energy which may be available from the Complex. The Parties recognize that such forecasts do not assure or imply any guarantee of the level of actual electricity to be produced during the forecast time period. However, the Company should seek to provide a forecast best suited to that particular technology as agreed with JPS.

6.3. Outages.

6.3.1. At least sixty (60) Days prior to the Scheduled Commercial Operations Date, the Company shall submit to JPS its desired schedule of Scheduled Outage periods for the first twelve (12) months. Thereafter, by July 1 of each Year, the Company shall submit to JPS its desired schedule of Scheduled Outage periods for the following Year. Provided however that the Company shall use its best efforts to advise JPS, in writing, of its Scheduled Outages no less than one (1) month prior to each such outage.

6.3.2. JPS shall, on the Commercial Operations Date and thereafter, by November 30th of each Year submit to the Company its Transmission Outage Plan as applicable for the following twelve (12) months. Provided, however, that JPS shall use its best efforts to advise the Company, in writing, of each Scheduled Maintenance no less than one (1) month prior to each such maintenance operation.

6.3.3. In the event of a Forced Outage by the Company, the Company shall immediately notify the Control Centre of the event and within a period of five (5) Days provide the

written details of the impact of the outage on the Complex and the projected duration of the outage.

6.3.4. The Parties shall use their best efforts to coordinate their schedules for the Company Scheduled Outage periods pursuant to Clause 6.3.1 with the Transmission Outage Plan pursuant to Clause 6.3.2

6.4. Emergencies.

6.4.1. No less than ninety (90) Days prior to the Commercial Operations Date, JPS and the Company shall jointly establish plans for operating the Complex during an Emergency affecting the Company or JPS. Such plans shall include, without limitation, procedures for recovery from a local or widespread electrical blackout and voltage reduction in order to effect load curtailment.

6.4.2. During an Emergency the Company shall supply such energy, as it is able to generate within the Minimum Functional Specifications and according to the provisions in Clause 6.4.1. If the Complex has a Scheduled Outage or a Forced Outage and such Scheduled or Forced Outage occurs or would occur coincident with an Emergency, the Emergency shall be construed as part of the Scheduled Outage or Forced Outage and the Company shall use all reasonable efforts to expedite the completion of the work to restore power supply as soon as possible.

6.4.3. During an Emergency, JPS shall use all reasonable efforts to expedite the completion of work to restore power supply as soon as possible.

6.4.4. The Complex shall operate within the voltage and frequency limits as set out in the Generation Code approved by the OUR. Notwithstanding the foregoing, the Company reserves the right, without penalty, to immediately isolate itself from the JPS Grid in the event of voltage or frequency variations (“abnormal or contingency conditions”) on the JPS Grid and the JPS Interconnection Facilities outside of the limits within which it is obligated to operate. The Company shall promptly thereafter notify JPS of its decision to isolate itself from the system and the reasons therefor. JPS shall notify the Company of the cause of the abnormal or contingency conditions promptly after such cause is known and if they are continuing, the estimated time that normality will return.

6.5. Operating Committee.

The Parties shall establish an Operating Committee comprising four (4) members. The Company and JPS shall each appoint two (2) of the four (4) members. The Company shall appoint the first chairman of the Operating Committee, JPS shall appoint the second chairman, and the Parties shall then alternate with respect to subsequent appointments. Each chairman shall serve for a term of twelve (12) Months, with the first term commencing on the Commercial Operations Date. The obligations and responsibilities of the Operating Committee and the rules governing meetings of the Operating Committee shall be as set forth in Schedule 7.

6.6. Operating Personnel.

6.6.1. The Company shall employ, or cause to be employed, personnel who are qualified and experienced for operating and monitoring the Complex and for coordinating

operations of the Complex with the JPS Grid. The Company shall ensure that at all times during the operation of the Complex, all skilled and unskilled labourers operate under the direct supervision of qualified and experienced personnel.

6.6.2. The Company may appoint an O&M Contractor(s) to operate and maintain the Complex throughout the term of this Agreement. No such appointment shall relieve the Company of any liability obligation or responsibility whatsoever resulting from a breach of this Agreement.

6.7. Inspection and Records.

6.7.1. JPS shall have the right at its sole cost and expense, to visit, observe and examine any Generating Unit and/or the Complex and/or the operation thereof upon reasonable advance notice to the Company, for the purpose of facilitating the technical operation and administration of this Agreement. Such visits and observations shall not be construed as an endorsement by JPS of the design or operation of the Complex nor as a warranty by JPS of the safety, durability or reliability of the Complex and shall not give rise to any liability on the part of JPS under this Agreement, save and except where damage and/or loss is caused by the negligence of JPS or its agents.

6.7.2. In the event that any JPS representative desires to enter the Complex, such person shall be a competent and duly authorized person who is adequately equipped with the necessary personal protective equipment and safety training and shall at all times adhere to the reasonable instructions and directions of the Company's representatives.

6.7.3. The Company shall have the right, at its sole cost and expense, to visit and observe the JPS Interconnection Facilities or the operation thereof upon reasonable prior notice to JPS. Such persons shall be competent and duly authorized persons who are adequately equipped with the necessary personal protective equipment and safety training and shall at all times adhere to the reasonable instructions and directions of JPS' representatives.

6.7.4. Each Party at its sole cost and expense shall keep complete and accurate records and all other data reasonably required by each of them for the purposes of proper administration of this Agreement. Among other records and data, the Company shall maintain an accurate and up-to-date operating log as set out in Schedule 10.

6.7.5. During the period such records and data are required to be maintained, each Party shall have the right, upon reasonable prior written notice to the other Party, at its sole cost and expense, to examine and/or make copies of the records and data of the other Party relating to this Agreement at any time during normal office hours. All such records shall be maintained for a minimum of sixty (60) Months after the creation of such records or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties. Upon expiration of such sixty (60) Month period (or additional term as required by any applicable regulatory agency where such term shall not be less than sixty (60) Months), neither Party shall dispose of or destroy any such records without (30) Days' prior written notice to the other Party, and the Party receiving such notice may receive such records in lieu of such disposal or destruction by giving the notifying Party notice prior to the expiration of the (30) Day period and paying for any costs and expenses associated with such transfer of records.

7. GUARANTEED ENERGY SUPPLY

7.1. Adjusted Delivered Energy

The Company shall supply JPS, for each Contract Year, with an amount of Adjusted Delivered Energy equal to or greater than the Guaranteed Energy for such Contract Year under the conditions set forth in this Agreement.

7.2. Energy Delivery Minor Shortage

In the event that, during any Contract Year, the Adjusted Delivered Energy is less than the Guaranteed Energy but greater than the Minimum Guaranteed Energy (the difference between the Guaranteed Energy and the Adjusted Delivered Energy for such Contract Year, an 'Energy Delivery Minor Shortage'), the Company shall supply the necessary Net Energy Output to cover such Energy Delivery Minor Shortage during the following Contract Year (the 'Recovery Year'). If the Adjusted Delivered Energy during the Recovery Year is less than the sum of the Guaranteed Energy for the Recovery Year and the Energy Delivery Minor Shortage, the Company shall pay JPS, within the first three (3) Months of the Contract Year following the Recovery Year, liquidated damages for the energy shortage for an amount equivalent to the Shortage Cost multiplied by the difference of the amount of megawatt-hour between (a) such Energy Delivery Minor Shortage and (b) the surplus, if any, of the Adjusted Delivered Energy over the Guaranteed Energy for the Recovery Year.

7.3. Energy Delivery Large Shortage

In the event that, during any Contract Year, the Adjusted Delivered Energy is less than the Minimum Guaranteed Energy (the difference between the Guaranteed Energy and the Adjusted Delivered Energy for such Contract Year, an 'Energy Delivery Large Shortage'), the provisions set forth above in Clause 7.2 shall be applied in respect to the Energy Delivery Minor Shortage included in such Energy Delivery Large Shortage. Additionally, the Company shall pay JPS, within the first three (3) Months after the end of the Contract Year in which the Energy Delivery Large Shortage was identified, liquidated damages for the energy shortage for an amount equivalent to the Shortage Cost multiplied by the difference of the amount of megawatt-hour between (a) such Energy Delivery Large Shortage and (b) the Energy Delivery Minor Shortage included in such Energy Delivery Large Shortage.

7.4. Addressing Minimum Guaranteed Energy Shortfalls

7.4.1. Should the Company experience (a) a Minor Shortage in Energy Delivery for three (3) consecutive Contract Years or (b) a Large Shortage in Energy Delivery for two (2) consecutive Contract Years, the Company may undertake activities strictly necessary to ensure compliance with the obligation of delivering an amount of Energy equal or greater to the Guaranteed Energy in each Contract Year (referred to as the "Remedial Measures"); provided that the Company receives all requisite permits, licences (excluding the Generation Licence) and consents from the relevant Governmental Authority to construct, maintain and operate the Complex as modified by the Remedial Measures.

7.4.2. In the event that a Minor Shortage in Energy Delivery or a Large Shortage in Energy Delivery persists even with the Remedial Measures in place, the conditions

specified in Clauses 7.2 and 7.3 shall apply. The execution of Remedial Measures, as detailed in Clause 7.4.1 may only occur once during the Initial Term stipulated in Clause 3.1.

7.4.3. The costs and expenses associated with the Remedial Measures, as stipulated in this Clause 7.4, shall be the exclusive responsibility of the Company including but not limited to any changes to the Interconnection Facilities required by JPS, and the Contracted Net Capacity shall remain the same thereby leaving the Associated Energy Offered Price unaltered.

8. INTERCONNECTION

8.1. JPS' Responsibilities

8.1.1. After the Commercial Operations Date, JPS shall be responsible for (a) the operation and maintenance of the Primary Metering System, (b) the operation and maintenance of the auxiliary and interconnecting equipment on JPS' side of the Interconnection Point and (c) coordination of switching operations of the Interconnection Facilities, all in accordance with the terms of this Agreement, the Operating Procedures, Prudent Utility Practice and all applicable laws, rules, regulations, codes, standards, determinations, orders, directives and ordinances.

8.1.2. JPS shall permit the Company and/or its contractors and/or agents to have such access to the JPS side of the Interconnection Point as the Company and/or its contractors and/or agents shall require solely for the design, construction, installation, testing and commissioning of the JPS' Interconnection Facilities and JPS shall cooperate with the Company to facilitate the timely progress of the design, construction, installation, testing and commissioning thereof. The Company shall ensure that its representatives and/or contractors and/or agents who are permitted access to the JPS side of the Interconnection Point adhere to the JPS' safety rules, guidelines and procedures and reasonable instructions and directions of JPS (provided that such instructions and directions are consistent with Prudent Utility Practice) and shall ensure that such representatives and/or contractors and/or agents are equipped with the necessary personal protective equipment; provided that the safety rules, guidelines and procedures are prominently displayed or otherwise communicated to them.

8.1.3. Unless otherwise stated in this Agreement, after the Commercial Operations Date JPS shall own, operate and maintain the JPS Interconnection Facilities and shall effect and maintain its connection to the JPS Grid.

8.1.4. The Interconnection Criteria provided by JPS and included in this Agreement as Schedule 10, includes all necessary JPS interconnection criteria for the Company to design and establish settings of the Interconnection Facilities for the Complex. The Interconnection Criteria includes 69 kV grid operations parameters for the performance, controls, protection and fault clearing for the Complex. JPS shall within [*] (*)² Days of receiving the Company's design and settings of the Interconnection Facilities for the Complex, inform the Company in writing of its approval, which approval shall not be unreasonably conditioned, withheld or delayed, and such approval shall not constitute the

² To be negotiated by the Parties, in accordance with the Technology of the Power Plant.

making of any representation or warranty of whatsoever kind by JPS and shall not operate to increase the liability of JPS hereunder.

8.2. Company's Responsibilities

8.2.1. The Company shall be responsible for the design, financing, construction, installation, testing and commissioning of the Interconnection Facilities on both sides of the Interconnection Point including the Primary Metering System, Backup Metering System and all auxiliary and interconnecting equipment in accordance with the terms of this Agreement, Prudent Utility Practice and all applicable laws, rules, regulations, codes, standards, determinations, orders, directives and ordinances. The design, construction and installation of the Interconnection Facilities shall be subject to the written approval of JPS, which approval shall not be unreasonably conditioned, withheld or delayed. To the extent that any of these matters or the performance of any repair or replacement of defective equipment or materials during the warranty period requires the Company to carry out any work on or in any equipment, structure or operating asset that forms a part of the JPS Grid, then such work shall only be carried out with the prior written approval and under the supervision of JPS and subject to such conditions as JPS shall set out in its approval of the plan for the works submitted by the Company, provided JPS' approval in this Clause 8.2.1 shall not be unreasonably conditioned, withheld or delayed and shall not in any way give rise to any responsibility or liability on the part of JPS in respect of the work carried out by the Company. Promptly following the Commercial Operations Date the Company shall, at its sole expense and cost, transfer the interconnection equipment on the JPS side of the Interconnection Point to JPS for ownership, operation and maintenance and JPS shall promptly take all reasonable actions to accept and take transfer of such JPS Interconnection Facilities. The Company warrants that the JPS Interconnection Facilities are free from defects in materials and workmanship for a period of one (1) year from the Commercial Operations Date and are of such standard and technical specification to accommodate any supply of energy to the JPS Grid. The Company shall repair or replace any defective equipment and materials discovered within such warranty period and if the Company fails to do so within a reasonable period following notification by JPS of a breach of this warranty, the Company shall be responsible for all costs associated with the repair or replacement of defective equipment and materials and compliance with the provisions of this Clause 8.2.1 by the Company during this warranty period. The Company shall own the Interconnection Facilities on its side of the Interconnection Point and shall maintain and operate all such Interconnection Facilities.

8.2.2. The Company shall be responsible for operating and maintaining (a) the Backup Metering System and (b) all auxiliary and interconnecting equipment on the Company's side of the Interconnection Point in accordance with the terms of this Agreement, the Operating Procedures and the other Agreement Criteria; provided that JPS shall have overall responsibility for coordinating the switching operations of the Interconnection Facilities and such auxiliary and inter-connecting equipment, and the Company shall cooperate with JPS to assure the safe and reliable operation of such facilities and equipment.

8.2.3. No later than one hundred and eighty (180) Days after the Agreement Date, the Company shall provide to JPS, for its review and approval, the design and settings of the Interconnection Facilities, accompanied by the supporting data, calculations and assumptions. Any approval given by JPS pursuant to this Clause 8.2.3 shall not constitute the making of any warranty of any kind whatsoever by JPS.

8.2.4. Prior to initial synchronization of the Complex, the Interconnection Facilities shall be tested at the sole cost and expense of the Company, in the presence of JPS as provided in Schedule 4.

8.2.5. After the Commercial Operations Date, the Company shall permit JPS such access to the Complex as JPS shall reasonably require in order to conduct inspection and testing of the Interconnection Facilities on the Company's side of the Interconnection Point. Notwithstanding, the Company shall permit JPS and/or its contractors and/or agents to have such access to such locations under the Company's control including the Company's substation necessary to facilitate access by JPS to the JPS side of the Interconnection Point as JPS and/or its contractors and/or agents shall require solely for the purpose of maintenance and operation of the JPS Interconnection Facilities.

8.2.6. Within (30) Days of the commissioning of the JPS Interconnection Facilities the Company shall, at its sole cost and expense, cause the manufacturers of the interconnection equipment to provide JPS with adequate training in the operation and maintenance of the JPS Interconnection Facilities at such times as agreed to by JPS.

8.3. Protective Devices

8.3.1. The Company's Interconnection Facilities shall be connected to the JPS Grid or system by means of suitable switchgear and protective devices in accordance with Schedule 2 and Schedule 3.

8.3.2. Each Party shall notify the other Party in advance of any changes to be made to the Complex or any of the Interconnection Facilities or the JPS Grid, as the case may be, that may affect the proper coordination of protective devices between the two systems, Provided that the Company shall not disable or otherwise change or modify any protective equipment in its Interconnection Facilities on its side of the Interconnection Point, or change or modify the operation or settings thereof without first requesting and receiving the approval in writing of JPS, which approval shall not be unreasonably conditioned, withheld or delayed.

8.3.3. Subject to giving the Company reasonable notice, JPS may reasonably require the Company to modify or expand the protective devices in the Complex and the Interconnection Facilities on the Company's side of the Interconnection Point. The Company shall, at its own cost and expense, effect such reasonable modifications or expansions provided that such modifications or expansions are within the requirements specified in Schedules 2 and 3 hereto, the Interconnection Criteria and/or the Agreement Criteria, otherwise the cost and expense shall be shared equally by the Parties.

9. METERING AND TELECOMMUNICATIONS

9.1. Ownership of Metering Equipment

9.1.1. The Company shall design, finance, construct, install and commission the Primary Metering System and transfer it (together with the licence for all metering software used with or to operate the system) to JPS concurrently with the transfer of the JPS Interconnection Facilities, as of which date JPS shall own, operate and maintain the Primary Metering System in accordance with Schedule 5. JPS shall promptly take all reasonable actions to accept and take transfer of such Primary Metering System. Upon commissioning the Primary Metering System but prior to the first synchronization of the Complex, the Company shall not access, read, reconfigure or otherwise tamper or interfere with, nor cause any person other than JPS to access, read or reconfigure the Primary Metering System.

9.1.2. The Company shall design, finance, construct, install, Commission, own, operate and maintain the Backup Metering System pursuant to Schedule 5.

9.1.3. The metering points for both the Primary Metering System and Backup Metering System shall be at the location as described in Schedule 5.

9.2. Testing and Inspection of the Metering System.

Testing, inspection, repair, recalibration and replacement of the Primary Metering System and Backup Metering System shall be performed by the Parties in accordance with Schedule 5.

9.3. Measurement of Net Energy Output

9.3.1. On the Commercial Operations Date and each Month thereafter, JPS shall read the Primary Metering System for the purpose of measuring the Net Energy Output of the Complex in accordance with the provisions of Schedule 5. If JPS obtains readings remotely, JPS shall make copies of the reading produced by the device which initiates the reading protocol and provide a copy of such reading to the Company on the Day of such reading. JPS shall provide details of the reading protocol and/or remote reading procedures to the Company. If JPS conducts a physical reading of the Primary Metering System, it shall give reasonable prior notice to the Company of the time when such reading will be done. JPS shall permit a representative of the Company to witness and verify such reading; provided, however, that the failure of the Company to send a representative to witness any such reading shall not affect the validity of such inspection or test or reading.

9.3.2. If the Primary Metering System is found to be inaccurate or functioning improperly, JPS shall read the Back-up Metering System, in accordance with the provisions of Schedule 5 for the purpose of measuring the Net Energy Output of the Complex.

9.3.3. In the event that the Primary Metering System and the Back-up Metering System are found to be inaccurate or functioning improperly, the correct amount of Net Energy Output delivered to JPS during the period for which inaccurate measurements were made shall be determined in accordance with Schedule 5. The difference between the previous payments by JPS for the period of inaccuracy and the recalculated amount shall be offset

against or added to the next payment to the Company under this Agreement, as appropriate; provided, however, that if there are no scheduled future payments, then the Company or JPS, as the case may be, shall pay the other Party the adjustment amount within (30) Days. In no event, however, shall any such adjustment be made for any period prior to the date on which the Primary Metering System was last tested and found to be accurate within plus or minus one half of one percent (0.5%) and not otherwise functioning improperly.

9.4. Telecommunications

The Company shall provide, at its sole cost and expense, the telecommunications equipment specified in Schedule 5. The selection and installation of items to be provided by the Company in accordance with this Clause 9.4 shall be subject to the prior written approval of JPS, which approval shall not be unreasonably conditioned, withheld or delayed.

10. COMPENSATION, PAYMENT AND BILLING

10.1. Energy Payment

JPS shall pay the Company the Energy Payment in accordance with this Clause 10.

10.2. Energy Payment Prior to Commercial Operations Date

Payment for energy purchased by JPS prior to the Commercial Operations Date shall be made by JPS for such energy at the price specified in Schedule 6 and subject to Clause 2.1 within twenty-five (25) Days of the later of (a) the fifth (5th) Day after the end of the Month in which such energy is delivered and (b) the date of delivery of the invoice. The Company shall issue an invoice to JPS within five (5) Days after the end of each Month.

10.3. Adjustment

The amounts due from JPS to the Company pursuant to Clause 10.1 shall be determined and adjusted from time to time in accordance with Schedule 6.

10.4. Liquidated Damages for Delays in Commissioning the Complex

Subject to the provisions of this Agreement if the Complex is not Commissioned on or before the Required Commercial Operations Date and any applicable extension due to Force Majeure in accordance with Clause 13.1, then, the Company shall pay to JPS Two Hundred and Seventy Five Dollars (\$275.00) (or the Jamaican Dollar equivalent) per MW for each Day or part thereof, adjusted in accordance with Clause 1.2 of Schedule 6, by which the Commissioning of the Complex is delayed beyond the Required Commercial Operation Date; provided that the cumulative amount of such payments shall not exceed the Construction Security Deposit as per Clause 10.7 (or the Jamaican Dollar equivalent). These payments shall be liquidated damages for the detrimental impact of such delay.

10.5. Payment and Billing

10.5.1. Within five (5) Days after the end of each Month, both Parties shall prepare and deliver to each other an invoice reflecting amounts payable to each Party by the other Party pursuant to this Agreement. For the purposes of this Clause 10 the invoice prepared by JPS in Jamaican Dollars shall be reflected in Dollars by applying the Billing Exchange

Rate. The Company's invoice to JPS shall include calculations, in reasonable detail, of such amounts expressed in Dollars due to the Company for the Energy Payment. JPS' invoice to the Company shall include calculations in reasonable detail of such amounts owed to JPS pursuant to Clause 2.2 including any liquidated damages, in accordance with this Agreement and the procedures determined by the Operating Committee.

10.5.2. Subject to JPS' right to set-off any sum owing to JPS by the Company, JPS shall pay the sums owed to the Company by direct deposit in immediately available funds within twenty-five (25) Days of the later of (a) the fifth (5th) Day after the end of the Month to which such invoice relates and (b) the date of delivery of the invoice. JPS will make payments by transfer of Dollars or Jamaican Dollars to a Dollars or Jamaican Dollars denominated account, as the case may be, that is held and specified by the Company at a bank in Jamaica. Such payments shall be made in Dollars or the equivalent in Jamaican Dollars upon applying the Billing Exchange Rate.

10.5.3. In the event that a payment is to be made by the Company to JPS, it shall be made in immediately available funds within twenty-five (25) Days of the later of (a) the fifth (5th) Day after the end of the Month to which such invoice relates and (b) the date of delivery of the invoice.

10.5.4. Sums falling due to be paid by the Company for electricity (including Reactive Power) supplied to the Complex by JPS will be invoiced monthly and payable in accordance with JPS' normal billing cycle applicable to its customers and the provisions of the preceding Sub-clauses of this Clause 10.5 shall not apply to such payment obligations, except in relation to JPS' right to set-off such sums against those due to the Company from JPS.

10.5.5. Save and except for payments due to be paid by the Company pursuant to Clause 10.5.4, if a payment under this Agreement is due on a day which is not a Business Day, the due date for such payment shall instead be the next Business Day.

10.5.6. If either Party on reasonable grounds disputes any portion of an Invoice, then that Party shall, within ten (10) Days of the receipt of such Invoice, serve a notice on the other Party indicating the amount and basis of the Dispute. Neither Party shall be required to pay a disputed amount until such Dispute is resolved pursuant to Clause 16 (Resolution of Disputes). If pursuant to Clause 16 it is determined that either Party owes an amount of money to the other Party, then the owing Party shall, within ten (10) Days after the receipt of such determination, pay such amount together with interest at the Base Rate calculated from the date such amount became due and payable prior to the Dispute. Each Party shall pay interest at the Default Rate on any amount due on invoices (not including disputed amounts) which is paid after the due date for payment.

10.6. Adjustment for Changes in Relevant Law

10.6.1. If a Change in Relevant Law occurs, the Company shall use reasonable efforts to select and implement the most economic and reasonably practicable method of compliance with such Change in Relevant Law that minimizes the cost and/or maximizes the savings incurred by the Company. The Company shall promptly give JPS written notice of any Change in Relevant Law that results in any change in costs.

Compliance with Change in Relevant Law which would either:

- (a) require the Company to incur any combination of increased capital expenditure and/or operational cost increases in order to continue to meet its obligations hereunder;
- (b) materially affect the performance or operation of the Complex;
- (c) materially and adversely affect the performance by the Company of its obligations or the enjoyment by the Company of its rights under or pursuant to this Agreement; or
- (d) result in cost savings to the Company,

this shall result in the Energy Payment being adjusted in accordance with Schedule 6 to offset the actual, demonstrable effect of such Change in Relevant Law on the Company. The Company shall also submit to JPS and the OUR, its calculation of the savings or increased costs resulting from, or evidence of the expenses actually incurred in complying with and mitigating the impact of, such Change in Relevant Law.

10.6.2. If the Energy Payment is to be increased or decreased as a result of compliance with any Change in Relevant Law, then the following shall apply:

(a) The Company shall submit monthly reports to JPS and copied to the OUR on the impact on its performance according to Clause 10.6.1 and on its efforts to overcome the adverse effects of the Change in Relevant Law until the earlier of:

- i. the date on which the Company has overcome the adverse effects of the Change in Relevant Law, and
- ii. the date on which JPS agrees that such reports are no longer useful (which agreement shall not be unreasonably conditioned, withheld or delayed).

(b) The Company shall employ all reasonable efforts to overcome the adverse effects of the Change in Relevant Law.

(c) The compensation will only be paid to the Company for the period that is required to overcome the adverse effects of the Change in Relevant Law and increased costs and expenses of the Company or to the Company in accordance with Clause 10.6.1 which is or will be reasonably incurred, provided that the Company shall not be entitled to make any claim under this Clause 10.6 until the time such benefits to the Company have exceeded One Hundred and Fifty Thousand (\$150,000.00) Dollars (or the Jamaican Dollar equivalent) in the aggregate, at which time all such claims of the Company may be made; and

(d) The Company shall promptly give JPS written notice when and if it has overcome the adverse effects of the Change in Relevant Law;

(e) JPS shall only reduce the payments to the Company for a decrease in the cost of complying with a Change in Relevant Law in accordance with Clause 10.6.1 if:

- i. JPS gives the Company written notice describing the particulars of the Change in Relevant Law or the Company gives JPS written notice describing the particulars of the Change in Relevant Law; and

ii. The reduction in payments is only made for the period that the Company benefits from the decrease in the cost of complying with a Change in Relevant Law in accordance with Schedule 6, provided that JPS shall not be entitled to make any claim under this Clause 10.6 until the time such benefits to the Company have exceeded One Thousand and Fifty Hundred Dollars (\$150,000.00) Dollars (or the Jamaican Dollar equivalent) in the aggregate, at which time all such claims of JPS may be made;

provided that if a Dispute exists between the Parties regarding such increase or decrease in Energy Payment, JPS shall not increase or decrease the Energy Payment to the Company pursuant to this Clause 10.6.2 until and unless the Dispute is finally resolved. The Parties agree that any adjustments in the Energy Payments to the Company as a result of any Change in Relevant Law shall be effective for the period that the Company is impacted by an increase or decrease in the cost of complying with the Change in Relevant Law.

10.7. Security Deposits

a) Within (30) Days prior to the Commencement of Construction, the Company shall provide, or cause to be provided on its behalf, to JPS a security deposit (the "Construction Security Deposit") for an amount equivalent to One Thousand and Fifty Hundred Dollars (\$150,000) Dollars (or the Jamaican Dollar equivalent) per MW of the Complex. The Construction Security Deposit shall consist of one of the following: (i) a cash payment which shall be held in a segregated, interest-bearing account; or (ii) an unconditional and irrevocable direct-pay letter of credit issued by a financial institution reasonably acceptable to JPS in a market standard form and substance acceptable to JPS. The Construction Security Deposit and any interest accrued thereon may be applied to the payment of liquidated damages or other damages and accrued interest thereon. Notwithstanding anything in this Agreement to the contrary, drawing on the Construction Security Deposit shall be the sole and exclusive remedy of JPS for any liability, obligation or responsibility of the Company under this Agreement occurring or arising prior to the Commercial Operations Date. The Construction Security Deposits amount shall be adjusted annually in accordance with Clause 1.3 of Schedule 6.

b) Within fourteen (14) Days after the Commercial Operations Date and pursuant to this Clause 10.9 (b), JPS shall pay or return to the Company any excess of the Construction Security Deposit and accrued interest remaining thereon. If the Company terminates this Agreement on or before JPS has so returned the Construction Security Deposit, JPS shall return to the Company any amount of the Construction Security Deposit and accrued interest thereon which remains after all liquidated damages or other Damages and accrued interest due and owing to JPS pursuant to Clause 10.7 (a) have been paid.

10.8. Letter of Credit

10.8.1. JPS shall establish irrevocable, revolving Letters of Credit with a commercial bank approved by the Company (which approval shall not be unreasonably withheld or delayed) and substantially in the form set forth in Schedule 9 with respect to amounts payable by JPS to the Company pursuant to Clauses 10.1, 10.2 and 10.6. Each Letter of

Credit shall be established for a fixed sum of Dollars and shall remain in place for twelve (12) Months.

10.8.2. The first such Letter of Credit shall be delivered to the Company (30) Days prior to the Scheduled Commercial Operations Date and shall be effective upon the Commercial Operations Date. Such Letter of Credit shall be established in the amount of Dollars equivalent to the amount necessary to meet one (1) Month's average projected Energy Payments based on the projected Net Energy Output for the Year in which the Commercial Operations Date occurs based on the [P50 Energy].³

10.8.3. JPS shall deliver a replacement Letter of Credit to the Company not less than (30) Days prior to each anniversary of the Commercial Operations Date, and the replacement Letter of Credit shall be effective upon the anniversary of the Commercial Operations Date. The amount of each such replacement Letter of Credit shall be the amount of Dollars equivalent to the amount necessary to meet one (1) Month's projected Energy Payments, which amount shall be determined based on the average of the Energy Payments for the preceding twelve (12) Months.

10.8.4. The Letter of Credit may be drawn on by the Company:

- (a) upon presentation to the bank of (i) a copy of an invoice delivered to JPS by the Company pursuant to Clause 10.5 due at least (30) Days prior to such presentation to the bank together with a certificate signed by a duly authorized officer of the Company attesting to the fact that JPS has failed to pay all or part of the amount indicated in an invoice, or (ii) a copy of a decision requiring the payment of money by JPS to the Company, which decision was rendered by an expert or an arbitration panel pursuant to Clause 16 with respect to a Dispute and requires payment by JPS on a date at least (30) Days prior to such presentation to the bank, together with a certificate signed by a duly authorized officer of the Company attesting to the fact that JPS has failed to pay all or part of the amount indicated in such decision; or
- (b) upon presentation to the bank of a certificate signed by a duly authorized officer of the Company attesting to the fact that JPS has failed to deliver a replacement Letter of Credit to the Company by the date specified in Clauses 10.8.3, 10.8.5 or 10.8.8.

10.8.5. JPS shall maintain the Letter of Credit at the required amount at all times; provided that JPS shall have twenty (20) Days from the date the Company gives notice to JPS that it has collected funds from the Letter of Credit pursuant to Clauses 10.8.4(a) or (b) to replenish the Letter of Credit so as to return it to the required amount, as adjusted.

10.8.6. If the Company draws against a Letter of Credit due to a failure by JPS to satisfy a payment obligation under this Agreement, the Company shall not give a Company Notice of Default in respect of the failure of JPS to meet that payment obligation if (a) the proceeds from the draw satisfy in full the payment obligation; or (b) the amount left

³ "P50 Energy" applies to Wind, Solar PV and Hydro Power Plants. For any Technologies other than Wind, Solar PV and Hydro, the expression "P50 Energy" shall be replaced by "Net Complex Generation".

unsatisfied after making the draw is less than [*] Dollars (\$*)⁴ or the Jamaican Dollar equivalent.

10.8.7. In the event that the Company shall draw against a Letter of Credit and it shall later be determined by mutual agreement of the Parties or, if the Parties cannot reach agreement, in accordance with the dispute resolution procedures of Clause 16 that the Company was not entitled to do so, then the Company shall promptly repay such amounts to JPS in Dollars, together with all costs and expenses incurred by JPS in connection with such drawing, plus interest at the Default Rate on such amount and expenses from the date of drawing until the date such amount and expenses are paid in full.

10.8.8. In the event that the Company shall draw against a Letter of Credit pursuant to Clause 10.8.4(b):

- (a) JPS shall deliver to the Company written confirmation from a commercial bank approved by the Company in accordance with Clause 10.8.1 certifying that the bank shall issue the replacement Letter of Credit required pursuant to Clause 10.8.3 no later than the anniversary of the Commercial Operations Date;
- (b) until JPS delivers the replacement Letter of Credit required pursuant to Clause 10.8.3, the Company may in the circumstances set out in Clauses 10.8.4 (a) deduct from the amounts drawn under Clause 10.8.4 (b) such amounts as it would have been entitled to draw from the Letter of Credit, had the Letter of Credit been in place; and
- (c) within two (2) Business Days of the date that the replacement Letter of Credit is delivered to the Company (the "Repayment Date"), the Company shall repay to the order of JPS the amounts that the Company had drawn pursuant to Clause 10.8.4 (b), less any deductions made pursuant to Clauses 10.8.4 (a) and costs and expenses incurred by the Company in connection with JPS' failure to deliver the replacement Letter of Credit required pursuant to Clause 10.8.3; provided that, if the Company fails to repay such amounts by the Repayment Date, the Company shall also pay to JPS, together with interest at the Default Rate on the amounts to be repaid from the Day immediately following the Repayment Date until the date that payment of such amounts is made to the order of JPS in full, all costs and expenses incurred by JPS as a result of the Company failing to repay such amounts by the Repayment Date.

10.8.9. JPS shall invoice the Company pursuant to Clause 10.5 and the Company shall reimburse JPS for the administrative fee for providing each Letter of Credit charged to JPS by the bank providing the Letter of Credit (but not for reimbursement of amounts drawn on the Letter of Credit or for any other fees, costs or charges associated with any draw on the Letter of Credit), provided that the Company shall not be liable to reimburse JPS for such fee if and to the extent that JPS is entitled to recover in its rates the cost of such fee. The Company shall reimburse JPS for such invoiced administrative fee by deducting the amount of such fee from the next invoice that the Company provides to JPS pursuant to Clause 10.6, which fee and deduction will be reflected in the invoice.

⁴ To be negotiated by the Parties.

11. TESTING AND COMMISSIONING

11.1. Testing of the Complex

The Company shall carry out testing of the Complex before the Commercial Operations Date in accordance with Schedule 4. JPS shall be given prior written notice of any testing or Commissioning procedure in accordance with Schedule 4 and shall be entitled to have representatives present for the purpose of observing any such procedure.

11.2. Test Results

The Company shall promptly provide JPS with copies of the results of all tests performed pursuant to Schedule 4. In addition, the Company shall provide the Independent Engineer with copies of all such test results.

11.3. Disputes

In the event that a Dispute arises between the Company and JPS regarding the testing of the Complex or the protection tests described in Schedule 4, such Dispute shall be resolved pursuant to the provisions of Clause 16.

12. INDEMNIFICATION AND LIABILITY

12.1. Indemnity by the Company

In addition to the Company's obligations and JPS' remedies provided elsewhere in this Agreement, the Company shall be liable for loss of or damage to property, death or injury to person, and any other liabilities, damages, losses and reasonable costs and expenses (including, but not limited to, legal fees and expert witness fees or any claim against JPS in respect thereof) suffered by JPS as a direct consequence of the Company's conduct:

12.1.1. during the design, construction, ownership, operation or maintenance of the Complex resulting from any negligent act or omission of the Company, its servants or agents, and through no fault of JPS, its servants or agents;

12.1.2. in connection with, arising out of, or resulting from, any breach of warranty, material misrepresentation by the Company, or non-performance of any term, condition, covenant or obligation to be performed by the Company under this Agreement; or

12.1.3. arising out of the failure of the Company's representatives and/or agents and/or contractors to utilise adequate and necessary equipment and/or to observe the health and safety procedures, guidelines and policies of JPS while on property owned and/or controlled by JPS provided that the safety rules, guidelines and procedures were prominently displayed or otherwise communicated to the Company.

12.1.4. In connection with any claim, proceeding or action brought against JPS under any applicable national or local environmental laws or regulations resulting from the activities of the Company, including without limitation the discharge, dispersal, release, storage, treatment, generation, disposal or escape of pollutants or other toxic or hazardous substances from the Complex, the contamination of the soil, air, or water around the Site, or any pollution abatement, replacement, removal or other decontamination or monitoring obligations with respect thereto; provided that with respect to this Clause 12.1.4, the Company shall not be responsible for any liabilities, damages, losses, costs or expenses

suffered by JPS unless such liabilities, damages, losses, costs or expenses resulted from the Company's violation of national or local environmental laws or regulations, as determined by a court, Governmental Authority or arbitrator of competent jurisdiction.

12.1.5. The Company will hold JPS fully indemnified in respect of the foregoing losses, damages, death, injuries, liabilities, costs and expenses. The Company's indemnities, however, shall not extend to any loss, damage, death, injury, liability, cost or expense (or any claim in respect thereof) to the extent that it was caused by any act or omission of JPS or the failure of JPS to take reasonable steps in mitigation thereof or the breach by JPS, its servants or agents of the provisions of Clause 6.7.2 hereof.

12.1.6. Notwithstanding anything to the contrary contained in Clause 12.1, nothing in Clause 12.1.4 shall apply to any loss, damage, death, injury, liability, cost or expenses (or any claim in respect thereof) to the extent that, JPS is compensated pursuant to the terms of this Agreement.

12.2. Indemnity by JPS

In addition to JPS' obligations and the Company's remedies provided elsewhere in this Agreement, JPS shall be liable for loss of or damage to property, death or injury to person, and any other liabilities, damages, losses and reasonable costs and expenses (including, but not limited to, legal fees and expert witness fees or any claim against the Company in respect thereof) suffered by the Company as a direct consequence of JPS' conduct:

12.2.1. during the design, financing, construction, ownership, operation or maintenance of the Complex and its Interconnection Facilities resulting from any negligent act or omission of JPS, its servants or agents and through no fault of the Company, its servants or agents;

12.2.2. in connection with, arising out of, or resulting from, any breach of warranty, any material misrepresentation by JPS or non-performance of any term, condition, covenant or obligation to be performed by JPS under this Agreement; or

12.2.3. arising out of the failure of JPS' representatives and/or agents and/or contractors to utilize adequate and necessary equipment and/or to observe the reasonable instructions and directions of the Company's representative while on property owned and/or controlled by the Company provided that the instructions and directions were prominently displayed or otherwise communicated to them.

12.2.4. In connection with any claim, proceeding or action brought against the Company under any applicable national or local environmental laws or regulations resulting from the activities of JPS, including without limitation the discharge, dispersal, release, storage, treatment, generation, disposal or escape of pollutants or other toxic or hazardous substances from the Complex, the contamination of the soil, air, or water around the Site, or any pollution abatement, replacement, removal or other decontamination or monitoring obligations with respect thereto; provided that with respect to this Clause 12.2.4, JPS shall not be responsible for any liabilities, damages, losses, costs or expenses suffered by the Company unless such liabilities, damages, losses, costs or expenses resulted from the JPS' violation of national or local environmental laws or regulations, as determined by a court, Governmental Authority or arbitrator of competent jurisdiction.

12.2.5. JPS will hold the Company fully indemnified in respect of the foregoing losses, damages, death, injuries, liability, costs and expenses. JPS' indemnities, however, shall not extend to any loss, damage, death, injury, liability cost or expense (or any claim in respect thereof) to the extent that it was caused by any act or omission of the Company or the failure of the Company to take reasonable steps in mitigation thereof or the breach by the Company, its representatives and/or contractors of the required conduct pursuant to Clause 8.1.2 while they are on JPS' side of the Interconnection Point.

12.2.6. Notwithstanding anything to the contrary contained in Clause 12.2, nothing in Clause 12.2.4 shall apply to any loss, damage, death, injury, liability, cost or expense (or any claim in respect thereof) to the extent that, the Company is compensated pursuant to the terms of this Agreement.

12.3. Notice of Proceedings

Each Party shall promptly notify the other Party of any claim or proceeding in respect of which, but for the provisions of Clause 12.4, it is entitled to be indemnified under Clause 12. Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of such claim or proceeding.

12.4. Basket Limitation

Neither Party shall be entitled to make any claim under this Clause 12 unless such claims by such Party exceed Fifty Thousand Dollars (\$50,000) (or the Jamaican Dollar equivalent) in the aggregate or until such claim if not made would be barred by the relevant statute of limitations, at which time all such claims of that Party may be made; provided that when such claims have been made, the same rule shall apply in respect of future claims.

12.5. Conditions of Proceedings

Each Party shall have the right, but not the obligation, to contest, defend and litigate (and to retain legal advisers of its choice in connection therewith) any claim, action, suit or proceeding by any third party alleged or asserted against it arising out of any matter in respect of which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof shall be subject to the said indemnity; provided that the indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding at its expense and through legal advisers of its choice if it (a) gives notice of its intention to do so to the first-mentioned Party, (b) acknowledges in writing its obligation to indemnify that Party to the full extent provided by this Clause 12.5, and (c) reimburses that Party for the reasonable costs and expenses previously incurred by it prior to the assumption of such defense by the indemnifying Party. Neither Party shall settle or compromise any claim, action, suit or proceeding in respect of which it is entitled to be indemnified by the other Party without the prior written consent of that Party, which consent shall not be unreasonably conditioned, withheld or delayed.

13. FORCE MAJEURE

13.1. Consequences of Force Majeure

13.1.1 Subject to the provisions of Clauses 13.2 and 13.3, neither Party shall be responsible or liable for, or deemed in breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Agreement (other than payment obligations) due substantially to one or more events of Force Majeure or its or their effects or by any combination thereof, and the periods allowed for the performance by the Parties of such obligation(s) shall be extended on a day-for-day basis for so long as one or more events of Force Majeure continue to materially and adversely affect the performance by such Party of such obligation(s) under or pursuant to this Agreement; PROVIDED that no relief shall be granted to the Party claiming Force Majeure pursuant to this Clause 13.1 to the extent that such failure or delay would have nevertheless been experienced by that Party had such Force Majeure not occurred; and provided, further, that the Party not claiming Force Majeure may immediately terminate this Agreement without further obligation if Force Majeure delays a Party's performance for a period greater than eighteen (18) consecutive Months.

13.1.2 Where the Party claiming the Force Majeure is actively engaged in implementing repairs which are required to overcome the effects of the Force Majeure and which cannot be and could not have been reasonably completed before the end of the eighteen (18)-Month period mentioned in Clause 13.1.1, then that Party may request the consent of the other Party (which consent shall not be unreasonably withheld, delayed or conditioned) for the said period of eighteen (18) consecutive Months to be extended for a further six (6) Months (any such request to be supported by reasonable evidence as to the details of the repairs, the time required to carry them out and the efforts made towards doing so).

13.1.3 Other than for breaches of this Agreement by the Party not claiming Force Majeure, and without prejudice to the right of the Party claiming Force Majeure to indemnification pursuant to Clause 12, the Party claiming Force Majeure shall not have any cause of action against the other Party solely as a result of the Force Majeure. For the avoidance of doubt, the suspension of performance set forth in this Clause 13 shall be of no greater scope and of no longer duration than is required to overcome the effects of the Force Majeure.

13.1.4 The relief provided under this Clause shall only apply to the extent and for the period that the Party seeking relief actively pursues resolution of the issue leading to or arising from the Force Majeure with all diligence applying reasonable and necessary resources.

13.2. Procedures Upon a Force Majeure

The Party claiming Force Majeure shall:

- a) promptly upon, but in any event no later than five (5) Days after the occurrence of the Force Majeure event that has delayed or prevented or is likely to delay or prevent the performance of any obligation under this Agreement, give the other Party written notice thereof describing the particulars of the Force Majeure event including (i) full details of the nature of the Force Majeure event, the date of occurrence, its good faith

estimate of the likely duration of the suspension or reduction in performance, to the extent known or ascertainable, the estimated extent of the reduction in performance (ii) the particulars of the programme to be implemented and any corrective measures already undertaken to ensure full resumption of normal performance (“Notice of a Force Majeure Event”);

b) within five (5) Days of the affected Party giving the Notice of Force Majeure Event, shall give the other Party a written notice providing full details on the relief claimed;

c) use commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement in the shortest practicable time; and

d) provide the other Party with timely updates on the progress made in remedying the situation and give the other Party written notice when it is able to resume performance of its obligations under this Agreement.

13.3. Impact of Force Majeure on JPS’ Payments

During the pendency of Force Majeure, the Company shall not be entitled to receive Energy Payment from JPS except for energy already received by JPS prior to the Force Majeure event; provided that if Force Majeure affects only part of the Complex, then the Company shall be entitled to receive Energy Payments for electrical energy actually delivered to JPS during the pendency of the Force Majeure.

14. DEFAULTS AND TERMINATION

14.1. Company Events of Default

JPS may give a notice of default under this Agreement (a "JPS Notice of Default") upon the occurrence of any of the following events unless caused by a breach by JPS of this Agreement (each a "Company Event of Default"):

14.1.1. The failure of the Company to begin construction after Two Hundred and Forty (240) Days;

14.1.2. The Abandonment by the Company of the construction of the Complex without the written consent of JPS;

14.1.3. The failure of the Company to achieve Commercial Operations Date within one (1) Year after the Required Commercial Operations Date;

14.1.4. The Abandonment of the operation of the Complex by the Company without the written consent of JPS;

14.1.5. Alteration of, or tampering with the Interconnection Facilities without the prior written consent of JPS, by the Company, or its employees or agents, except in situations where such actions are taken to prevent immediate injury, death, or property damage and the Company uses its best efforts to provide JPS with advance notice of the need for such actions;

14.1.6. The total or partial assignment or transfer of this Agreement or an assignment, transfer or acquisition in breach of Clause 18.1 or 18.2 of this Agreement;

14.1.7. Any failure by the Company to make any payment or payments required to be made by it to JPS under this Agreement within ten (10) Days after the Company is given notice that the payment was not made by the due date for payment under the relevant agreement, which payment or payments exceed in the aggregate at any one time the equivalent of Twenty Thousand Dollars (\$20,000.00); provided that the Company has not disputed the said payment pursuant to Clause 10.5.6 and the Dispute remains unresolved;

14.1.8. Except for the purpose of amalgamation, reorganization or reconstruction that does not affect the ability of the amalgamated, reorganized or reconstructed entity, as the case may be, to perform its obligations under this Agreement, the occurrence of any of the following events: (a) the passing of a resolution by the owners/shareholders of the Company for the winding up of the Company; (b) the admission in writing by the Company of its inability generally to pay its debts as they become due; (c) the appointment of a provisional manager, trustee or Liquidator in a proceeding for the winding up of the Company after notice to the Company and due hearing; or (d) the making by the Court of an order winding up the Company; provided that a dissolution of the Company shall not constitute a Company Event of Default if JPS has approved any such change in advance in accordance with the terms of this Agreement; or (e) the dissolution of any entity comprising the Company;

14.1.9. Failure to comply with the terms of an expert decision in the terms of Clause 16.2.6, an arbitral award or court decision resulting from a dispute under this Agreement;

14.1.10. Any material and repeated unremedied defaults by the Company of its obligations under this Agreement which, following notice by JPS, has not been remedied by the Company within the period set out in the Notice of Default in Clause 14.3.1;

14.1.11. Any material breach by the Company of any representation, warranty or covenant in this Agreement, provided that the Parties agree that a breach of the covenant contained in Clause 5.3.2 shall not constitute a Company Event of Default unless such a breach constitutes a Company Event of Default pursuant to Clause 14.1.3;

14.1.12 Failure by the Company, to maintain all valid licences, approvals granted and made for the uninterrupted and lawful operation of the Complex.

14.2. JPS' Events of Default

The Company may give a notice of default under this Agreement (a "Company Notice of Default") upon the occurrence of any of the following events unless caused by a breach by the Company of this Agreement (each a "JPS Event of Default"):

14.2.1. Except for the purpose of amalgamation, reorganization or reconstruction that does not affect the ability of the amalgamated, reorganized or reconstructed entity, as the case may be, to perform its obligations under this Agreement, the occurrence of any of the following events: (a) the passing of a resolution by the shareholders of JPS for the winding up of JPS; (b) the admission in writing by JPS of its inability generally to pay its debts as they become due; (c) the appointment of a provisional manager, trustee or Liquidator in a proceeding for the winding up of JPS, after notice to JPS and due hearing; or (d) the making by the Court of an order winding up JPS;

14.2.2. Any failure by JPS to make any payment required to be made by it under Clause 10 within ten (10) Days after JPS is given notice that the payment was not made by the due date for payment under Clause 10, which payment or payments exceed in the aggregate at any one time the amount equivalent to the last four (4) issued invoices; except where: (a) JPS has disputed the said payment pursuant to Clause 10.5.6 and the Dispute remains unresolved; or (b) there is a Letter of Credit against which the Company can draw for payment of the sum due;

14.2.3. Alteration of, or tampering with the Interconnection Facilities on the Company's side of the Interconnection Point, the Complex, or any of the Company's equipment or installation, by JPS or its employees or agents acting within the scope of their employment, without the prior written consent of the Company, except in situations where such actions are taken to prevent immediate injury, death, or property damage and JPS uses its best efforts to provide the Company with advance notice of the need for such actions;

14.2.4. A total or partial assignment or transfer of this Agreement in breach of Clause 18.1.3;

14.2.5. Failure to comply with the terms of an expert decision in the terms of Clause 16.2.6, and/or an arbitral award or court decision resulting from a dispute under this Agreement;

14.2.6. Any material and repeated unremedied defaults by JPS of its obligations under this Agreement which, following notice by the Company, has not been remedied by JPS within the term granted in Clause 14.3.1 to that effect.

14.2.7. Any material or contractual breach by JPS of any representation, warranty or covenant in this Agreement; or

14.2.8. The failure of JPS to provide, replenish or replace any Letter of Credit in accordance with Clause 10.8.

14.3. Notice and Cure

14.3.1. A notice of default given pursuant to Clauses 14.1 or 14.2 (each a "Notice of Default") shall specify in reasonable detail the Company Event of Default or JPS Event of Default (each an "Event of Default"), as the case may be, giving rise to the Notice of Default and shall expressly state that it is a Notice of Default. In the case of a default set forth in Clauses 14.1.4, 14.1.5, 14.1.7, 14.1.9, 14.1.10 and 14.1.11 or 14.2.2, 14.2.3, 14.2.5, 14.2.6, 14.2.7 and 14.2.8 the defaulting Party shall have ten (10) Business Days within which to cure the Event of Default.

14.3.2. In the case of a default set forth in any other sub-clause of Clause 14.1 or 14.2 the defaulting Party shall have thirty (30) Days to cure the Event of Default, or such longer period as shall be reasonably necessary to effect a cure, so long as such cure is being diligently pursued and such longer period beyond thirty (30) Days is agreed to in writing by the other Party, provided that all such cure periods shall immediately end and this Agreement may be terminated if the defaulting Party ceases to use all reasonable efforts to cure its Event of Default. Notwithstanding the foregoing provisions of this Clause

14.3.2, no such period afforded to the Company to cure the default set forth in Clause 14.1.1 shall affect the Required Commercial Operations Date.

14.3.3. The Company shall be deemed to have cured any Event of Default set forth in Clause 14.1.8 caused by the dissolution, bankruptcy or insolvency of the Company if any Owner or any combination of Owners or its Lenders cause the Company to be reconstituted under the Laws of Jamaica within the initial thirty (30) Day period provided for in Clause 14.3.2. JPS shall be deemed to have cured the Event of Default set forth in Clause 14.2.4 if JPS acquires the interest assigned or transferred in breach of Clause 18.1.3 within the initial thirty (30) Day period provided for in Clause 14.3.2.

14.3.4. The defaulting Party shall furnish to the non-defaulting Party, during any cure period, weekly reports on its progress in curing the Event of Default.

14.4. Rights and Remedies Upon an Event of Default

14.4.1. If a Company Event of Default has occurred and the Company Event of Default has not been cured within the period specified in Clause 14.3, then JPS, in its sole discretion, may:

- (a) terminate this Agreement after delivering written notice to the Company, the OUR and the Lenders' Representative ("JPS Termination Notice"); and/or
- (b) suspend performance of its obligations and duties hereunder, upon written notice to the defaulting party, until the default is cure, unless a Dispute exists in relation to the relevant Company Event of Default, in which case Clause 16.4 shall apply and JPS shall not be entitled to suspend performance of its obligations and duties hereunder until the Dispute is finally determined in accordance with Clause 16; and/or
- (c) proceed in accordance with Clause 16 to recover any damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy); and/or
- (d) assess interest on any amounts due at the Default Rate; and/or
- (e) after giving notice to the Company and the OUR, disconnect the Complex from JPS' Grid System in accordance with Prudent Utility Practice, unless a Dispute exists in relation to the relevant Company Event of Default, in which case Clause 16.4 shall apply and JPS shall not be entitled to disconnect the Complex from the JPS Grid until the Dispute is finally determined in accordance with Clause 16.

The rights and remedies of JPS set forth in this Clause 14.4.1 shall not be exclusive but, to the extent permitted by law, shall be cumulative and in addition to all other rights and remedies existing at law, in equity or otherwise. JPS may exercise each right and remedy afforded by this Agreement or by law from time to time and as often as may be deemed expedient by JPS. No delay by, or omission of, JPS to exercise any right or remedy arising upon any Company Event of Default shall impair any such right or remedy or constitute a waiver of such event or an acquiescence thereto.

14.4.2. If a JPS Event of Default has occurred and the JPS Event of Default has not been cured within the period specified in Clause 14.3, then the Company, in its sole discretion, may:

- (a) terminate this Agreement by delivering written notice to JPS (“Company Termination Notice”); and/or
- (b) suspend performance of its obligations and duties hereunder, upon written notice to the defaulting party, until the default is cured, unless a Dispute exists in relation to the relevant JPS Event of Default, in which case Clause 16.4 shall apply and the Company shall not be entitled to suspend performance of its obligations and duties hereunder until the Dispute is finally determined in accordance with Clause 16; and/or
- (c) proceed in accordance with Clause 16 to recover any damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy); and/or
- (d) assess interest on any amounts due at the Default Rate; and/or
- (e) after giving notice to JPS and the OUR, disconnect the Complex from the JPS Grid System in accordance with Prudent Utility Practice, unless a Dispute exists in relation to the relevant JPS Event of Default, in which case Clause 16.4 shall apply and the Company shall not be entitled to disconnect the Complex from the JPS Grid until the Dispute is finally determined in accordance with Clause 16; and/or
- (f) subject to the provisions of 14.4.2(e), draw on all or part of the Letter of Credit provided by JPS pursuant to Clause 10.8 in full or partial satisfaction of the damages to which it may be entitled under sub-clause (c) above unless a Dispute exists in relation to the relevant JPS Event of Default, in which case Clause 16.4 shall apply until the Dispute is finally determined in accordance with Clause 16.

The rights and remedies of the Company set forth in this Clause 14.4.2 shall not be exclusive but, to the extent permitted by applicable law, shall be cumulative and in addition to all other rights and remedies existing at law, in equity or otherwise. The Company may exercise each right and remedy afforded by this Agreement or by applicable law from time to time and as often as may be deemed expedient by the Company. No delay by, or omission of, the Company to exercise any right or remedy arising upon any JPS Event of Default shall impair any such right or remedy or constitute a waiver of such event or an acquiescence thereto.

14.5. Survival

Notwithstanding anything to the contrary contained in this Agreement, the rights and obligations set forth in Clauses 12, 16, 20.10 and 21 shall survive the termination of this Agreement.

14.6. Exclusion of Consequential Damages

In no event shall any Party or any affiliate thereof or any of their respective directors, officers, agents, or employees be liable to any other Party or any affiliate thereof or any of their respective directors, officers, agents, or employees for any indirect, consequential, punitive, special, incidental or exemplary losses or damages (including without limitation lost profits or lost business opportunity), whether such liability arises in contract, tort or otherwise.

15. INSURANCE

15.1. Insurance Coverage

During the periods specified, the Company shall, at no cost to JPS, obtain and maintain or, during the construction of the Complex, cause the Construction Contractor to obtain and maintain with insurers rated at least “A” by Standards and Poor’s (or such internationally recognized rating agency) and acceptable to JPS (such approval not to be unreasonably withheld, delayed or conditioned), the following types of insurance covering the Complex and the Interconnection Facilities, proof of the existence of which shall be submitted to JPS in accordance with the provisions of this Clause 15:

15.1.1. At least twenty-four (24) hours prior to initiating any shipments of plant and equipment for the Complex and until such shipments have been delivered, marine cargo insurance institute cargo Clause A with a 50/50 cause (the form of which shall be provided to JPS the later of the Agreement Date or a date that is at least thirty (30) Days prior to the applicable shipment for JPS’ approval) in an amount sufficient to cover the replacement cost of all plant and equipment shipped to and intended to become part of the Complex on a warehouse-to-warehouse basis and subject to deductibles of no more than one percent (1%) of the value of each shipment;

15.1.2. At least thirty (30) Days prior to the Company’s issuance of a Notice to Proceed, and until the Commercial Operations Date or, in respect of the JPS Interconnection Facilities, until the date on which they are taken over in accordance with Schedule 4, all risks, builders risk (construction) insurance on the Complex in an amount sufficient to cover the replacement cost of the Complex and the Interconnection Facilities, including construction equipment and transit coverage for plant purchased within Jamaica and not subject to the insurance described in Clause 15.1.1 above and subject to deductibles of no more than (a) two percent (2%) of the coverage amount in the case of wind, flood and earthquake, and (b) an amount up to [*] (\$*)⁵ (or the Jamaican Dollar equivalent) for all other perils;

15.1.3. At least thirty (30) Days prior to the Commercial Operations Date and until the termination or expiration of this Agreement, all risks (property damage)/operational insurance in an amount sufficient to cover the replacement cost of the Complex and the Interconnection Facilities on the Company’s side of the Interconnection Point and transit coverage for plant purchased within Jamaica and not subject to the insurance described in Clause 15.1.1 above and subject to deductibles of no more than (a) two percent (2%) of the coverage amount in the case of wind, flood, earthquake, and other natural catastrophes or acts of God, and (b) an amount up to [*] (\$*)⁶ (or the Jamaican Dollar equivalent) for all other perils; and

15.1.4. At least thirty (30) Days prior to the employment by the Company of any person and until the termination or expiration of this Agreement, Employer’s Liability insurance complying with the Laws of Jamaica or any other applicable jurisdiction with limits of at

⁵ To be negotiated by the Parties.

⁶ To be negotiated by the Parties.

least [*] (\$*)⁷ (or the Jamaican Dollar equivalent) per occurrence and subject to deductibles of no more than the amount of [*] (\$*)⁸ (or the Jamaican Dollar equivalent);

15.1.5. Within thirty (30) Days after the execution and until the termination or expiration of this Agreement, Comprehensive or Commercial General Liability insurance with bodily injury and property damage limits of at least [*] (\$*)⁹ (or the Jamaican Dollar equivalent) per occurrence and [*] (\$*)¹⁰ (or the Jamaican Dollar equivalent) in the aggregate and subject to deductibles of no more than [*] (\$*)¹¹ (or the Jamaican Dollar equivalent). Such insurance shall include, but not necessarily be limited to, specific coverage for contractual liability encompassing the indemnification provisions in Clause 12 (with the exception of the indemnification provisions in Clause 12.1.4), broad form property damage liability, personal injury liability, explosion, collapse, and underground (XCU) hazard coverage, products/completed operations liability, and where applicable, watercraft protection and indemnity liability;

15.1.6. Upon the Company acquiring or hiring any vehicle and until the termination or expiration of this Agreement, Comprehensive Automobile Liability insurance with bodily injury and property damage combined single limits of at least [*] (\$*)¹² (or the Jamaican Dollar equivalent) per occurrence covering vehicles owned, hired or non-owned and subject to deductibles of no more than [*] (\$*)¹³ (or the Jamaican Dollar equivalent); and

15.1.7. Within thirty (30) Days after its execution and until the termination or expiration of this Agreement, Excess Umbrella Liability Insurance with a single limit of at least [*] (\$*)¹⁴ (or the Jamaican Dollar equivalent) per occurrence in excess of the limits of insurance provided in Clauses 15.1.4, 15.1.5 and 15.1.6 above and subject to deductibles of no more than [*] (\$*)¹⁵ (or the Jamaican Dollar equivalent).

15.2. Procedure

Not later than thirty (30) Days after execution of this Agreement and thereafter not later than forty-five (45) Days prior to the commencement of each Year, the Company shall provide to JPS an insurance schedule stating the coverage, the coverage level, the deductible, and the premium for each policy of insurance required pursuant to Clause 15.1.

15.3. Occurrence Form Coverage

The coverage requested in Clause 15.1 above and any Umbrella or Excess coverage shall be “occurrence” form policies.

⁷ To be negotiated by the Parties.

⁸ To be negotiated by the Parties.

⁹ To be negotiated by the Parties.

¹⁰ To be negotiated by the Parties.

¹¹ To be negotiated by the Parties.

¹² To be negotiated by the Parties.

¹³ To be negotiated by the Parties.

¹⁴ To be negotiated by the Parties.

¹⁵ To be negotiated by the Parties.

15.4. Endorsements

The Company shall cause its insurers to amend its Comprehensive Commercial General Liability and, if applicable, Umbrella or Excess Liability policies with the endorsement items set forth in Clauses 15.4.1 through 15.4.5 below; and to amend the Company's Employer Liability and Auto Liability policies with the endorsement item set forth in Clause 15.4.5 below:

15.4.1. JPS, its directors, officers, and employees are additional insured personnel under this policy with respect to the construction, operation and maintenance of the Complex;

15.4.2. This insurance as set out in Clause 15.4.1 is primary with respect to the interest of JPS, its directors, officers, and employees and any other insurance maintained by them is excess and not contributory with this insurance;

15.4.3. The following Cross Liability clause is made a part of the policy: "In the event of claims being made by reason of (a) personal and/or body injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, or

(b) damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies have been issued to each insured hereunder, except with respect to the limits of insurance";

15.4.4. Notwithstanding any provision of the policy, this policy may not be cancelled, renewed, or materially changed by the insurer without giving thirty (30) Days prior written notice to JPS. All other terms and conditions of the policy remain unchanged.

15.4.5. For the insurance required by Clauses 15.1.1, 15.1.2 and 15.1.3 above, the Company agrees to waive, and shall cause its insurers to waive, all rights of subrogation against JPS and its affiliates.

15.5. Use of Proceeds of All Risk/Operational Insurance

The proceeds of an All Risks or Operational insurance obtained pursuant to Clauses 15.1.1 through 15.1.3 shall, at the option of JPS but subject to the Lenders' rights, be applied to the repair of the Complex.

15.6. Certificates of Insurance

The Company shall cause its insurers or agents to provide JPS with certificates of insurance evidencing the policies and endorsements as required in this Clause 15. Failure of JPS to receive certificates of insurance does not relieve the Company of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Clause 15 shall in no way relieve or limit the Company's obligations and liabilities under other provisions of this Agreement.

15.7. Insurance at Commercially Reasonable Rates

In the event that the policies of insurance, the deductibles or coverage limitations required for the insurance coverage provided in this Clause 15 are not available at commercially reasonable rates, JPS shall not unreasonably condition, withhold or delay its consent to

the Company obtaining such policies of insurance, deductibles or and coverage limitations as are available at commercially reasonable rates. For the purpose of determining whether the required insurance is available at commercially reasonable rates and, if not, what policies of insurance, deductibles or and coverage limitations as are available at commercially reasonable rates, the Parties shall accept the certification of an independent professional insurance adviser experienced in the coverage of power generation assets, such adviser to be selected by agreement between the Parties or, in the absence of such agreement, to be selected by the Company from a panel of three (3) such advisers proposed by JPS (and the cost of such certification shall be borne by the Company).

15.8. Responsibility for Deductibles and Premiums

The Company shall bear responsibility for any and all premiums, whether at inception or retroactive, or deductibles incurred or required under the insurance contained by this Clause 15.

16. RESOLUTION OF DISPUTES

16.1. Mutual Differences

If any dispute or difference of any kind whatsoever (a “Dispute”) shall arise between the Parties in connection with, or arising out of, this Agreement, the Parties agree to use good faith efforts to resolve all such Disputes within thirty (30) Days on a fair and equitable basis.

The Parties agree that the Operating Committee shall develop and follow a process for settling Disputes on a fair and equitable basis within thirty (30) Days from the establishment of the Operating Committee.

The process shall include procedures for (a) the submission of a claim in writing, with supporting documentation, if any, and a specification of the amounts due or other remedies which if done by the other Party would resolve the claim, and (b) the submission of a response to the claim along with any written explanation or supporting documentation. A Party shall respond to a claim within seven (7) Business Days after receipt of a claim, and within two (2) Business Days after delivery of a response, the Operating Committee shall convene a meeting of the Parties’ representatives with knowledge and authority to resolve the Dispute. If the Parties are unable to resolve the Dispute within thirty (30) Days after the meeting, either Party may require that the Dispute be referred, as appropriate, (a) to an expert pursuant to Clause 16.2 or (b) to an arbitration panel pursuant to Clause 16.3.

16.2. Referral to an Expert

16.2.1. If the Dispute is not settled within the thirty (30)-Day period as provided for in Clause 16.1 and either (a) referral to an expert is expressly required by this Agreement, or (b) the Parties otherwise agree in writing to referral to an expert, then either Party may refer the Dispute to an expert for determination.

16.2.2. If the Parties have agreed that a referral to an expert is necessary as provided in Clause 16.2.1 either Party may give notice to the other Party of its intention (“Notice of

Intention to Refer”) to refer the Dispute to an expert, which shall include, among other things, (a) a description of the Dispute, (b) the grounds on which such referring Party relies in seeking to have the Dispute determined in its favour, and (c) all written material which such referring Party proposes to submit to the expert; provided that this Clause 16.2.2 shall not be construed so as to prevent such referring Party from using or producing further written material which comes into existence or comes to such referring Party’s attention after the Notice of Intention to Refer is given, but in such event the other Party shall be allowed a reasonable time to respond thereto, but no longer than thirty (30) Days.

16.2.3. The other Party shall within seven (7) Days after service of the Notice of Intention to Refer, give to the referring Party a notice of its intention to defend (“Notice of Intention to Defend”), which shall include, among other things, (a) the grounds upon which such responding Party relies in seeking to have the Dispute determined in its favour and (b) all written material that such responding Party proposes to submit to the expert; provided that this Clause 16.2.3 shall not be construed so as to prevent such responding Party from using or producing further written material which comes into existence or comes to such responding Party’s attention after the Notice of Intention to Defend is given, but in such event the referring Party shall be allowed a reasonable time to respond thereto.

16.2.4. Within fourteen (14) Days after service of a Notice of Intention to Defend, the Parties shall agree on an expert and on the terms under which the Dispute shall be referred. In the event that the Parties are unable within fourteen (14) Days after service of a Notice of Intention to Defend to agree on the expert to be appointed or the terms of such expert’s reference or both, then the terms of reference of the expert’s appointment shall be those set out in the Notice of Intention to Refer and the Notice of Intention to Defend and the expert shall be appointed by such independent technical organization with familiarity with power generation and utility operations as JPS as may select from a panel of three (3) such organizations proposed by the Company. If twenty-eight (28) Days after service of the Notice of Intention to Defend the Company has not proposed such a panel or JPS has failed or declined to select from the panel proposed, then the expert shall be appointed by the head of the Caribbean Electric Utility Service Corporation.

16.2.5. Within seven (7) Days of the appointment of the expert, the expert shall nominate a time and place in Kingston, Jamaica for a hearing of the Parties on the Dispute, which time shall not be more than twenty-one (21) Days after the expert’s appointment. At the time nominated for the hearing, each Party must appear before the expert and present its case. The expert must render his decision on the Dispute within thirty (30) Days and no later than sixty (60) Days after completion of the hearing depending on the complexity of the Dispute and must forthwith advise the Parties in writing of his determination and his reasons therefor.

16.2.6. Any evidence given or statements made in the course of the hearing may not be used against a Party in any other proceedings. The proceedings shall not be regarded as arbitration and the laws relating to commercial arbitrations shall not apply; provided that the expert shall resolve the Dispute in accordance with the Laws of Jamaica. The decision of the expert shall be final and binding upon both Parties in respect of claims or awards of no more than [*] (*)¹⁶ upon the delivery to them of the expert’s written determination,

¹⁶ To be negotiated by the Parties.

save where the Parties agree otherwise or in the event of fraud, misrepresentation of fact, serious mistake or miscarriage.

16.2.7. If the expert does not render a decision within a period of ninety (90) Days after his appointment or such longer or shorter period as the Parties may agree in writing or the expert has indicated that he is not able to complete the assignment, either Party may upon giving notice to the other, terminate such appointment, and the Parties may agree to appoint a new expert who shall resolve the Dispute in accordance with the provisions of this Clause 16.2. If the Dispute is not resolved by one or more experts within six (6) Months after the receipt by the responding Party of the Notice of Intention to Refer, then either party may refer the Dispute for arbitration in accordance with this Agreement.

16.2.8. Each Party to the Dispute shall bear its own expenses subject to the authority of the expert to allocate legal fees and other costs of the proceedings in his decision.

16.3. Arbitration

16.3.1. If the Dispute: (a) cannot be settled within the thirty (30) Days period provided in Clause 16.1, and a referral to an expert, as provided for in Clause 16.2.1 of this Agreement, is not required or agreed; or (b) the right to refer the Dispute to arbitration pursuant to Clause 16.2.7 has arisen, then the Dispute may be settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce (“the Rules”) by three (3) arbitrators (the “Arbitration Tribunal”) appointed in accordance with the Rules (regardless of the nature of the Dispute) by referral by either Party. The Emergency Arbitrator Provisions shall not apply.

16.3.2. In accordance with the Rules, the Party initiating an arbitration pursuant to this Clause 16.3.2 shall nominate one (1) arbitrator in the request for arbitration and the other Party shall nominate one (1) arbitrator within fifteen (15) Days of receiving the request for arbitration, and the two (2) arbitrators so nominated shall agree on the third arbitrator within fifteen (15) Days after the confirmation of the second arbitrator by the International Court of Arbitration of the International Chamber of Commerce (ICC). Should either Party fail within the time designated to nominate its arbitrator, or should the two (2) Party-appointed arbitrators fail, within the time designated, to reach an agreement on the third arbitrator, the arbitrators who have not been so nominated or agreed shall be appointed by the International Court of Arbitration of the ICC. Each arbitrator shall be fluent in English and shall have experience in the law governing this Agreement, in the energy sector or in some field relating to the matters under dispute.

16.3.3. All arbitration proceedings will be conducted in the English language and shall take place Kingston, Jamaica. In any such proceedings, the laws governing this Agreement shall be the substantive and procedural Laws of Jamaica, without reference to the rules governing conflicts of law contained therein.

16.3.4. No arbitrator shall be an employee or agent or former employee or agent of any Party or any of its affiliates or a person with an interest in either Party.

16.3.5. Each Party to the Dispute shall bear its own expenses subject to the authority of the Arbitration Tribunal to allocate legal fees and other costs of the proceedings in its award.

16.3.6. The Arbitration Tribunal shall determine the fees and expenses of its members. The Arbitration Tribunal shall decide how and by whom the fees and expenses of its members and the cost of the arbitral proceedings shall be paid, and such decision shall form part of the award. In case any arbitrator appointed in accordance with this Clause 16 shall fail to accept his appointment, resign, die, or otherwise fail or be unable to act, a successor arbitrator shall be appointed in the same manner prescribed for the appointment of the arbitrator whom he succeeds, and such successor shall have all powers and duties of his predecessor.

16.3.7. The Arbitration Tribunal shall have no authority to amend the terms of this Agreement or to award punitive damages or any other remedy not measured by the prevailing Party's actual damages, provided that nothing in this Clause 16.3.7 shall limit the Arbitration Tribunal from awarding damages expressly provided for in this Agreement.

16.3.8. The award of the Arbitration Tribunal shall be final and binding on the parties thereto, including any joined or intervening party.

16.3.9. Any person named in a notice of arbitration or counterclaim or cross-claim hereunder may join any other Party to any arbitral proceedings hereunder; provided, however, that (a) such joinder is based upon a dispute, controversy or claim substantially related to the Dispute in the relevant notice of arbitration or counterclaim or cross-claim, and (b) such joinder is made by written notice to the Arbitration Tribunal and to the Parties within thirty (30) Days from the receipt by such respondent of the relevant notice of arbitration or the counterclaim or cross-claim or such longer time as may be determined by the Arbitration Tribunal.

16.3.10. Any person may intervene in any arbitral proceedings hereunder; provided, however, that (a) such intervention is based upon a dispute substantially related to the Dispute in the notice of arbitration or counterclaim or cross-claim and (b) such intervention is made by written notice to the Arbitration Tribunal and to the Parties within thirty (30) Days after the receipt by such person of the relevant notice of arbitration or counterclaim or cross-claim or such longer time as may be determined by the Arbitration Tribunal.

16.3.11. Any joined or intervening party may make a counterclaim or cross-claim against any party; provided, however, that (a) such counterclaim or cross-claim is based upon a dispute, controversy or claim substantially related to the Dispute in the relevant notice of arbitration or counterclaim or cross-claim and (b) such counterclaim or cross-claim is made by written notice to the Arbitration Tribunal and to the Parties within either thirty (30) Days from the receipt by such party of the relevant notice of arbitration or counterclaim or such longer time as may be determined by the Arbitration Tribunal.

16.3.12. Where there is any conflict between any part of Clauses 16.3.6, 16.3.9, 16.3.10 or 16.3.11 and any provision of the Rules, the provisions of the Rules shall prevail.

16.3.13. Each of JPS and the Company unconditionally and irrevocably: (a) agrees that that the execution, delivery and performance by it of this Agreement to which it is a party constitute private and commercial acts rather than public or governmental acts; (b) agrees that, should any proceedings be brought against it or its assets in any jurisdiction in

relation to this Agreement or a transaction contemplated by this Agreement, no immunity from such proceedings shall be claimed by or on behalf of itself or with respect to its assets; (c) waives any right of immunity which it or any of its assets now has or may acquire in the future in any jurisdiction; and (d) consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including without limitation, the making, enforcement or execution against or in respect of any property whatsoever irrespective of its use or intended use).

16.4. Continued Performance

During the pendency of any Dispute being handled in accordance with this Clause 16: (a) the Company shall continue to perform its obligations under this Agreement to deliver Net Energy Output to the JPS Grid, (b) each Party shall continue to perform its obligations under this Agreement to pay all amounts due in accordance with this Agreement that are not in dispute, (c) neither Party shall exercise any other remedies hereunder arising by virtue of the matters in a Dispute, and (d) the continuance of operations or activities under this Agreement shall not prejudice the claim of either Party to the Dispute. Notwithstanding any other provision of this Agreement, neither Party shall be obligated to pay to the other Party any amount that is the subject of a Dispute until the Dispute is finally resolved in accordance with this Clause 16.

17. ACCOUNTS AND REPORTS

17.1. Right of Inspection

The Company shall promptly furnish to JPS such information as JPS may from time to time reasonably request and permit representatives of JPS on reasonable prior notice to visit the Site and have access to its operational and maintenance records.

17.2. Reporting of Changes

The Company shall, within fourteen (14) Days of it becoming effective, report any (a) change in its ownership agreement; (b) change in its Financial Year; (c) change in its owners; (d) change in its management; and (e) transfer of partnership interests to any person who thereby becomes an owner of more than five percent (5%) of the ownership or voting rights of the Company or of a transfer of partnership interests to or from a person who, immediately prior to such transfer, held more than five percent (5%) of the ownership or voting rights of the Company.

17.3. Information re Statutory Notice/Winding-Up Proceedings

17.3.1. The Company shall, within seven (7) Days of receipt thereof, provide a copy of any notice that may have been served on the Company by any of its Lenders or its creditors in relation to any default or breach by the Company, or any matter that would likely have a material adverse effect on the Company's ability to perform its obligations under this Agreement.

17.3.2. The Company shall provide to JPS all information in respect of any further actions taken by its Lenders or creditors following the notices described in Clause 17.3.1.

18. ASSIGNMENT

18.1. Assignment

18.1.1. JPS acknowledges and agrees that all obligations of the Company under this Agreement prior to the Commercial Operations Date may be performed by the Company's designee; provided that such designee is permitted to perform such obligations pursuant to the Company's Licence.

18.1.2. The Company may not assign or transfer its rights or obligations under this Agreement, or discharge any of the facilities necessary for the Complex to meet the Net Energy Output without the prior written consent of JPS, which consent shall not be unreasonably conditioned, withheld or delayed; provided that subject to the recommendation of the OUR and approval by the responsible Minister, the Company shall be entitled to assign or transfer its rights and obligations under this Agreement to any assignee or transferee to which it has assigned or transferred the Company's Licence. In the event that JPS provides such consent, JPS shall execute all such acknowledgements of any assignment or any requisite documentation to effect the transfer or assignment as are reasonably requested by the Company; provided that the execution of such acknowledgements shall not prejudice any rights or interests of JPS as buyer under this Agreement.

18.1.3. Subject to the approval of the OUR, JPS may not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Company, which consent shall not be unreasonably conditioned, withheld or delayed.

18.2. Granting of Security

18.2.1. Notwithstanding the provisions of Clause 18.1.2, for the purpose of financing the construction, operation and maintenance of the Project, the Company may assign or create security over its rights and interests under, pursuant to or associated with:

- (a) this Agreement,
- (b) any agreement included within the Material Agreements,
- (c) the Complex,
- (d) the Site,
- (e) the movable property and intellectual property of the Company, or
- (f) the revenues or any of the rights or assets of the Company,

for the benefit of the Lenders.

18.2.2. In accordance with their rights and obligations with respect to the Complex, the Lenders may enforce such security interests in the assets identified in Clause 18.2.1 (a) through (f) without the prior consent of JPS. In the event that the Company requests that JPS provide such consent, JPS shall execute all such acknowledgements of any security or any requisite documentation as are reasonably requested by the Company to give effect to the security rights; provided that the execution of such acknowledgements shall not prejudice any rights or interests of JPS.

19. LENDERS' RIGHTS

19.1. Lenders' Representative

The Company shall inform JPS, by means of the delivery of a Notice of Appointment of the Lenders' Representative, of the appointment by the Lenders of a legal entity as their sole and common representative for the purpose of the performance of any action, the exercise of any right and the fulfillment of any obligation of the Lenders under this Agreement (the "Lenders' Representative"). Any notice between JPS and the Lenders, and any action performed by the Lenders shall only be valid, for the purposes of this Agreement, if such notice is made by means of the Lenders' Representative. For the purpose of this Agreement, the Lenders' Representative shall establish domicile in Jamaica. The Lenders' Representative may be replaced from time to time by means of the issue of a Notice of Appointment of the Lenders' Representative to JPS. Such new notice shall be signed by the Company and by the Lenders' Representative which has been replaced.

19.2. Lenders' Consent

The Parties hereby acknowledge and agree that the following actions performed by the Company shall only be deemed valid and effective, for the purpose of this Agreement, if the Company (presuming it can do any of the following actions under its Licence without prior consent of the Minister or the OUR) has been granted the prior written consent by the Lenders' Representative, and if the Company has delivered a copy of this consent to JPS:

- (a) the Company's consent to the assignment of its corresponding rights and obligations by JPS under this Agreement to the extent that such Company's consent is required pursuant to terms set forth in Clause 18.1.3;
- (b) the Company's consent to any amendment or addendum to this Agreement pursuant to Clause 20.1;
- (c) the change of the Company's Account;
- (d) the Company's waiver of any of the rights awarded by Clause 20.4; and
- (g) the issue of any Company Notice of Default or Termination Notice.

19.3 Remedy by the Lenders

In the event that JPS has sent a Notice of Default to the Company for a breach occurring before the Commercial Operation Date and which would give rise to the termination of this Agreement, and the Company has not remedied the Event of Default in the terms set forth in Clause 14.3, the Lenders, subject to any limitation contained in the Company's Licence, may directly or indirectly remedy such Company's Event of Default (by means of a legal entity entitled to take on the Company's rights and obligations under this Agreement) within the term of One Hundred and Eighty (180) Days as of the Company's remedy term due date. The Lenders shall appoint a Qualified Assignee, in the event that such Lenders exercise the right to indirectly remedy the Company's Event of Default which has occurred before the Commercial Operation Date. Once the remedy term granted to the Lenders has expired without having remedied the Company's Event of

Default which has given rise to the cause for termination, then, JPS shall be entitled to, but shall not be obliged to, terminate this Agreement in the terms of Clause 14.4.1.

19.4 Notices to the Lenders

JPS shall simultaneously deliver a copy of any Notice of a Force Majeure Event, Notice of Default, or Termination Notice to the Lenders' Representative and to the Company.

19.5 Clauses in Favour of Third Parties

The Parties hereby acknowledge and agree that the rights contained in this Agreement granted to the Lenders and/or to the Lenders' Representative are clauses exceptionally established in favor of third parties. The acceptance of such clauses in favor of third parties by the Lenders' Representative stated in each Notice of Appointment of the Lenders' Representative shall be deemed the acceptance of such clauses by the Lenders. The Parties hereby expressly and irrevocably waive any right they may have to revoke such clauses in favor of third parties pursuant to the Applicable Laws.

19.6 References to Lenders

The Parties hereby acknowledge and agree that the Company may fulfill its obligations under this Agreement without incurring Secured Debt and, therefore, the consent from the Lenders' Representative required in this Agreement as a condition to validate certain actions performed by the Company shall only be required as of the delivery of a Notice of Appointment of the Lenders' Representative issued by the Company to JPS, and providing that such notice is not revoked. The revocation of a Notice of Appointment of the Lenders' Representative shall only be duly revoked if it is signed by the Company as well as by the Lenders' Representative whose appointment is being revoked.

20. MISCELLANEOUS PROVISIONS

20.1. Variations in Writing

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

20.2. Expenses

Each Party shall bear its own costs and expenses associated with negotiating, executing, and delivering this Agreement.

20.3. Severability

In the event that any one or more of the provisions of this Agreement shall be rendered invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of the remaining provisions contained herein or of the same provisions in any other jurisdiction shall not in any way be affected or impaired thereby.

20.4. Waivers

20.4.1. No Waiver by either Party of any default by the other in the performance of any of the provisions of this Agreement shall:

- (a) operate or be construed as a waiver of any obligation under this Agreement; or

(b) be effective unless in writing duly executed by an authorized representative of such Party.

20.4.2. The failure by either Party to insist on any occasion upon the performance of the terms, conditions or provisions of this Agreement or time, or any other indulgence granted or forbearance exercised by one Party to the other shall not thereby act as a waiver of any such breach or acceptance of any such variation.

20.5. Confidentiality

20.5.1. Each of the Parties shall hold in confidence all documents and other information, whether technical or commercial, relating to the design, financing, construction, ownership, operation or maintenance of the Complex that is of a confidential nature and that is supplied to it by or on behalf of the other Party. The Party receiving such documents or information shall not publish or otherwise disclose them or use them for its own purposes (otherwise than as may be required on a need-to-know basis by its professional advisers, or potential lenders or investors in order to perform its obligations under this Agreement).

20.5.2. The provisions of Clause 20.5.1 above shall not apply to any information:

- (a) which is or becomes available to the public other than by breach of this Agreement;
- (b) which is in or comes into the possession of the receiving Party prior to the aforesaid publication or disclosure and which was or is not obtained under any obligation of confidentiality;
- (c) which was or is obtained from a third party who is free to divulge the same and which was or is not obtained under any obligation of confidentiality; or
- (d) which is required by law or appropriate regulatory authorities to be disclosed; provided that the Party supplying the information is notified of any such requirement at least five (5) Business Days prior to such disclosure and the disclosure is limited to the maximum extent possible.

20.5.3. For the avoidance of doubt, nothing herein contained shall preclude the use of provisions similar to those contained in this Agreement and the other agreements referred to herein in any agreements prepared and issued in connection with other projects.

20.6. Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the Parties.

20.7. No Liability for Review

No review or approval by JPS of any agreement, document, instrument, drawing, specifications or design proposed by the Company shall relieve the Company from any liability that it would otherwise have had for its negligence in the preparation of such agreement, document, instrument, drawing, specifications or design or from failure to comply with the applicable Laws of Jamaica with respect thereto, nor shall JPS be liable to the Company or any other person by reason of its review or approval of an agreement, document, instrument, drawing, specification, or design.

20.8. No Third-Party Beneficiaries

This Agreement is intended solely for the benefit of the parties hereto, except for the Lenders' rights set forth in Clause 19. Nothing in this Agreement, except for the Lenders' rights set forth in Clause 19 shall be construed to create any duty to, standard of care with reference to, any liability to, or any right of suit or action in, any person not a party to this Agreement.

20.9. Affirmation

The Company declares and affirms that it has not paid nor has it undertaken to pay any unlawful commission, bribe, pay-off or kick-back and that it has not in any other way or manner paid any sums, whether in Dollars or Jamaican Dollars or other currency and whether in Jamaica or abroad, or in any other manner given or offered to give any gifts and presents in Jamaica or abroad, to any person or company and, generally, has not made any payment or accepted any gift or in any way whatsoever acted in breach of any obligation, prohibition or requirement of the Corruption Prevention Act, to procure this Agreement. The Company undertakes not to engage in any of the said or similar acts during the term of, and relative to, this Agreement.

JPS declares and affirms that it has not paid nor has it undertaken to pay any unlawful commission, bribe, pay-off or kick-back and that it has not in any other way or manner paid any sums, whether in Dollars or Jamaican Dollars or other currency and whether in Jamaica or abroad, or in any other manner given or offered to give any gifts and presents in Jamaica or abroad, to any person or company and, generally, has not made any payment or accepted any gift or in any way whatsoever acted in breach of any obligation, prohibition or requirement of the Corruption Prevention Act, to procure this Agreement. JPS undertakes not to engage in any of the said or similar acts during the term of, and relative to, this Agreement.

20.10. Governing Law

The rights and obligations of the Parties under or pursuant to this Agreement shall be governed by and construed according to the Laws of Jamaica.

20.11. Relationship of the Parties

This Agreement does not place and shall not be construed as placing the Parties in an employment relationship, in a partnership or joint venture relationship, or in a principal/agent relationship. Nothing in this Agreement shall be construed to grant any Party the right or authority to enter into any contracts, assume or create any obligation, express or implied, or make any other commitment in the name of or on behalf of another Party. Each Party agrees to indemnify and hold harmless the other Party from any claim by a third party that the indemnifying Party has acted on behalf of the indemnified Party.

20.12. Further Assurances

20.12.1. JPS shall use all reasonable efforts to execute, acknowledge and deliver any and all further documents and instruments, and to take any other actions, which may be necessary to satisfy the reasonable requests of any Lenders or prospective Lenders in connection with the financing of the Project pursuant to the Loan Agreements, and to use

all reasonable efforts to deliver any further documents and instruments, or to take any other actions, which are consistent with the reasonable and customary requests of lenders in connection with the financing of similar projects; provided that the foregoing shall not be construed to require JPS to execute, acknowledge and deliver any further documents and instruments, or to take any other actions, which are inconsistent with its rights under this Agreement or which are expressly subject to its consent or approval under this Agreement.

21. NOTICES

21.1. Address for Notices

All notices, consents, requests, approvals, demands, or other communications (together “notices”) to be given or made hereunder shall be in writing, shall be addressed for the attention of the person indicated below and shall either be delivered personally or sent by prepaid post or electronic mail, save and except that neither Company Default Notices nor JPS Default Notices shall be deemed delivered if sent by electronic mail to the recipient. The addresses for service of Parties and their respective electronic mailing addresses shall be:

21.1.1. In the case of JPS:

Address: Jamaica Public Service Company Limited

6 Knutsford Blvd., Kingston 5, Jamaica

Attention: President & C.E.O.

E-mail:

Copied to: Jamaica Public Service Company Limited

Address: 6 Knutsford Blvd., Kingston 5, Jamaica

Attention:

E-mail:

21.1.2. In the case of the Company:

Address: [Address of Company]

Attention: [Senior Authority of Company]

E-mail: [Email address of Senior Authority of Company]

Copied to: [As indicated]

or such other address and fax number as either Party may previously have notified to the other Party in accordance with this Clause 21.1.

21.2. Effectiveness of Service

Notice shall be deemed to be effective as follows:

- a. In the case of personal delivery or registered mail, on delivery;
- b. In the case of electronic mail, eight (8) hours following confirmed transmission and where sent after five (5) p.m. notice is deemed to have been given at eight-thirty (8:30) a.m. the following Business Day; and
- c. In the case of facsimiles, two (2) hours following confirmed transmission and where sent after five (5) p.m. notice is deemed to have been given at eight-thirty (8:30) a.m. the following Business Day.

In the event a Party changes its address for notice hereunder that Party must give to the other Party written notice of the said change in accordance with Clause 21.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day, month and year first mentioned above.

Signed for and on behalf of)

)

Jamaica Public Service Company Limited)

)

by) _____

)

in the presence of:)

)

_____)

Witness

Signed for and on behalf of)

)

[The Project Company])

)

by) _____

in the presence of:)

)

_____)

Witness

SCHEDULES

[Index]

SCHEDULE 1

DEFINITIONS

“Abandonment” – Either (a) the cessation of substantially all activities (including both activities at the Site and those carried on elsewhere, provided that the Company shall provide reasonable satisfactory documentation of the activities occurring off-site) relating to the construction or operation and maintenance of the Complex, as appropriate, for a period exceeding thirty (30) consecutive days, or (b) the physical absence of substantially all employees of the Company and its Contractors from the Site after the commencement of excavation for the foundations of the Complex for at least fifteen (15) consecutive days after the commencement of excavation for the foundations of the Complex until the Commercial Operations Date, in each case excluding periods of Force Majeure, during Forced or Scheduled Outages affecting the entire Complex and reasonably requiring routine or non-routine repair or replacement of major components or equipment common to the full Complex where the activities involved in such repair or replacement are taking place away from the Site (provided that the Company has submitted to JPS reasonable evidence that those activities are being carried on), periods of suspension pursuant to Clauses 14.5.1(b) or 14.5.2(b) and periods during breaks in the construction phase of the Project schedule reasonably required to allow for delivery of major equipment.

“Adjusted Delivered Energy” is the sum of (a) the Net Energy Output and (b) the Credited Energy.

“Agreement” – This Power Purchase Agreement, including all Schedules thereto, as amended or supplemented from time to time in accordance with its terms.

“Agreement Criteria” – The requirements and other obligations set forth in the Operating Procedures, the Interconnection Tripping Schedule, the Laws of Jamaica and other applicable laws and governmental approvals, applicable industry codes, the reasonable requirements of the Company’s insurers, Prudent Utility Practice, and the other operating requirements set forth in this Agreement.

“Agreement Date” – The date this Agreement is signed by both Parties.

“Allowable Error” – The smaller of Meter’s maximum tolerable error level as stated by its manufacturer and +/- 0.5%.

“Arbitration Tribunal” – A panel of one or more adjudicators which is convened and sits to resolve a Dispute by way of arbitration.

“Backup Metering System” – All meters and metering devices designated as the backup used to measure the delivery of Net Energy Output and receipt of electricity respectively from and to the Complex in accordance with Schedule 5.

“Base Date” – Thirty (30) days prior to the Deadline for Submission of Proposals.

“Base Rate” – A rate of interest (a) equivalent to the Government of Jamaica Treasury Bill Rate existing at the time of payment if payment is made in Jamaican Dollars or (b) equal to the [SPECIFY] Commercial Bank in Jamaica, Prime lending rate for Dollars if payment is made in Dollars.

“Billing Exchange Rate” – The weighted average of rates at which financial institutions in Jamaica sell United States Dollars for Jamaican Dollars on the Spot Market (the “Spot Market Selling Rate”) published by the Bank of Jamaica in the daily foreign exchange summary for the last Business Day of the Month for which payment is due as detailed in the invoice prepared by JPS and delivered to the Company in accordance with Clause 10.6.1.

“Business Day” – A Day on which business by and between banks may be carried on in Kingston, Jamaica, but in no event shall it include a Saturday or Sunday or public holidays.

“Change in Relevant Law” - At any time after the Deadline for Submission of Proposal, any law, statute, proclamation, regulation, subsidiary legislation, order or legal interpretation which amends, repeals or modifies any Relevant Law.

“Commencement of Construction” – The initiation of the construction of the Complex, as evidenced by the Company’s (a) issuance of the Notice to Proceed, and (b) making of the initial payment to the respective Construction Contractor, in each case under the Construction Contract.

“Commercial Operations Date” The date on which the Complex is declared commissioned in accordance with Schedule 4.

“Commissioned” - The Complex successfully completed the Commissioning activities and met the contracted requirements.

“Commissioning” – Engaging in the operations and activities required for testing in accordance with Schedule 4 to determine if the Complex meets the contracted requirements.

“Commissioning Schedule” – the time and activities schedule to be agreed between the Company and JPS to undertake the testing and commissioning set forth in Schedule 4.

“Company Event of Default” – An event described in Clause 14.1 for which JPS may issue a JPS Notice of Default.

“Company’s Interconnection Facilities” – The Interconnection Facilities on the Company’s side of the Interconnection Point.

“Company Notice of Default” – A notice of default issued by the Company to JPS pursuant to Clause 14.2. A copy of the written prior consent of the Lenders’ Representative regarding such action shall be attached to the Company Notice of Default to be valid.

“Company’s Licence” – The licence issued to the Company by the Minister pursuant to the Electricity Act, 2015.

“Complex” – Combination of plants, buildings and auxiliary equipment on the Company’s side of the Interconnection Point required to provide the Net Energy Output to JPS Grid and necessary for the Company to honour its obligation under the terms and conditions of this Agreement and prior to the date of transfer to JPS pursuant to Clause 8.2.1, the JPS Interconnection Facilities.

“Construction Contract(s)” – One or more agreements entered into by the Company for the design, manufacture, construction and commissioning of the Complex.

“Construction Contractor(s)” – The party or parties to a Construction Contract other than the Company.

“Contracted Net Capacity” – The net capacity of [PLANT CAPACITY IN MEGAWATTS] MW as built in the Complex to generate the Contracted Net Energy Output as per this Agreement.

“Contracted Net Energy Output” – Electrical power output of up to [Amount] MWac

“Contractor(s)” - The contractor(s) employed by the Company in the design, construction, operation and maintenance of the Complex, the Interconnection Facilities, the transmission line, or any part thereof and any direct or indirect subcontractors of such contractors.

“Contract Year” – Each consecutive period of twelve (12) Months commencing on the Commercial Operations Date and ending on the last Day of the term of this Agreement.

“Control Center” – JPS' System Control Center located in Kingston, Jamaica, or such other control center designated by JPS from time to time, but not more than one at any time, from which JPS shall interface with the Complex for operational purposes.

“Credited Energy” – Means, for any period, the Net Energy Output that the Complex would have generated and injected at the Interconnection Point during such period if it had not been prevented by causes beyond the Seller's control (including Force Majeure), which shall be calculated for each hour on the basis of the short term forecast (first 3 hours) and in the subsequent hours on the basis of the energy forecast, limited to the average [P50 Energy]¹⁷ in the hours with limitation, affected by the availability of the Complex's generation equipment. For the avoidance of doubt, the variability or insufficiency of the renewable resource shall in no case be considered as a reason to count Credited Energy for the purposes of compliance with the Guaranteed Energy or Minimum Guaranteed Energy.

“Day” – The 24-hour period beginning and ending at 12:00 midnight Jamaican time.

“Deadline for Submission of Proposal” – The deadline for submission of Bids set out in Section 5 of the RFP.

“Default Rate” – The Base Rate plus 2 percent (2%).

“Dispute” – The meaning ascribed thereto in Clause 16.1.

“Dollars” or “\$” – shall mean the lawful currency of the United States of America.

“Emergency” – A condition or situation that, in the reasonable opinion of JPS or the Company, does materially and adversely, or is likely to materially and adversely (a) affect

¹⁷ “P50 Energy” applies only to Wind, Solar PV and Hydro Power Plants. For any Technology other than Wind, Solar PV and Hydro, the expression “P50 Energy” shall be replaced by “of the Net Complex Generation”.

the ability of JPS or the Company to maintain safe, adequate and continuous electrical service to its customers, or (bi) endanger the security of person, plant or equipment.

“Energy Delivery Large Shortage” - The meaning ascribed thereto in Clause 7.3.

“Energy Delivery Minor Shortage” - The meaning ascribed thereto in Clause 7.2.

“Energy Payment” – The amount JPS will pay the Company per kWh for Net Energy Output delivered to the JPS Grid in accordance with Schedule 6 and subject to Clause 2.1.

“Event of Default” shall mean a Company Event of Default or JPS Event of Default or both subject to the context within which it is being used.

“Forced Outage” – A full or partial interruption of the generating capability of the Complex that is not the result of (a) a request by JPS in accordance with this Agreement, (b) a Scheduled Outage, or (c) an event or occurrence of Force Majeure.

“Force Majeure” – Any event or circumstance or combination of events or circumstances:

- (a) beyond the reasonable control of a Party which materially and adversely affects the performance by that Party of its obligations or the enjoyment by that Party of its rights under or pursuant to this Agreement.; and
- (b) which was not foreseeable or, if foreseeable, could not have been prevented or avoided or overcome by the affected Party acting in accordance with Good Industry Practice having taken all reasonable precautions, due care, and reasonable alternative measures consistent with a reasonable prudent operator in order to avoid the effect of such event on such affected Party’s ability to perform its obligations under this Agreement and to mitigate the consequences of such circumstances;
- (c) which is not the direct result of a breach by the affected Party of this Agreement.

Without limitation to the generality of the foregoing, “Force Majeure” shall include the following events and circumstances to the extent that they satisfy the above requirements:

- (a) natural events including but not limited to acts of God, lightning, fire, earthquake, tsunami, flood, drought, storm or other unusual or extreme adverse weather, hurricane, typhoon, volcanic eruption, marine gas explosions, meteorites or tornado;
- (b) explosion, or chemical contamination (other than a fire, explosion, or chemical contamination caused by the negligence of the affected Party, its Contractors, any other subcontractor, supplier or vendor);
- (c) epidemic, famine, pestilence, disease, pandemic (as classified or advised by the World Health Organization and/or the government of an Affected Country);
- (d) any strikes, work to rule, go-slows or other industrial disturbances or labour disputes that are widespread or nationwide;

- (e) acts of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, or act of terrorism, riot, insurrection, acts of public enemies, civil disturbances;

Force Majeure shall expressly exclude the following conditions, except to the extent resulting from a Force Majeure:

- (i) unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, [, Renewable Fuel Feed Stock]¹⁸ or consumables for the Complex;
- (ii) a delay in the performance of any Contractor;
- (iii) non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- (iv) non-performance caused by the non-performing Party's (i) negligent or intentional acts, errors or omissions, (ii) failure to comply with any of the Laws of Jamaica, or (iii) breach of, or default under, this Agreement.

For the avoidance of doubt, the variability or insufficiency of the renewable resource shall in no case be considered as Force Majeure.

“Generation Code” – The guiding principles, operating procedures and technical standards governing operation of the Jamaican Power System Grid and all interconnected generating facilities outlined in the Jamaica Electricity Sector Book of Codes, and as from time to time revised with the approval of the OUR.

“Governmental Authority” - Any national, central or local government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity, or central bank (or any person, whether or not government-owned and howsoever constituted or called, that exercises the function of a central bank).

“Guaranteed Energy” – The Contracted Net Energy Output for each Contract Year, as set out in Schedule 2.

“Independent Engineer” - The independent licensed professional engineer appointed in accordance with Schedule 4 charged with the responsibility of certifying in writing that the Complex can be satisfactorily Commissioned.

Initial Term” – Has the meaning ascribed to it at Clause 3.1

“Interconnection Criteria” – The set of interconnection criteria provided by JPS, in accordance with Clause 8.1.4 and set out in Schedule 11.

"Interconnection Facilities" - The facilities that interconnect the Complex to the JPS Grid. This includes all of the equipment that measures energy output from the Complex as well as associated protection equipment as specified in Schedule 3.

¹⁸ The phrase in brackets will only be included for Biomass Technology.

"Interconnection Point" - The physical point(s) where the Complex and the JPS' Grid are connected as specified in Schedules 2 and 3.

"Interconnection Tripping Schedule" – The inter-tripping logic to be developed to indicate protection relays and their proposed settings for electrical protection of the Complex and the interconnection of the Complex to the JPS' Grid.

"Jamaica Electricity Sector Book of Codes" – The comprehensive Grid Codes which have been developed in parallel, designed to provide a comprehensive framework for the development, maintenance and operation of an efficient, safe and reliable Jamaican Power Grid.

"Jamaican Dollar" – The lawful currency of Jamaica.

"JPS Event of Default" – An event described in Clause 14.2 for which the Company may issue a Company Notice of Default.

"JPS Grid" – The transmission or distribution facilities on JPS' side of the Interconnection Point through which the Net Energy Output of the Complex will be distributed by JPS to users of electricity.

"JPS Interconnection Facilities" – The Interconnection Facilities on the JPS side of the Interconnection Point.

"JPS Licence" – The Amended and Restated All-Island Electric Licence, 2011 together with any extensions, variation or amendments or other licence(s) granted to JPS under the Electricity Act, 2015 (or such other legislation as may be promulgated to repeal or replace that Act.)

"JPS Notice of Default" – A notice of default issued by JPS to the Company pursuant to Clause 14.1.

"kW" – Kilowatts.

"kWh" – Kilowatt-hours.

"Laws of Jamaica" – The laws of Jamaica and all proclamations, rules, regulations, subsidiary legislation, notifications and policies made pursuant thereto.

"Lenders" – The financial institutions that make credit facilities available to the Company under the Loan Agreements and the persons who from time to time make other credit facilities available to the Company.

"Liquidator" – Such person appointed by the Court, members or creditors for the purpose of winding up the Company's or JPS' operations.

"Loan Agreements" – The agreements executed between the Company and the Lenders pursuant to which the credit facilities are made available by the Lenders to the Company for the implementation of the Project.

"Material Agreements" – This Agreement, the PPA Original Documents and the PPA Amended Documents.

“Metering System” – All meters and metering devices owned by JPS and the Company and used to measure the delivery and receipt of energy and power demand of the Complex.

“Minimum Functional Specifications” – The minimum functional specifications for the construction of the Complex as set forth in Schedule 2 hereof.

“Minimum Guaranteed Energy” – For each Contract Year, the amount of energy set out in Schedule 2.

“Month” – A calendar month according to the Gregorian calendar beginning at 12:00 midnight Standard Time on the last day of the preceding month and ending at 12:00 midnight Eastern Standard Time on the last day of that month.

“MVAR” - Megavars.

“MW” - Megawatts.

“MWh” - Megawatt-hours.

[“Net Complex Generation” - For any other technology other than Wind, Solar PV and Hydro, it means the generation level corresponding to the net generation of the Complex, certified in the Energy Production Report (EPR), that is agreed to be delivered per year and during the effectiveness of the Power Purchase Agreement.]¹⁹

“Net Energy Output” - Net energy delivered by the Company for sale to JPS at the Interconnection Point as measured in accordance with Clause 9.3 and the general terms and conditions of the Agreement.

“Notice of Intention to Defend” - written notice sent by the served party of the “Notice of Intention to Refer” as set forth in Clause 16.2.3.

“Notice of Intention to Refer” - written notice sent by a Party to his counterpart informing to refer the Dispute to an expert as set forth in Clause 16.2.2.

“Notice of Appointment of the Lenders’ Representative” - is the written notice sent by the Company to JPS by means of which the Company informs JPS about the appointment of the Lenders’ Representative by the Lenders, for the purpose of this Agreement. Such notice shall be signed by the legal entity appointed for that purpose, or the copy of the acceptance of the legal entity appointed for that purpose shall be attached.

“Notice of a Force Majeure Event” – Has the meaning set out at Clause 13.2.

“Notice to Proceed” – The meaning ascribed thereto under the applicable Construction Contract.

“O&M Contract” – The agreement, if any, between the Company and the O&M Contractor for the operation and maintenance of the Complex.

“O&M Contractor” – The entity which the Company may from time to time appoint to operate and maintain the Complex.

¹⁹ “Net Complex Generation” applies only for any Technology other than Wind, Solar PV and Hydro.

“Operating Committee” – Such persons as appointed by JPS and the Company for the purpose of coordination and implementation of this Agreement and the operations of the Complex as set forth in Schedule 7.

“Operating Procedures” -Has the meaning ascribed to it at Clause 4.3.1

“OUR” – The Office of Utilities Regulation, any successor or lawful authorising body.

[“P50 Energy” – Generation level with fifty per cent (50%) of exceedance probability of the Project, for Wind, Solar PV and Hydro, certified in the Energy Production Report (EPR), that is agreed to be delivered per year and during the effectiveness of the Power Purchase Agreement.]²⁰

“PPA Amended Support Documents” – The meaning ascribed thereto in Clause 4.2.

“PPA Original Support Documents” – The meaning ascribed thereto in Clause 4.2.

“Pre-Operation Period” – The period between the signing of this Agreement and the Commercial Operations Date.

“Primary Metering System” – All meters, metering devices, and associated infrastructure, primarily designated to measure the delivery of Net Energy Output in accordance with Schedule 5 from, and receipt of electricity by, the Complex.

“Project” - The design, financing, construction, ownership, operation and maintenance of the Complex and all activities incidental thereto.

“Proposal” - The project proposal submitted by the Company or its shareholders in response to the Request for Proposals for Supply of up to 100 MW (Net) of Electricity Power Generation from Renewable Energy Resources on a Build, Own and Operate (BOO) Basis.

“Prudent Utility Practice” – The practices generally followed by the electric utility industry with respect to the design, construction, operation, and maintenance of electric generating, transmission, and distribution facilities, including, but not limited to, the engineering, operating, and safety practices generally followed by such utility industries; provided that such practices must be relevant and applicable to the management and operation of the Complex.

“Reactive Power” – The watt-less component of the product of voltage and current, which the Complex shall provide to or absorb from the JPS Grid and which is measured in MVAR.

“Recovery Year” - The meaning ascribed thereto in Clause 7.2.

“Relevant Concessions” – Any tax or fiscal incentive that may be available to the Company or the Project under the Laws of Jamaica

“Relevant Consent” - Any approval, consent, authorization or other requirement that is required from the Government of Jamaica or any public sector entity under the Laws of Jamaica for the Company with respect to the Complex.

²⁰ “P50 Energy” applies only to Wind, Solar PV and Hydro Power Plants.

“Relevant Law” - Any tax Law and/or environmental Law, or any other of the Laws of Jamaica applicable to the Company, the Project and/or the Complex.

“Repayment Date” – Has the meaning ascribed thereto in Clause 10.8.8(c).

“Required Commercial Operations Date” - [The maximum term to reach the Commercial Operations Date, set forth in the Request for Proposals]. This date may be modified in accordance with this Agreement.

“RET” – Renewable Energy Technology.

[“Renewable Fuel Feed Stock Agreement” - Agreement between the Company and the relevant entity(ies) supplying Renewable Fuel Feed Stock for the purpose of conversion to electricity.]²¹

[“Renewable Fuel Feed Stock” - Any indigenous renewable materials that the plant uses in a conversion process to ultimately generate electricity.]²²

“Scheduled Commercial Operations Date” - The date which the Company identifies to JPS as the date the Complex will be commissioned, as such date may be revised from time-to-time based on the scheduled construction programme and due notification delivered to JPS.

“Scheduled Maintenance” – Scheduled maintenance by JPS of its line and/or transmission system which would affect the Complex.

“Scheduled Outage” - A planned full or partial interruption of the Complex's generating capability that (a) is not a Forced Outage; (b) has been scheduled and allowed by JPS in accordance with Clause 6.3.1; and (c) is for inspection, testing, preventive maintenance, corrective maintenance or improvement.

“Secured Debt” is the debt undertaken by the Company, at any time, during the effectiveness of this Agreement, for the purpose of financing his obligations under this Agreement, including the debt for the payment of the main amount, compensatory interests and penalty interests, organization fees, availability fees, prepaid fees or any other kind of fee, payment for provision of equipment and materials, make-whole payment or similar payments, compensations, payment for termination or for any other reason under derivative agreements and payment to agents, trustees, advisers and consultants.

“Shortage Cost” - The amount of [XXX] US/MWh, which shall be the same during the entire term of this Agreement.

“Site” – The land and any rights to be utilized for the purposes of designing, financing, constructing, owning, operating and maintaining the Complex.

“Taking-Over” – The meaning set out in Clause 7.5.1 of Schedule 4.

“Termination Notice” - The written notice sent by one of the Parties to his counterpart (and, in the event that such notice is sent by the Company to the JPS, a copy of the prior

²¹ This definition will only be included for Biomass Technology.

²² This definition will only be included for Biomass Technology.

written consent from the Lenders' Representative shall be attached to such notice so as to be deemed valid) by means of which the Party sending the notice decides to terminate this Agreement pursuant to Clause 14.4.1.(a) or Clause 14.4.2(a), as appropriate.

“Transmission Outage Plan” –A plan detailing the Scheduled Maintenance, specifically adversely affecting the ability of the Complex to deliver energy to the JPS Grid or Interconnection Facilities, in accordance with Clause 6.3.2.

“Week” – A period of seven (7) consecutive Days beginning at 12:00 midnight Jamaican time falling between a Friday and a Saturday.

“Year” – Each twelve (12) Month period commencing on 12:00 midnight Jamaican time on December 31 and ending on 12:00 midnight Jamaican time the following December 31 during the term of this Agreement.

SCHEDULE 2
MINIMUM FUNCTIONAL SPECIFICATIONS

1) DESCRIPTION OF COMPLEX

1.1. The Complex shall consist of a RET Generating Plant and an interconnection facility capable of supplying up to [*] MWac of Net Capacity at [*] kV, 50 Hz.

1.2. The interconnection facility shall be connected into the existing JPS-owned [insert description] transmission line.

2) The Interconnection Facility

The Interconnection Facility shall consist of one three-terminal ring-bus substation and shall comprise of a main power transformer to raise the generated power to the correct grid interconnection voltage, circuit breakers, controls and metering equipment as needed to provide the required functionality for a properly operating system.

The specification of the substation components are as follows:

[*]²³

The Company and its Contractors shall coordinate the installation with JPS to implement the interconnection.

All civil works shall be designed to meet all local and governing codes.

3) RET GENERATING PLANT

The Complex shall consist of the following and shall be designed to deliver the Contracted Net Energy Output at the Interconnection Point:

²³ To be completed according to the features of the specific Power Plant.

[*]²⁴

- 4) All the equipment in the Complex shall be constructed of new material and shall be designed to last at least twenty (20) years.

5) POWER SUPPLY CHARACTERISTICS

The Company shall furnish the Complex's design details to JPS when the design is complete.

6) FAULT LEVELS

The electrical system at the [*] kV bus on the Company's Interconnection Facilities shall be designed and constructed to meet fault levels as given in the Interconnection Criteria as provided by JPS.

7) CODES AND STANDARDS

All individual components of the Complex shall be constructed, installed and tested in accordance with the current edition at the time of construction of the following codes and standards, or their international equivalents, and Prudent Utility Practice.

ACI America Concrete Institute

ANSI America National Standards Institute

ASCE American Society of Civil Engineers

ASME American Society of Mechanical Engineers Performance Test Codes

ASTM American Society for Testing Materials BSJ Bureau of Standards Jamaica

AWS American Welding Society

UL Underwriters Laboratory

IEEE Institute of Electrical and Electronic Engineers

ISO International Organization for Standards

Jamaica Electricity Sector Book of Codes

NBS National Bureau Standards

NEC National Electric Code

NEMA National Electrical Manufacturers Association

NESC National Electric Safety Code

²⁴ To be completed according to the features of the specific Power Plant.

NETA National Electric Testing Association

NFPA National Fire Protection Association

SSPC Steel Structures Painting Council

IEC International Electro-technical Commission

8) OPERATION REQUIREMENTS

8.1. The Complex shall be designed so that construction, operation and maintenance should be possible without adversely affecting the operations of JPS.

8.2. The Complex shall be capable of operating in parallel with the JPS Grid.

9) DESIGN LIMITS

9.1. The Company shall install such equipment that shall allow the Company to supply to generate and supply power to the JPS Grid in accordance with the applicable power factor parameters set out in the Generation Code.

9.2. The supply shall be able to operate at frequencies between [*] and [*] hertz, provided that the Company has the right to separate from the JPS Grid, without any liability to JPS if the Company is required to furnish power to the JPS Grid operating at [*] hertz for one second.

9.3. JPS shall use its best efforts to maintain the voltage at the Interconnection Point at [Rated] kV, +/- 5 % of the transmission system during normal conditions and +/- 10% of the transmission system during abnormal conditions. After 15 seconds of grid voltage exceeding the +/- 5% tolerance of the generator bus and +/-10% of the transmission system, the Company may trip offline. The Company shall operate the Complex with a tolerance of +/-5% voltage at the generator bus.

9.4. The Complex shall be designed with the capability for Fault Ride Through (FRT) for short circuits on the JPS Grid up to 140ms in duration. The Complex shall remain transiently stable and connected to the JPS Grid without tripping of the Complex.

9.5. The Company shall advise JPS of any operating constraints and limits, which may from time to time, apply to the Complex.

10) ENVIRONMENTAL REQUIREMENTS

The design, construction and operation of the Complex shall comply with the national and local laws and regulations of the relevant authorities in Jamaica including but not limited to the National Environment and Planning Agency (“NEPA”) guidelines. The Company shall, upon request, provide JPS with copies of the then subsisting relevant licences, permits and approvals issued by such authorities.

11) SECURITY

The Company shall, at its own expense, equip the Complex with appropriate lighting and security systems.

12) SAFETY

The Company shall comply with all ordinances and regulations regarding safety on the Complex including, but not limited to, Prudent Utility Practice.

The Parties agree that JPS personnel entering the Complex will adhere to all safety, drug and alcohol procedures and regulations that the Company requires provided that all such procedures and regulations are communicated to JPS personnel. The Company will provide safety training/guidelines for JPS personnel with respect to this requirement.

13) INTERCONNECTION CRITERIA

The Minimum Functional Specifications shall at all times accord with the Generation Code and Interconnection Criteria developed by JPS, including any modifications thereto to which the Parties consent, which consent shall not be unreasonably withheld or delayed. The Party requesting the modification shall bear the reasonable costs of compliance with such modification.

14) GUARANTEED ENERGY AND MINIMUM GUARANTEED ENERGY

The Guaranteed Energy and the Minimum Guaranteed Energy as presented in the Proposal, supported by the Energy Production Report (EPR), prepared in [____] by the Independent Consultants [____], are set forth below:

| Contract Year* | Guaranteed Energy [MWh] | Minimum Guaranteed Energy [MWh] | Capacity Factor [%] |
|----------------|-------------------------|---------------------------------|---------------------|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

| | | | |
|----|--|--|--|
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |

(*) Refers to the period beginning on (and including) the Commercial Operations Date and ending on (but not including) the same day of the following Calendar Year, and each 12 (twelve) month period thereafter.

SCHEDULE 3

INTERCONNECTION FACILITIES

[To be finalised following results of impact study based on size, type and location of Complex]

1. GENERAL

- 1.1 The Interconnection Facilities shall be comprised of the JPS Interconnection Facilities and the Company Interconnection Facilities.
- 1.2 The Interconnection Point shall be the electrical connection point between the JPS Interconnection Facilities and the Company Interconnection Facilities, and shall be defined as the “Company side” terminals of the [*] at the Interconnection Facilities (Illustrated in Appendix A Schedule 3).

2. JPS INTERCONNECTION FACILITIES

- 2.1. JPS Interconnection Facilities shall be comprised of a new [*] substation, all overhead lines, towers and foundations and other facilities required to connect the Complex to the existing JPS [insert description] transmission line.
- 2.2. The new [*] kV substation shall be designed as a [*] configuration.
- 2.3. The Company will finance, design, procure, construct and install the JPS Interconnection Facilities including all equipment foundations, steel work, buswork, manual and motorized disconnect switches, breakers, grounding system, current and potential transformers and associated relay/control house in accordance with general requirements for [*] kV substations as approved by JPS.
- 2.4. All overhead lines, towers and foundations and other facilities required between the Interconnection Point and JPS [insert description] Transmission Line shall be financed, designed, procured, constructed and commissioned by the Company at its own expense.
- 2.5. The JPS interconnection Facilities shall consist of the following major items of equipment:

[*]

- All civil works shall be designed to meet all local and governing codes.
- Fencing to surround the switchyard to protect bystanders. The fence will have all applicable grounding to meet all local and governing codes.

- 2.6. After the Commercial Operations Date JPS shall own, operate and maintain all the facilities on the JPS side of the Interconnection Point (JPS Interconnection Facility)

3. COMPANY INTERCONNECTION FACILITIES

- 3.1. The Company Interconnection Facilities shall be comprised of: [*]
- 3.2. The Company will finance, design, procure, construct and install the Company Interconnection Facilities including all equipment foundations, steel work, buswork, manual and motorized disconnect switches, transformers, breakers, grounding system, current and potential transformers and associated relay/control house in accordance with general requirements for [*] kV substations as approved by JPS.
- 3.3. The Company Interconnection Facilities shall consist of the following major items of equipment:

[*]

- All civil works shall be designed to meet all local and governing codes.

- 3.4. The Company Interconnection Facilities will be physically located on the Site adjacent to the JPS Interconnection Facilities.
- 3.5. The Company shall, at its own expense, operate and maintain, interconnecting equipment on the Company's side of the interconnect point (Company Interconnection Facilities). The Company may not modify or replace the interconnection equipment described in 3.3, where such modification/replacement would affect the safety and security of the system, without the prior written approval of JPS.

4. INTERCONNECTION PROTECTION

- 4.1. The Company shall coordinate its protection scheme and protective relay settings with JPS, and the protective relay settings shall be subject to JPS approval.
- 4.2. All protective relays shall (a) have communication compatible with existing JPS teleprotection and SCADA communication system requirements; (b) be time synchronized using IRIG-B ports; and (c) have necessary time-synchronization accurate to 10ms.
- 4.3. The protection system at the combined JPS and Company Interconnection Facilities) shall include the following items, all to be provided by the Company:

[*]

- 4.4. JPS shall approve the final design of the interconnection protection scheme for the Interconnection Facilities and the transmission facilities connecting the complex to JPS' [*] Substation and to JPS' [*] Substation.

APPENDIX A

SCHEDULE 4

COMMISSIONING AND TESTING

[To be finalised following results of impact study based on size, type and location of Complex]

The Company shall, at its own cost and expense, carry out the testing and Commissioning of the Complex, including the Interconnection Facilities, in accordance with the following provisions of this Schedule 4, Clause 7 (Codes and Standards) of Schedule 2, and Prudent Utility Practice.

1. TESTING OF THE INTERCONNECTION FACILITIES

1.1 Prior to initial synchronization of the Interconnection Facilities, the Company shall, or shall cause its Contractor to, carry out the following tests:

1.1.1 Functional testing and timing of [*] kV Circuit Breakers.

1.1.2 Insulation Resistance Testing on [*] kV Components.

1.1.3 Voltage phasing checks between the Interconnection Facility and the JPS Grid.

1.1.4 Testing of interlocking and controls including POTT scheme.

1.1.5 Verification that the protection level settings of the substation are set to the final design values:

- a. Overcurrent and earth fault protection at substation
- b. Auxiliary services transformer's overcurrent fuse size
- c. Over/under voltage and frequency protection
- d. Differential protection relays
- e. Line distance Relaying

JPS shall have the right to review the Company's setting for each item listed above.

1.2 The Parties shall consult and perform the following tests on the Interconnection Facilities prior to the Commercial Operations Date to ensure the proper functioning of the Interconnection Facilities. All such testing on the Company's side of the Interconnection Point and, prior to the earlier of the date of Taking Over and the Commercial Operations Date, on the JPS side of the Interconnection Point shall be at the sole cost of expense of the Company; all such testing after the earlier of the date of Taking Over and the Commercial Operations Date on the JPS side of the Interconnection Point shall be at the sole cost and expense of JPS:

1.2.1 High potential tests;

1.2.2 Earthing resistance and leakage current tests;

1.2.3 Phase rotation;

1.2.4 Functional testing of all interconnections, controls and current transformer wiring;

1.2.5 Voltage transformer ratio and polarity tests; and

1.2.6 Current transformer magnetization curve checks.

2. TESTING OF RET PLANT

[*]

3. TESTING

- 3.1 The parties shall jointly select an Independent Engineer who, among other things, shall receive copies of all test results performed pursuant to this Schedule 4. The Company may elect to utilize the Lenders' Engineer for these purposes (in which case the Company shall notify JPS when the Lenders' Engineer is engaged and shall identify the engineer in the notice). The fees charged by the Independent Engineer or the Lenders' Engineer shall be borne by the Company.
- 3.2 JPS shall be given five (5) Days prior written notice of any testing or Commissioning procedure as specified in Clause 1 and Clause 2 of this Schedule 4 and JPS shall be entitled to have Representatives present for purposes of observing any such procedures, provided that if JPS's Representatives are unable to attend for any reason, the testing or Commissioning may proceed without them.
- 3.3 Upon completion of each test specified in Clause 1 and Clause 2 in this Schedule 4, the Company shall promptly provide JPS and the Independent Engineer or the Lenders' Engineer (as the case may be), in each case, with three (3) printed copies of the results of such test; provided that the Company shall submit all test results to JPS no later than thirty (30) Days after the relevant test.
- 3.4 JPS shall have the right to request a repeat of any particular test if, in its reasonable judgment, such test result is not conclusive for establishing the purpose for which the test was intended, provided that any such request must be made in writing to the Company within five (5) Business Days of receipt of the tests results, after which time it will be deemed to have accepted and approved the test results according to the terms of Clause 3.6. The actual expense of any such requested additional testing shall be borne by the Company, unless such additional testing does not show a material inaccuracy with the initial testing, in which event the expense of the requested additional testing shall be borne by JPS. The results of the immediately prior test shall govern until the repeat test is completed. The results of the repeat test shall supersede the prior test for all purposes commencing on the Day following the repeat test.
- 3.5 The Complex shall be considered Commissioned and capable of supplying energy to the JPS Grid on the first (1st) Day following the successful completion of all tests specified in Clause 1 and Clause 2 of this Schedule 4 and on receipt of the written certification from the Independent Engineer or the Lenders' Engineer that all tests have been successfully completed.
- 3.6 The Company shall not export power to the JPS Grid from the Complex (whether before, on or after the Commercial Operations Date) until JPS has approved (and the Independent Engineer or the Lenders' Engineer has certified) the results from the tests specified in Clause 1 and Clause 2 of this Schedule 4 (expressly or

implicitly in the terms of Clause 3.4. hereof). JPS shall promptly review the results of tests and shall not unreasonably withhold approval.

4 SUBMITTAL OF PRE-COMMISSIONING DOCUMENTS

4.1 All relevant diagrams, equipment test reports, certificates for the Interconnection Facilities and any other supportive documents (including Government Electrical Inspector certification) shall be submitted to JPS prior to completion of Commissioning.

5 TESTING AFTER COMMERCIAL OPERATIONS DATE

5.1 Upon completion of each test specified in Clause 1.2 of this Schedule 4, on the Company side of the Interconnection Point, the Company shall provide JPS with three (3) copies of the results of such test no later than thirty (30) Days after the relevant test has been performed. JPS shall be given five (5) Days prior written notice of any testing procedure and JPS shall be entitled to have representatives present for purposes of observing any such procedure. If JPS' representatives are unable to attend for any reason, the testing may proceed without them.

5.2 Upon completion of each test specified in Clause 1.2 of this Schedule 4, on the JPS side of the Interconnection Point, JPS shall provide the Company with three (3) copies of the results of such test no later than thirty (30) Days after the relevant test has been performed. The Company shall be given five (5) Days prior written notice of any testing procedure, and the Company shall be entitled to have representatives present for purposes of observing any such procedure. If the Company representatives are unable to attend for any reason, the testing may proceed without them.

6 PROGRAMME

The start-up and test schedule for the Complex required by Clauses 1 and 2 of this Schedule 4 shall include a time schedule, detailed procedures (including settings for devices), and tests to be conducted.

7 INSPECTION, TESTING AND TAKING-OVER OF THE INTERCONNECTION FACILITIES

7.1 Construction Inspection and Testing

7.1.1 Standard inspection and testing of the construction of the Interconnection Facilities as defined in Schedule 2 and Schedule 3 shall be performed in accordance with construction testing procedures which conform to the applicable requirements of the codes and standards specified in Schedule 2. Construction testing activities shall include initial and preliminary check-out of equipment and systems installed during the construction period. The Company shall be responsible for all such inspections and system check-outs during the construction period.

- 7.1.2 Thirty (30) Days prior to the commencement of any construction testing of the Interconnection Facilities, the Company shall prepare and submit to JPS relevant test procedures in accordance with Schedule 2.
- 7.1.3 JPS shall have the right to witness, pursuant to Clause 6.7 of the Agreement, any construction tests of the Interconnection Facilities and shall be notified of such testing by the Company no less than ten (10) Days prior to the testing. If JPS fails to witness any construction tests, the Company is not required to postpone such tests, and neither shall such tests be treated as having been failed as a result of the absence of JPS.

7.2 Notice of Completion

- 7.2.1 Upon completion of each Discrete Element (as defined below) of the Interconnection Facilities and prior to the testing of such Discrete Element, if necessary, the Company shall notify JPS in writing (the "Notice of Completion") that such Discrete Element is complete except for minor items to be listed on the Punch List as contemplated in Clause 7.3, below. For purposes of this Clause 7, "Discrete Element" refers to the JPS Interconnection Facilities or the Company Interconnection Facilities.

7.3 Certification of Completion

- 7.3.1 Within four (4) Business Days after JPS's receipt of the Company's Notice of Completion for a Discrete Element or at such other time as JPS and the Company may agree, the Company and JPS shall conduct a joint inspection survey of that Discrete Element. Within three (3) Business Days after the inspection survey, JPS shall advise the Company in writing of any defects or deficiencies in the surveyed Discrete Element in addition to the completion items on the list of outstanding completion items (the "Punch List") identified during the inspection survey of such Discrete Element.
- 7.3.2 Within such seven (7) Business Days after JPS's receipt of the Company's Notice of Completion, the Company and JPS shall jointly certify on the Notice of Completion form, the completion of such Discrete Element and the outstanding minor completion items on the Punch List.
- 7.3.3 If JPS does not advise the Company within three (3) Business Days after the joint inspection of any additional defects or deficiencies as described in Clause 7.3.1, then the inspection survey will be considered as final, and the Company will issue a notice to JPS to certify that the Discrete Element is complete except for items on the Punch List. This notice issued by the Company shall be final and binding on the Parties. This does not release the Company from its responsibility to satisfy all standards in accordance with Schedule 2.
- 7.3.4 If JPS does not participate in the joint inspection survey in accordance with this Clause 7.3, the Company may conduct the inspection survey independently. This inspection survey will be considered as final, and the Company will issue a notice to JPS to certify that the Discrete Element is complete except for items on the Punch List. This notice issued by the Company shall be final and binding on the

Parties. This does not release the Company from its responsibility to satisfy all standards in accordance with Schedule 2.

- 7.3.5 Without prejudice to the generality of any other provision of this Agreement, any inspection or certification made by JPS pursuant to this Clause 7.3 shall be subject to the provisions of Clause 20.8 of the Agreement.

7.4 Start-up Testing

- 7.4.1 Ninety (90) Days prior to the scheduled commencement of testing and Commissioning of the Interconnection Facilities, the Company shall prepare and submit to JPS relevant test procedures in accordance with Clause 4.2.8 of the Agreement.
- 7.4.2 JPS shall have the right to witness the performance by the Company of the start-up testing of the Discrete Elements. JPS will be notified in writing by the Company at least 10 (ten) Days prior to each such start-up test.
- 7.4.3 After any physical, mechanical or operating Discrete Element has been certified as complete in accordance with Clause 7.3 above, the Company may complete any preparatory work necessary to permit start-up testing (if such Discrete Element requires start-up testing). After completion of preparation work, the Company may conduct start-up tests of the relevant Discrete Element. The start-up tests shall, if applicable, be those prescribed by the vendor of the equipment involved and otherwise shall be of a nature, insofar as practicable, to test the conformity of the elements involved to specifications and to determine compliance with applicable warranties. Upon completion of the start-up tests of a Discrete Element to the Company's satisfaction, the Company shall notify JPS in writing that the start-up tests of such element have been successfully completed. Within fifteen (15) Days after receipt of such notice JPS shall advise the Company in writing of any defects or deficiencies in the Discrete Elements being tested; otherwise, the start-up testing of such Discrete Elements shall be considered completed as of the Day such tests were completed by the Company.

7.5 Taking-Over of the Interconnection Facilities by JPS

- 7.5.1 Upon certification of completion, as specified in Clause 7.3 of this Schedule 4, and completion of the required start-up testing, where applicable, the JPS Interconnection Facilities shall be accepted by JPS ("Taking-Over"), provided that JPS shall not be required to accept the JPS Interconnection Facilities unless the Company has delivered to JPS a Taking-Over package consisting of all relevant manufacturers' operating and maintenance manuals and all design, engineering and testing data books for the JPS Interconnection Facilities. A Taking-Over certificate will document the transfer to JPS.
- 7.5.2 Upon Taking-Over, the Company shall be relieved of, and JPS shall assume, the care, custody, control and risk of loss for the JPS Interconnection Facilities. JPS shall accept the JPS Interconnection Facilities notwithstanding the need to complete items on the Punch List (such as painting, final cleanup and final grading for example), provided that no such item shall be of a nature as to interfere with the soundness or operability of the JPS Interconnection Facilities and provided,

further, that this clause shall not relieve the Company from its obligation to complete items on the Punch List as soon as practical after the Taking-Over of the JPS Interconnection Facilities. All warranties for the JPS Interconnection Facilities must be transferred to JPS upon Taking Over of the JPS Interconnection Facilities and shall conform with the minimum requirements for warranties set out in Clause 8.2.1 of the Agreement.

- 7.5.3 If the Parties agree that the test and/or inspection results for a Discrete Element is in compliance with the requirements under the approved testing procedure then, notwithstanding any other Dispute regarding such Discrete Element, such Discrete Element shall be deemed completed and, if relevant, to have satisfied the start-up tests applicable to it and, in the case of the JPS Interconnection Facilities, JPS shall be obligated, provided that the requirements of the first paragraph of this Clause 7.5 have been met, to assume care, custody, control and risk of loss for the JPS Interconnection Facilities pending the resolution of such Dispute. A Taking-Over certificate certifying completion of the Discrete Element including the agreed upon Punch List shall be jointly executed at the time of Taking-Over. The Company shall provide to JPS the relevant as-built drawings within six (6) weeks from the date of any Taking-Over certificate.
- 7.5.4 A “Final Acceptance Certificate” will be issued by JPS to the Company for the JPS Interconnection Facilities promptly upon Taking Over. This certificate shall have no bearing on care, custody, control and risk of loss for such element.

7.6 Correction of Defects and Deficiencies

- 7.6.1 If the Company is notified of defects or deficiencies other than Punch List type items prior to the issuance of a Notice of Completion, specified above, or during the start-up testing period, the Company shall correct such defects and deficiencies. Thereafter, the Company shall issue a new Notice of Completion with respect to such items and the Parties will follow the procedures set forth above.

7.7 Disputes

- 7.7.1 Any Dispute between JPS and the Company as to whether any element of the Interconnection Facilities has been completed or has satisfied the start-up tests applicable to it shall be settled through the dispute resolution procedures set out in Clause 16 of the Agreement. If such dispute shall be resolved in favour of JPS, the Company shall be obligated, at its expense, to take all action required to satisfy its obligations as determined by such dispute resolution in respect of the element involved. If the Company is unable or unwilling to take such action, JPS shall be entitled to take such action itself or to employ others to do so, with all reasonable and justifiable expenses involved to be for the account of and payable by the Company. Any such expenses, if not paid or discharged by the Company promptly, may be taken as a credit by JPS against amounts invoiced pursuant to Clause 10 of the Agreement.

SCHEDULE 5

METERING AND TELECOMMUNICATIONS

[To be finalised following results of impact study based on size, type and location of Complex]

1. METERING EQUIPMENT AND ACCURACIES

- 1.1. The Primary Metering System shall be owned, operated and maintained by JPS. The Company shall design, finance, construct and install the Primary Metering System.
- 1.2. The Company shall design, finance, construct, install, own, operate and maintain an entirely separate Backup Metering System which shall be owned by the Company.
- 1.3. The Primary Metering System and the Backup Metering System (each, a “meter” and together, the “meters”) shall each meet the following specifications at all times during the term of this Agreement.
 - 1.3.1. The Primary Metering System owned by JPS shall be constructed to accumulate the outputs and/or inputs as measured at the Interconnection Point
 - 1.3.2. The Primary Metering System owned by JPS shall consist of its own current and potential transformers the necessary metering and accumulating devices and the related interconnecting wiring.
 - 1.3.3. The Backup Metering System owned by the Company shall consist of its own current and potential transformers (or combined PT/CT units), the necessary metering and accumulating devices and the related interconnecting wiring.
 - 1.3.4.
 - a) Instrument transformers shall conform to ANSI Standards C.12.11 and C.57.14 Class 0.3 and shall have sufficient capacity to supply the burden produced by the wiring and metering equipment.
 - b) The current transformers' secondary winding used for metering purposes shall supply only the metering equipment and its associated wiring. Notwithstanding the foregoing, each current transformer may have other secondary windings that may be used for purposes other than metering.
 - c) The potential transformers' secondary winding output may be used for metering and other purposes; provided that the

total connected burden does not exceed one half of the rated burden capacity of such potential transformer.

- 1.4. All metering and accumulating equipment shall have sufficient accuracy so that any error resulting from such equipment shall not exceed + 0.5% of full-scale rating.
- 1.5. Both meters shall be constructed with a capability to be read remotely through a communication line. Either party shall have the right to read either meter. Both meters shall have provisions to record on memory the accumulated kilowatt-hours and other parameters as indicated in this Schedule 5 for each demand interval with identification of time and date.
- 1.6. All instrument transformers, meters and accumulating devices shall be tested by the manufacturers with equipment calibrated against primary standards kept in the country of origin of the equipment. Each party shall provide copies of the certified test results and applicable correction factors to the other Party prior to installation of such equipment.

2) SEALING FIELD TESTING AND INSPECTION

- 2.1. Each meter shall be installed in a separate enclosed panel. Both meters and associated instrument transformer boxes shall be sealed or secured by JPS at the respective meter. For wiring used only for metering purposes, solid metallic conduit runs shall be used to enclose the wiring connecting the instrument transformers and related accumulating and metering equipment. Any boxes or other devices used to join two or more sections of said conduit shall be securely covered, fastened and sealed with seals approved by JPS. If the wiring used for metering must pass through a panel, panel-board or switchgear structure, it shall be fastened together and cabled as a unit separate and apart from the rest of the wiring.
- 2.2. At its own expenses, the Company shall provide any terminal blocks and test switch that are required to be used along the length of the metering conductors within a panel, panel board or switchgear with covers or strips that limit access to the respective connections and said covers or strips shall be affixed with a seal approved by JPS. When boxes or enclosures are used to contain metering and accumulating equipment and their associated wiring, said boxes or enclosures shall be sealed with pre-numbered seals approved by JPS.
- 2.3. Seals shall not be broken by anyone except authorized JPS personnel when either meter is to be inspected, tested or adjusted. JPS shall notify the Company in advance of such inspection, testing or adjustment, and the Company shall be allowed to have a representative present.
- 2.4. Before the date on which the Complex is Commissioned, JPS shall, at the Company's expense, test the Primary Metering System and the Backup Metering System for correct wiring and accuracy, using equipment whose accuracy is equal to or better than that of the individual meters. Individual

meter components found to be inaccurate shall be returned by the individual owner to the manufacturers for repair or replacement.

- 2.5. After the Commercial Operations Date, JPS shall, at the expense of the individual owner of the relevant meter(s), test (a) both meters within ten (10) Days after the detection of a difference between the cumulative energy reading (in either the import or export direction) of the Primary Metering System and the corresponding cumulative energy reading of the Backup Metering System (in the same direction), larger than 1% for the Month for which payment is due, (b) the respective meter within five (5) Days after that meter has undergone the repair or replacement of all or part of the meter caused by the failure of one or more of its parts to operate in accordance with the specifications, and/or (c) both meters within thirty (30) Days before or after each anniversary of the Commercial Operations Date. If any errors in the readings of the meters are discovered by such testing, the Party owning that meter shall repair, recalibrate or replace the meter as soon as possible but in any case, no later than one hundred and eighty (180) Days after such discovery and shall give the other Party reasonable advance notice so that the Party receiving notice may have a representative present during any such corrective activity.
- 2.6. JPS shall, at the Company's expense, undertake such additional tests and calibration of the Primary Metering System and the Backup Metering System as the Company may require from time to time.
- 2.7. JPS shall, within fifteen (15) Days after the completion of all testing, deliver to the Company all test results together with calibration certificates for the test instruments and traceability reports.

3) MEASUREMENT OF NET ENERGY OUTPUT

- 3.1. If the Primary Metering System is found to be inaccurate by more than the Allowable Error or to otherwise have functioned improperly during the previous Month, then the correct amount of Net Energy Output for the actual period during which inaccurate measurements, if any, were made shall be determined as follows:
 - 3.1.1. First, the reading of the Backup Metering System shall be utilized to calculate the correct amount of Net Energy Output unless a test of such Backup Metering System, as required by either Party, reveals that the Backup Metering System is inaccurate by more than the Allowable Error or is otherwise functioning improperly.
 - 3.1.2. If the Backup Metering System is not within the acceptable limits of accuracy or is otherwise functioning improperly, then the Company and JPS shall jointly prepare an estimate of the correct reading on the basis of all available information and such guidelines as may have been agreed to between the Company

and JPS at the time the reading is taken.

3.1.3. If JPS and the Company fail to agree upon an estimate for the correct reading, then the matter may be referred by either party for determination by arbitration pursuant to Clause 16 of this Agreement.

3.2. The Company shall provide and install appropriate equipment and shall make a continuous recording on appropriate data storage media or equivalent of the Net Energy Output of the Complex prior to the Commercial Operations Date and thereafter JPS shall provide a copy of this recording to the Company each time the meters are read.

4) PARAMETERS AND PROCEDURES FOR METER READING

4.1. The following parameters shall be read every Month.

- 4.1.1. Active energy (MWh) OUT
- 4.1.2. Active energy (MWh) IN
- 4.1.3. Reactive energy (MVARh) OUT
- 4.1.4. Reactive energy (MVARh) IN
- 4.1.5. Active power demand (MW) OUT
- 4.1.6. Active power demand (MW) IN
- 4.1.7. Reactive power demand (MVAR) OUT
- 4.1.8. Reactive power demand (MVAR) IN

4.2. The demand interval shall be fifteen (15) minutes and shall be set to start at the beginning of the hour. Demands shall be calculated by averaging the respective parameters over the stated demand interval.

4.3. JPS shall read/download data from the appropriate meter on the last day of each month at a time to be agreed by the Operating Committee.

4.4. Both meters shall be equipped with a memory module of sufficient size which will record the MWh and MVARh produced during each demand interval for a period of not less than 90-days.

5) TELECOMMUNICATIONS

5.1 The Company shall install, at its sole cost and expense, a system that makes the following signals available to JPS for JPS' operations:

[*]

5.2 In addition, the Company shall furnish, install and maintain, at its sole cost and expense, the required communication devices, as well as all other communication infrastructure relevant to their operation. The required

devices shall include:

- 5.2.1. Telephone system to permit voice communications between the Complex and the JPS Control Centre.
- 5.2.2. [*] (*) VHF base radio equipment with power supply to permit TWR voice communications between the Company's Control Room and JPS Control Center
- 5.3 The Company shall be responsible for ensuring that SCADA communication provisions are compliant with RS232, RS485 and DNP3.0 protocols used in JPS. This includes communication channels, two of which are to be via independent paths.
- 5.4 The Company shall provide digital microwave transmitting and receiving equipment and tower at the JPS Interconnection Facilities which shall be linked to the JPS communication system at Birches Hill JPS repeater site. For communications over the microwave from the JPS Interconnection Facilities to Birches Hill repeater site, the Company shall provide and install the necessary equipment at the JPS Interconnection Facilities, and the Company shall provide and JPS shall install, at the Company's expense, the necessary equipment at Birches Hill repeater site.
- 5.5. The Company shall provide and install a GE D20MX Remote Terminal Unit (RTU) for telemetry at the JPS Interconnection Facilities. The SCADA requirements shall include:
 - 5.5.1 Control signals for circuit breakers and motorised disconnects to be via discrete wiring.
 - 5.5.2 Status signals from circuit breakers and motorised disconnects to be via discrete wiring.
 - 5.5.3 Analog value of Station Battery to be provided.
 - 5.5.4 Full list of SCADA points to be agreed before wiring of RTU.
 - 5.5.5 Whetting of status input to be via independent isolated 48VDC.
 - 5.5.6 Transfer of any inputs to RTU from the Company operated equipment to be via DNP3 communication protocol over fiber optic link.
 - 5.5.7 RTU to be time synchronized by separate path from same device (such as SEL-2488) providing time synch to protective relays.
- 5.6 For communications over the fibre optic link from the JPS Interconnection Facilities to the [JPS named] substation the Company shall provide and install the necessary equipment at the JPS Interconnection Facilities, and the Company

shall provide and JPS shall install, at the Company's expense, the necessary equipment at the [JPS named] substation.

- 5.7 The Company shall be responsible for the supply and installation of the time-synchronization facilities for protective relaying and SCADA inclusive of GPS antenna and clock.
- 5.8 The Company shall be responsible for the supply and installation of a GPS time-synchronised Power System Monitoring and Fault Recorder, [*] or equivalent, with capabilities for Digital Fault Recorder (DFR), Dynamic Swing Recorder (DSR), Sequence of Event Recorder (SER), Power Quality Recorder (PQR), Long Term Trend Recorder (LTR), Continuous Disturbance Recorder (CDR) and Real Time Phasor Measurement Unit (PMU). Trend data recording will be provided with up to a 90-day storage facility. Set-up, programming, commissioning and operation of the Power System Monitoring and Fault Recorder shall be the responsibility of JPS. No additional external computers or data storage capability will be provided.
- 5.9 The Company shall be responsible for the supply and installation of online historical archiving facilities for the capture of GPS time-stamped, 2-second or smaller intervals, real time SCADA data (status and analog) preserved for a period of no less than six (6) months.
- 5.10 The Company shall provision all necessary electronic communications equipment and accessories to implement the telecommunications requirements as outlined and where applicable, meet or exceed IEEE 1613 and IEC-61850-3 standards for electric utilities.
- 5.11 The Company shall implement measures to mitigate the risks of loss of equipment power supply and/or electrical anomalies such as transient high or low voltages that may impact the availability and quality of the communications on their Complex before being delivered to JPS System Control
- 5.12 Remote engineering access for JPS via two independent paths to provide JPS with remote access to protective relays (i.e. Remote Relay Monitoring) and other equipment at the substation to support data retrieval for grid event analysis.

SCHEDULE 6
SCHEDULE OF INDEXATION AND
ADJUSTMENTS

This Schedule 6 defines the principles of indexation and adjustment of the payments and other monetary values in the Agreement.

Section 1: Base Payments and Amounts, Indexation Factors and References

The basis and frequency of adjustment for the Energy Payments are given below. All prices, charges and amounts are in United States Dollars, however, JPS will make payment in Dollars or Jamaican Dollars, in accordance with Clause 10.5.2. If conversion from US Dollars to Jamaican Dollars or vice versa is necessary, the Billing Exchange Rate, as defined in Schedule 1 of this Agreement, will apply.

1.1. Energy Payment Components

1.1.1. Energy Payment – On and from the Commercial Operations Date up to the Contracted Net Energy Output

The price payable by JPS on and from the Commercial Operations Date for energy purchased up to the Contracted Net Energy Output shall be the sum of the non-indexed portion (Non-Indexed Energy Charge) and the indexed portion (Non-Indexed Energy Charge) of the Associated Energy Offered Price.

1.1.2. Energy Payment – Pre-Commercial Operations Date

The price payable by JPS prior to the Commercial Operations Date for energy purchased shall be seventy-five percent (75%) of the Associated Energy Offered Price (without adjustment for US CPI).

1.2. Liquidated Damages to be paid by the Company for Delays in Commissioning the Complex

| Component | Base Amount (\$) | Basis for Adjustment | Frequency of Adjustment | Base Index Date |
|---------------------------|-----------------------|-------------------------|----------------------------|-----------------------|
| Delay in Commissioning | US\$275.00 /MW/day | US CPI | Annually | Base Date |

As per Clause 10.4

1.3. Security Deposits

| Component | Base Amount (\$/MW) | Basis for Adjustment | Freq. of Adjustment | Base Index Date |
|-------------------------------|----------------------------|-----------------------------|----------------------------|------------------------|
| Construction Security Deposit | USD 100,000.00 | US CPI | Annually | Base Date |

As per Clause 10.7

The Company shall be solely responsible for maintaining the adjusted level of the Construction Security Deposit in accordance with Section 10.7, and the payments by JPS to the Company shall not be adjusted to support this obligation.

Section 2: Methodology

2.1. Determination of Energy Payment

The Energy Payment for each Month_m of Year_y commencing with the Month in which the Commercial Operations Date occurs, is determined as follows²⁵:

$$\text{Energy Payment (EP}_{m,y}) = \text{Non-Indexed Energy Charge (NIEC}_{m,y}) + \text{Indexed Energy Charge (IEC}_{m,y})$$

where:

$$\text{NIEC}_{m,y} = \text{AEOP} \times (1 - \text{PeIn}) \times \text{NEO}_m$$

$$\text{IEC}_{m,y} = [(\text{AEOP} \times \text{PeIn}) \times (\text{USCPI}_m / \text{USCPI}_b)] \times \text{NEO}_m$$

AEOP (\$/MWh) = the Associated Energy Offered Price submitted in the Call for Tenders at which the Company was awarded

PeIn (%): The percentage of the Associated Energy Offered Price submitted in the Call for Tenders at which the Company was awarded that is indexed to the US CPI.

NEO_m (MWh) = Net Energy Output for Month_m

US CPI_b = The US Chained Type Consumer Price Index (1999=100) for all Urban Consumers, City Average, unadjusted at Commercial Operations Date corresponding to the month of the Commercial Operation Date

US CPI_m = US Chained Type Consumer Price Index (1999=100) for all Urban Consumers, City Average, unadjusted for the month of the COD anniversary immediately preceding to Month_m

²⁵ Notwithstanding any adjustments following the application of Clause 10.6 (Adjustment for Changes in Relevant Law)

2.2. Determination of Liquidated Damages for Delays in Commissioning the Complex

The liquidated damages for Delays in Commissioning the Complex for each Day as expressed in Dollars are determined as follows:

2.2.1. Delays in Commissioning Charge (DCC)

$$\text{DCC} = \text{Pcap} \times \text{LDA} \times \text{Days}$$

where:

Pcap = Net Capacity from Proposal in kW

LDA = Liquidated damage amount per kW per Day, set forth in Clause 10.4

Days = Number of Days or part thereof during which the Commissioning of the Complex is delayed beyond the Required Commercial Operations Date.

Provided that the cumulative amount of all payments for delays in Commissioning shall not exceed the Construction Security Deposit as per Clause 10.7.

Section 3: Conditional Sections

3.1 Discontinuation of Index

If any index used in this Schedule 6 is no longer published or otherwise becomes unavailable, either Party may serve notice on the other Party and the Parties shall use their best endeavours to agree upon a new index. If the Parties are unable to agree upon a new index within thirty (30) Days after the receipt of notice, the Parties shall resolve such dispute in accordance with Clause 16 of this Agreement.

Upon the substitution of a new index, the Parties shall make the indexation adjustment retroactively to the date when the relevant adjustment would otherwise have been made.

SCHEDULE 7

OPERATING COMMITTEE

1) Appointment of Committee

On or before five (5) Days after the date of this Agreement, the Parties shall form an Operating Committee for the day-to-day management of relevant provisions of this Agreement. Each Party shall appoint two (2) representatives and an alternate for the Operating Committee. Notice of the appointment of each Party's representatives and their particulars shall be provided in writing by each Party to the other and the first meeting of the Committee shall be convened no later than 2 weeks after the appointment. The Committee shall agree and maintain an appropriate record of its deliberations in the form of written minutes, which record shall in the event of a dispute constitute conclusive evidence of the decisions taken in respect of the subject matter therein.

2) Responsibilities

The Operating Committee shall be responsible for (a) coordinating the construction schedules of each Parties' portion of the Complex, Interconnection Facilities and required modifications to the JPS Grid and (b) Ongoing coordination of areas of mutual interest and concern involving the Complex and the Interconnection Facilities. Without limiting the generality of the foregoing, the duties of the Committee shall include:

- 2.1 Coordinate the respective programs of the Parties for the construction, commissioning and testing of the Supply and the Interconnection Facilities, and the respective commissioning procedures;
- 2.2 Develop steps to be taken on the occurrence of any event of Force Majeure, or the shutdown or reduction in output for any other reason of the Interconnection Facilities or the Complex;
- 2.3 Coordinate the scheduling of maintenance impacting the operations of the Complex;
- 2.4 Coordination of changes in either the Complex or the Interconnection Facilities that effect the operational requirements of [JPS Systems Control];
- 2.5 Develop operating procedures, including plans for operating the Complex during anticipated types of outages and emergencies (Clause 6.4).

- 2.6 Address safety matters affecting both the Parties, their Contractors and their respective employees as related to the Complex and the Interconnection between the Complex and the JPS Grid;
- 2.7 Address any other mutually agreed upon matter affecting the operation of the Complex.
- 2.8 Recommend to the Parties changes regarding the responsibilities of the Operating Committee.

3) Procedures

- 3.1 The Operating Committee shall only act by unanimous agreement. The Committee shall develop and implement written policies regarding the frequency of meetings and minutes of meetings. The Operating Committee shall not have authority to modify or alter the rights and obligations of the Parties under this Agreement.

4) Reporting Relationships

The Operating Committee shall functionally report their activities and recommendations to the Parties or others designated by the Parties.

5) Operating Protocols

In order to assist the development of the operating procedures, the Company shall prepare and on signing of this agreement deliver to the operating committee, proposed protocols for the operation of the Complex and its interface with the JPS Interconnection Facilities.

SCHEDULE 8
CONSTRUCTION REPORTS

1. Monthly Reports

On or before the fourteenth (14th) Day of each Month after the Commencement of Construction and continuing until the completion of all construction and Commissioning activities with respect the Complex, the Company shall deliver to the GPE as well as the JPS a comprehensive report on the progress of construction and Commissioning.

2. Content

These monthly progress reports shall indicate the planned, scheduled and actual status of all major activities based on key events defined on the time-based Project Evaluation and Review Technique (PERT) and bar charts provided by the Construction Contractor to the Company.

3. Physical Progress

Each monthly progress report shall include a detailed description of the progress with respect to procurement for the Complex, physical construction of the Complex and Commissioning of the Complex, including:

- 3.1. Planned progress to date;
- 3.2. Actual progress to date;
- 3.3. Achievement of key target dates;
- 3.4. Reasons for delays experienced;
- 3.5. Contingency plans to maintain original timetable;
- 3.6. Forecast progress for the next month;
- 3.7. Likelihood of achieving future key target dates; and
- 3.8. Photographs depicting the progress at the Site.

4. Project Status

Each monthly progress report shall include a detailed description of the overall status of the Project.

5. Insurance

At least thirty (30) Days prior to the expiration date of any insurance policy the Company is required to obtain or maintain in accordance with Clause 15.1 of the Agreement, the Company shall provide JPS with written notification thereof. In addition, where applicable, the Company shall provide JPS with written notice that such insurance policy has been renewed as required by Clause 15.1.1 of the Agreement. When appropriate, the notices required in this Clause 5 shall be included in the monthly progress report.

SCHEDULE 9
FORM OF LETTER OF CREDIT

[LETTERHEAD OF ISSUING

BANK] IRREVOCABLE

STANDBY LETTER OF

CREDIT

Date _____

LETTER OF CREDIT NO.

[COMPANY
NAME]

[COMPANY
ADDRESS]

Gentlemen:

1. A
t the request and for the account of our customer, the Jamaica Public Service Company Limited (“JPS”), we hereby establish this Irrevocable Standby Letter of Credit (the “Letter of Credit”) for the benefit of [COMPANY NAME] (the “Beneficiary”), pursuant to a Power Purchase Agreement dated as of _____, 202[*], made between JPS and the Beneficiary (the “Agreement”). Capitalized terms used in this Letter of Credit, including the Annexes hereto, shall have the meanings set forth in the Agreement. Upon the terms and conditions set forth herein, effective (“Effective Date”), and expiring on _____ (one year from the Effective Date) (the “Termination Date”), this Letter of Credit authorizes the Beneficiary to draw on us up to the amount of _____ United States Dollars.)

Subject to the other provisions of this Letter of Credit, you may obtain the funds available under this Letter of Credit by presentment to us of your original

sight draft or drafts, as the case may be, either in person or via internationally recognized overnight courier at our offices at Kingston, Jamaica, drawn on [Issuing Bank]. Each draft presented to us must be accompanied by:

- (i) a certificate substantially in the form of Annex A attached hereto certifying that (a) the Beneficiary delivered an Invoice to JPS pursuant to Clause 10.5 of the Agreement and that payment under the Invoice fell due at least thirty (30) Days prior to the date of the certificate; and (b) JPS has failed to pay all or part of the amount indicated on the Invoice, together with a copy of the Invoice; or
- (ii) a certificate substantially in the form of Annex B attached hereto certifying that, (a) pursuant to Clause 16 of the Agreement, an expert or Arbitration Tribunal has rendered a decision with respect to a Dispute requiring the payment of money by JPS to the Beneficiary on a date at least thirty (30) Days prior to the presentation of your draft to us; and (b) JPS has failed to pay all or part of the amount indicated in such decision , together with a copy of such decision; or
- (iii) a certificate substantially in the form of Annex C attached hereto certifying that (a) this Letter of Credit will expire in less than thirty (30) Days from the date of such certificate and (b) JPS has failed to deliver a replacement Letter of Credit to the Beneficiary by the date specified in Clause 10.8.3 of the Agreement.

You must comply with all of the instructions in brackets in preparing Annex A, B or C, as applicable, for submission with your draft.

When presented for payment against this Letter of Credit, the draft and accompanying Annex must be dated the date of its presentation to us and may be presented only on a Business Day. As used in this Letter of Credit, "Business Day" shall mean any day other than Saturday or Sunday on which banking institutions in Kingston, Jamaica are not required or permitted to remain closed. The draft must be marked conspicuously "Drawn Under Irrevocable Standby Letter of Credit No. ___." The certifications that you are required to submit to us along with your draft must be in the form of a letter on your letterhead signed by an authorized officer.

Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at _____, specifically referring to the number and date of this Letter at Credit.

Your sight draft accompanied by Annex A, B or C, as applicable, and presented in full compliance with the terms and conditions of this Letter of Credit at or before am., Jamaica Standard Time on a Business Day, will be honoured by our payment to you or your designee of the draft amount in immediately available funds in (Kingston Jamaica) as set forth in the applicable Annex. Payments made by us hereunder will be out of our funds and not out of funds or other assets of JPS.

2. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you prompt notice that the purported negotiation was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefor and that we are holding any documents at your disposal or are returning the same to you, as we may elect.

Upon being notified that the purported negotiation was not effected in conformity with this Letter of Credit you may attempt to correct any such nonconforming demand for payment if, and to the extent that, you are entitled (without regard to the provisions of this sentence) and able to do so.

This Letter of Credit shall automatically terminate on the Termination Date. You shall deliver this Letter of Credit to us promptly after the Termination Date, together with Annex D fully completed and executed by a duly authorized officer of the Beneficiary.

This Letter of Credit shall be governed by and construed in accordance with the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication 500 (the "Uniform Customs and Practice") and, to the extent not inconsistent therewith, the Laws of Jamaica.

3. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument, or agreement referred to herein, except only Annexes and the drafts referred to herein; and any such reference shall not be deemed to incorporate herein any such document, instrument or agreement except for such Agreement, Annexes and such drafts.

Very truly yours, (Issuing
Bank)

By:

Title:

THIS ANNEX IS AN INTEGRAL PART OF

_____BANK LETTER OF CREDIT NO. DATED_____, 20[]

ANNEX A [CERTIFICATE OF
BENEFICIARY]

[DATE]

Attention:

Re: Certificate for Payment under Letter of Credit

Gentlemen:

We refer to your Letter of Credit No. _____(the "Letter of Credit"). Any term that is defined in the Letter of Credit shall have the same meaning when used herein as in the Letter of Credit. The undersigned, being a duly authorized officer of the Beneficiary, does hereby certify to you that:

1. I am the _____of [COMPANY NAME], the company for whose benefit the Letter of Credit was issued, and I am authorized to make this certification to you.
2. Attached hereto as Exhibit A is a true and correct copy of an Invoice delivered to JPS by the Beneficiary in accordance with the terms and conditions of the Agreement.
3. This Invoice fell due for payment at least thirty (30) Days prior to the date hereof and JPS has failed to pay all or part of the amount indicated thereon in accordance with the Agreement.
4. Therefore, we hereby demand payment in the amount of _____United States Dollars, being equal to the unpaid amount of the Invoice, to [Our Account] [the account of our designee, _____] at [name of bank and account information].

IN WITNESS WHEREOF, this Certificate has been executed and delivered by the Beneficiary on the _____ day of _____, _____"

[COMPANY NAME]

Name:

Title:

THIS ANNEX IS AN INTEGRAL PART OF
_____BANK LETTER OF CREDIT NO. DATED _____, []

ANNEX B
[CERTIFICATE OF
BENEFICIARY]
[DATE]

Attention:

Re: Certificate for Payment under Letter of Credit

Gentlemen:

We refer to your Letter of Credit No. _____ (the "Letter of Credit"). Any term that is defined in the Letter of Credit shall have the same meaning when used herein as in the Letter of Credit. The undersigned, being a duly authorized officer of the Beneficiary, does hereby certify to you that:

1. I am the _____ of [COMPANY NAME], the company for whose benefit the Letter of Credit was issued, and I am authorized to make this certification to you.
2. Attached hereto as Exhibit A is a true and correct copy of a decision rendered by an [expert/arbitration tribunal] pursuant to Clause 16.3 of the Agreement with respect to a Dispute (the "Decision"), which requires the payment of money by JPS to the Beneficiary on or before [*], being more than thirty (30) Days prior to the date of this certificate.
3. The Decision was rendered and issued to JPS and the Beneficiary at least thirty (30) Days prior to the date hereof and JPS has failed to pay all or part of the amount indicated therein in accordance with the Agreement and the Decision.
4. Therefore, we hereby demand payment in the amount of United States Dollars, being equal to the unpaid amount indicated in the Decision to [our account] [the account of our designee, _____] at [name of bank and account information].

IN WITNESS WHEREOF, this Certificate has been executed and delivered by the Beneficiary on the _____ day of _____, _____.

[COMPANY NAME]

Name:

Title:

THIS ANNEX IS AN INTEGRAL PART OF

_____BANK LETTER OF CREDIT NO. DATED _____,

ANNEX C
[CERTIFICATE OF
BENEFICIARY]
[DATE]

Attention:

Re: Certificate for Payment under Letter of Credit

Gentlemen:

We refer to your Letter of Credit No. _____ (the "Letter of Credit"). Any term that is defined in the Letter of Credit shall have the same meaning when used herein as in the Letter of Credit. The undersigned, being a duly authorized officer of the Beneficiary, does hereby certify to you that:

1. I am the _____ of [COMPANY NAME], the company for whose benefit the Letter of Credit was issued, and I am authorized to make this certification to you.
2. The Letter of Credit will expire in less than thirty (30) Days from the date of this certificate.
3. JPS has failed to deliver a replacement Letter of Credit to the Beneficiary by the date specified in Clause 10.8.3 of the Agreement.
4. Therefore, we hereby demand payment in the amount of United States Dollars, being equal to the amount remaining to be drawn under the Letter of Credit, to [our account] [the account of our designee] at [name of bank and account information]

IN WITNESS WHEREOF, this Certificate has been executed and delivered by the Beneficiary on the _____ day of _____, _____.

[COMPANY NAME]

Name: Title:

SCHEDULE 10
OPERATIONS LOG

1. The Company shall maintain an accurate and up-to-date operations log pursuant to Clause 6.7.4 of the Agreement. The purpose of the operations log is to record significant events, plans, requests and instructions. The log may consist of multiple documents in handwritten and/or electronic computer document form as the Operating Committee shall agree from time to time.
2. Entries into the operations log shall be made on an appropriate basis and should include, as necessary, the following:
 - 2.1. Switching instructions and times of receipt of such instructions from the Control Center.
 - 2.2. Time of implementation of instructions.
 - 2.3. Any request from the Complex to the Control Center including related communication from the Control Center; and any communication from the Control Center to the Complex that includes:
 - 2.3.1. Scheduled Outages;
 - 2.3.2. Forced Outages;
 - 2.3.3. Changes in operating status;
 - 2.3.4. Any unusual conditions found during inspections;
 - 2.3.5. Emergencies of any kind affecting the operation of the Complex.
 - 2.3.6. Any additional information available to the Company which the JPS Control Center may in the future, deem necessary for effective management of the power grid, including requests from the OUR. Any additional information available to JPS which the Company deem necessary for investigations and effective management of the plant, including requests from the OUR or submissions to OUR.
 - 2.4. Daily available capacity.
 - 2.5. Statements relating to abnormal running conditions of generators and auxiliaries.
 - 2.6. All real (kW) and reactive (kVAR) power production for each fifteen (15) minute interval, frequency, and [Rated] kV bus volts, including status of the SCADA interface.
 - 2.7. Telephone numbers and addresses of all Company and JPS System Control management and supervisory personnel.

SCHEDULE 11
INTERCONNECTION CRITERIA

[To be finalised following results of impact study based on size, type and location of Complex]