DATE:

RESIDUAL SALE AGREEMENT

Between

The Egyptian Electricity Transmission Company

(“EETC”)

and

[●](as the “Producer”)

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THIS RESIDUAL SALE AGREEMENT is made the [ ] day of [ ] 20[ ]

between:

(1) The Egyptian Electricity Transmission Company, an Egyptian joint stock company existing in accordance with the Egyptian Laws), whose registered office is located at Government District , Building No LM2, New Capital, Cairo, Egypt. (“EETC”); and

(2) [●] an Egyptian joint stock company incorporated organized and registered under the laws of the Arab Republic of Egypt, with the Commercial Registry of Cairo Investment Commercial Register under No. ([insert company registration number]) on [insert date], having its principal office at [insert address], Arab Republic of Egypt (the “Producer”),

and each of the parties hereto being a “Party” and the term “Parties” shall be construed accordingly.

WHEREAS:

(A) The Producer is an Eligible Producer under the Rules (as defined below).

(B) Pursuant to Article 31 of the Electricity Law, EETC has the power to sell and purchase electricity to and from electricity

صنعيم هذه الاتفاقية لشراء الفائض من الطاقة المنتجة بتاريخ هذا اليوم xxxxxxxx من سنة xxxxxxxx.

(1) الشركة المصرية لنقل الكهرباء وهي شركة مساهمة مصرية تأسست وتعمل وفقاً لأحكام القوانين المصرية) ومقرها الحي الحكومي مبني (LM2) بالعاصمة الإدارية الجديدة، القاهرة، مصر (الشركة) و(2) xxxxxxxx وهى شركة مساهمة مصرية تأسست وتعمل وفقاً لأحكام قوانين جمهورية مصر العربية بسجل تجاري استثمار القاهرة برقم (بم بيان رقم تسجيل الشركة) بتاريخ (بم بيان التاريخ) ومقرها بالعنوان (بم بيان العنوان)، جمهورية مصر العربية (المست):わかりる：

"طرف" و"طرفين"، يشير لكل من الطرفين فيما يلي باسم "الطرف" ومصطلح "الطرفين" تم تفسيره على هذا الأساس.

(أ) المنتج هو منتج مؤهل وفقاً القواعد (كما هي محددة بالتعريف أدناه).

(ب) وفقاً لقانون المادة 31 من قانون الكهرباء فإن الشركة المصرية لنقل الكهرباء (الشركة)
producers in order to meet the needs of the Regulated Market (as defined by the Electricity Law);

(C) The Producer has entered into one or more P2P Agreements with one or more Eligible Consumers in relation to [INSERT THE NAME OF THE AUTHORISED P2P Project] (the “Project”) which is an Authorised P2P Project under the “Rules Governing Private-to-Private (P2P) Projects in the Transition Phase of the Competitive Electricity Market of Egypt” (the “Rules”) as defined below);

(D) The Producer wishes to sell to EETC, and EETC agrees to purchase from the Producer, Day-ahead and/or Residual Excess Energy on the terms and conditions set out in the Rules and this Agreement; and

(E) The Producer wishes to purchase from EETC, and EETC agrees to sell to the Producer, Residual Shortfall Energy on the terms and conditions set out in the Rules and this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Rules (as defined below). Additionally, and to the extent that capitalised terms used in this Agreement have not been defined in the Rules and the Connection Agreement, they shall have the meanings set out below:

التعريفات

1 - 1 - في هذه الاتفاقية فإن الكلمات والمصطلحات ستكون لها نفس المعاني كما هي معينة لها على الترتيب في القواعد (يحسب تعريفها أدنى). وبالإضافة إلى ذلك وفي حدود أن المصطلحات ذات الأحرف الكبيرة المستخدمة في هذه الاتفاقية التي لم يتم تعريفها في القواعد واتفاقية الربط، سيكون لها المعاني كما هي مبينة
“Active P2P Project” the meaning given to such term in the Rules.

“Affected Party” has the meaning given to that term in Clause 9.1.

“Affiliates” means, with respect to any person, any other person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under common Control with that person.

“Agreement” means this Agreement including the Schedules hereto as the same may be amended, extended, supplemented, novated or modified in accordance with the terms hereof from time to time.

“Arbitration Rules” has the meaning given to that term in Clause 14.8.1.

“Authorisation” means any consent, authorisation, registration, agreement, notarisation, certificate, permission, license, approval, permit, authority or exemption.

“Authorised P2P Project” has the meaning given to such term in the Rules.

“Billing Period” has the meaning given to such term in the Rules, provided that the first Billing Period shall commence on the Effective Date and the last Billing Period shall end on the last day of the Term.

“Business Day” has the meaning given to such term in the Rules.

“Centre” has the meaning given to that
“Change in Law” means any of the following events:

(a) a new Law or Authorisation, representing an addition to, or amendment of, existing Laws or Authorisations;

(b) a change in the manner in which a Law or Authorisation is applied or interpreted; or

c) the introduction, adoption, change or repeal of any material condition of an Authorisation (except arising as a consequence of a breach by the Producer of any relevant Laws or any of the terms and conditions of an Authorisation),

which, in each case, occurs after the Execution Date but provided that a Change of Law does not include any Law or Authorisation published in the official gazette before the Execution which was not yet in force at the Execution Date.

“Condition Precedent” means each of the conditions precedent specified in Clause 3.

“Claim” means any and all suits, sanctions, legal proceedings, claims, actions, assessments, judgments, penalties, demands or fines brought or enforced against a Party (including any claim for payment of money, whether based on contract, tort or Law).

“Competent Authority” means the Government, or any ministry, department or political subdivision thereof, any municipality, any court or tribunal or any other governmental entity, instrumentality, agency, authority, committee or commission, under the direct or indirect control of the Government, or any department or political subdivision thereof,
or any independent regulatory authority relating thereto, having jurisdiction under the Law over the Producer, the Producer’s contractor and subcontractors, and EETC in each case within the Arab Republic of Egypt provided that for the purposes of this Agreement, EETC acting in its private commercial capacity as counterparty to this Agreement shall not be considered a Competent Authority.

“Connection Agreement” means the agreement entered between EETC and the Producer on or about the date of this Agreement, such agreement setting out the terms on which the Production Facility may be connected to the Transmission System.

“Connection Point(s)” has the meaning given to such term in the Rules.

“Day-ahead Excess Electricity” has the meaning given to such term in the Rules.

“Day-ahead Shortfall Electricity” has the meaning given to such term in the Rules.

“Delivery Day” has the meaning given to such term in the Rules.

“Directive” means any present or future directive, request, requirement, instruction, direction or rule of any Competent Authority as it may have been modified, extended or replaced and having legal force or, if not having the force of law, if it is reasonable in all the circumstances for it to be treated as though it had legal force.

“Disclosing Party” has the meaning given to that term in Clause 12.1.

“EETC Event of Default” means the events set out in Clause 7.2.

“Effective Date” means the date when
energisation occurs under the Connection Agreement.

“EgyptERA” means the Egyptian Electric Utility and Consumer Protection Regulatory Agency.

“Electricity” means electrical energy (in kWh) generated by the Production Facility and exported to the Transmission System at the Connection Point.

“Electricity Law” means the Electricity Law No 87 of 2015.

“Electricity Market for P2P Projects” has the meaning given to such term in the Rules.

“Eligible Consumer” has the meaning given to such term in the Rules.

“Eligible Producer” has the meaning given to such term in the Rules.

“Executive Regulations” means the Executive Regulations to the Electricity Law issued by Decree No. 230/2016.

“Execution Date” means the date this Agreement is executed by EETC.

“Force Majeure Event” shall have the meaning ascribed to that term in Clause 9.1.

“Generating Unit” has the meaning given to such term in the Connection Agreement.

“Government” means the government of the Arab Republic of Egypt.

“Governmental Force Majeure Event” has the meaning given to it in Clause 9.3.

“Grid Code” has the meaning given to such
term in the Rules.

"Insolvency Event" means in relation to a Party:

(a) a judgment (in a proceeding which is not frivolous or vexatious) in an amount exceeding the Insolvency Threshold is obtained against the Party and is not set aside or satisfied within thirty (30) Business Days;

(b) any distress, attachment, execution or other process of a Competent Authority (which is not frivolous or vexatious) in an amount exceeding the Insolvency Threshold is issued against, levied or enforced upon any of the assets of the Party and is not set aside or satisfied within thirty (30) Business Days;

(c) a receiver, receiver and manager, administrator or similar official is appointed over any of the assets or undertaking of the Party;

(d) the Party suspends payment of its debts generally without the prior consent of the other Party;

(e) the Party is or becomes unable to pay its debts when they are due;

(f) the Party enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;

(g) the Party ceases or threatens to cease to carry on business;

(h) an order (in a proceeding which is not frivolous or vexatious) is made to place the Party under official management or custody or a resolution is passed to place the Party under official management or custody;

(أ) الحكم القضائي (في إجراءات غير قائمة على الإزعاج أو الدعاوي المضللة) وملف تجاوز حد الإعسار والذي يتم الحصول عليه ضد الطرف ولا يتم تجنيبه أو استيفاه خلال 30 يوم عمل.

(ب) أي حالات للحجز أو المصاصة أو أي إجراءات أخرى من قبل أي سلطة مختصة (فيما عدا الدعاوي القائمة على الإزعاج أو التضليل) بمبلغ تجاوز حد الإعسار والتي يتم إصدارها كأحكام أو الإلزام بها ضد أي من أصول الطرف ولا يتم تجنيبها أو استيفائها خلال 30 يوم عمل.

(ج) في حالة تعيين حارس قضائي أو أي مسئول رسمي هكذا على أي من الأصول أو المشروعات الخاصة بهذا الطرف.

(د) إذا توقف طرف عن دفع ديونه بصفته عامة بدون الموافقة المسبقة من الطرف الآخر.

(هـ) إذا كان أو أصبح هذا الطرف غير قادر على دفع ديونه عند استحقاقها.

(و) إذا قام هذا الطرف بإبرام أو تسوية أي اتفاق أو تسوية أو تنازل لصالح دائنه أو أي فئة من الدائنين.

(ز) إذا توقف الطرف عن أعماله أو كان هناك تهديد بالتوقف.

(ح) في حالة إصدار أمر (في إجراءات ليست مضصلة أو قائمة على الإزعاج) وذلك لوضع هذا الطرف تحت الحراسة أو الغدارة الرسمية أو إذا صدر قرار بوضع هذا الطرف تحت الحراسة أو الإدارة الرسمية.
(i) an order (in a proceeding which is not frivolous or vexatious) is made for the winding up or dissolution of the Party or a resolution is passed for the winding up or dissolution of the Party otherwise than for the purpose of an amalgamation or reconstruction which has the prior consent of the other Party (which consent must not be unreasonably withheld); or

(j) anything analogous or with a substantially similar effect to any of the events specified in paragraphs (a) to (i) (inclusive) happens under the law of any applicable jurisdiction.

“Interest Rate” has the meaning given to such term in the Rules.

“Law” means any decree, licence, resolution, statute, act, order, rule, ordinance, law, decision, code, regulation (including any implementing regulation), treaty or directive (to the extent having the force of law) or any interpretation by a Competent Authority having jurisdiction over the matter in question, as enacted, introduced or promulgated by any Competent Authority having jurisdiction over the matter in question, including any amendments, modifications, replacements or re-enactments thereof.

“Notice” means a notice given pursuant to Clauses 13.3 and 13.4 and “Notify” shall have the corresponding meaning.

“Notification” has the meaning given to such term in the Rules.

“Other Force Majeure Event” has the meaning ascribed to that term in Clause 9.4.

“P2P Agreement” means the power purchase agreement entered between the Producer and the Eligible Consumer, as may...
be amended from time to time, pursuant to which Producer sells and the Eligible Consumer purchases Electricity dispatched by the Generating Unit.

“Party Liable” shall have the meaning ascribed to that term in Clause 10.1.

“Physical Nominations” has the meaning given to such term in the Rules.

“Producer Event of Default” means the events set out in Clause 7.1.

“Production Facility” has the meaning given to such term in the Connection Agreement, as further described in Schedule 1 (Specification of the Production Facility).

“Production Site” has the meaning given to such term in the Rules.

“Project” means the P2P Project defined in the Preamble to this Agreement.

“Prolonged Force Majeure Event” has the meaning ascribed to that term in Clause 9.7.1.

“Residual Excess Electricity” has the meaning given to such term in the Rules.

“Residual Shortfall Electricity” has the meaning given to such term in the Rules.

“Rules Governing Private-to-Private (P2P) Projects in the Transition Phase of the Competitive Electricity Market of Egypt”/ the “Rules” means the rules approved by EgyptERA as may be amended, modified or replaced from time to time (whether by way of regulation or other instrument), the purpose of which is to govern and regulate
the Private-to-Private (P2P) Projects in the Transition Phase of the Competitive Electricity Market of Egypt.

“Settlement Statement” has the meaning given to such term in the Rules.

“Site” means the Eligible Producer’s Production Site as defined in the Preamble to this Agreement, including the lands, spaces, roads and any surface and wayleaves relating to the Production Site, and such Site having been registered with a Registered P2P Agreement under the Rules.

“Tax” means any tax, levy, impost, deduction or withholding, charge, rate (other than utility or local council rates), duty (including duty levied or imposed by a Competent Authority), including any such amount imposed on an equivalence basis and withholding, income, stamp, transaction or capital gains tax, land tax, payroll tax, fringe benefits tax, duty or charge together with any related additional tax, further additional tax, interest, penalty, fine, charge, fee or like amount.

“Technical Dispute” means a Dispute that relates to a technical, engineering, operational or accounting issue or matter arising out of or in connection with this Agreement that in any case is the type of issue or matter that is reasonably susceptible to consideration by an expert in the relevant field or fields and is reasonably susceptible to resolution by such expert. For the avoidance of doubt, the definition of Technical Dispute is conclusive, meaning exclusively limited to Disputes that relate to technical, engineering, operational, or accounting issue or matter related to this Agreement.
“Technical Determination” has the meaning given to that term in Clause 15.4.

“Term” means the term of this Agreement as described in Clause 2.1.

“Transmission System” has the meaning given to such term in the Rules.


Interpretation

1.2 In this Agreement, unless the context requires otherwise:

(a) Headings and bold type are for convenience only and do not affect the interpretation of this Agreement.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of any gender include all genders.

(d) Other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning.

(e) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Competent Authority as well as an individual.

(f) A reference to a clause, recital, Party, schedule, annexure, attachment or exhibit is a reference to a clause or recital of, and a Party, schedule, annexure, attachment or exhibit to, this Agreement, unless expressly stated otherwise.
(g) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.

(ز) الإشارة لأي تشريعات تشمل جميع التشريعات التي تم تضاف لها من التشريعات وكذلك أي تعديلات أو إدماج أو استبدال أو إعادة إصدار لأي من هذه التشريعات.

(h) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.

(ح) الإشارة لأي مستند تشمل جميع التعديلات أو الإضافات أو الاستبدالات أو التجديدات لهذا المستند.

(i) A reference to a party to a document includes that party’s successors and permitted assignees.

(ط) الإشارة لطرف في المستند تشمل خلفاء هذا الطرف ومن يتم التنازل لهم في الحدود المسموح بها.

(j) A reference to an agreement other than this Agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.

(ي) الإشارة لاتفاقية أخرى غير هذه الاتفاقية تشمل العقود والمستندات وأي تعهدات أخرى ملزمة قانونًا أو أي اتفاقيات أو أنظمة أو مفاهيم وسواء كانت أو لم تكن تحريرية.

(k) No provision of this Agreement will be construed adversely to a Party because that Party was responsible for the preparation of this Agreement or that provision.

(ك) لا توجد أي شروط في هذه الاتفاقية يتم تفسيرها بالتفسير ضد طرف معين على أساس أن هذا الطرف هو المسئول عن إعداد هذه الاتفاقية أو صياغة هذا الشرط.

(l) A reference to a body, other than a Party to this Agreement (including an institute, association or authority), whether statutory or not:

(ل) الإشارة لأي طرف ليس طرفًا في هذه الاتفاقية (ويشمل ذلك أي اتحاد أو مؤسسة أو سلطة) وسواء كانت سلطة رسمية أو خلافه:

1) which ceases to exist; or

(1) التي يتحقق وجودها أو

2) whose powers or functions are transferred to another body,

(2) التي تنتقل وظائفها أو صلاحياتها لكيان آخر.

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

تعتبر إشارة لهذه الجهة أو الكيان الذي يحل محلها أو الذي يتولى صلاحياته أو وظائفها بصورة جوهرية.

(m) Specifying anything in this Agreement after the words ‘include’ or ‘for example’ or similar expressions does not limit what else is included.

(م) تحديد أي شيء في هذه الاتفاقية بعد كلمة "يشمل" أو "على سبيل المثال" أو المصطلحات المماثلة لا تحد الاختيارات فهي على سبيل المثال.
(n) A reference to time is to local time in Cairo, Arab Republic of Egypt.

(o) The applicable currencies under this Agreement are United States dollars (US$) and Egyptian pounds (EGP). All amounts payable under this Agreement must be paid in US$ or EGP, as indicated by this Agreement.

1.3 In this Agreement (including its Schedules), unless the context otherwise requires:

1.3.1 any references to:

(a) any Law or any other enactment or any section of, or schedule to, or other provision of any such enactment shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all instruments, orders or regulations then in force and made under or deriving validity from the relevant enactment or provision (as they may have been modified, extended or re-enacted);

(b) the Rules, or any section of, Appendix to or other provision of the Rules, shall be construed, at any particular time, as being a reference to it as it may have been amended or substituted;

(c) the Grid Code, or any section of, Appendix to or other provision of the Grid Code, shall be construed, at any particular time, as being a reference to it as it may have been amended or substituted;

(d) an agreement shall be construed, at any particular time, as including a reference to that agreement as amended or novated;

(e) a month shall be construed as a reference
to a calendar month;

(f) a particular clause, sub-clause or Schedule shall be a reference to that clause, sub-clause or Schedule in or to this Agreement; and

(g) a particular paragraph or sub-paragraph, if contained in a Schedule, shall be a reference to the relevant paragraph or subparagraph of that Schedule;

1.3.2 words in the singular may refer to the plural and vice versa, and words denoting natural persons may refer to corporations and any other legal entities and vice versa;

1.3.3 a requirement that a payment be made on a day which is not a Business Day shall be construed as a requirement that the payment be on the next Business Day;

1.3.4 the word “including” is to be construed without limitation;

1.3.5 terms which are defined in the Grid Code and which are not defined in this Agreement have the meanings ascribed to them in the Grid Code; and

1.3.6 the table of contents and headings are to be ignored for the purposes of interpretation.

Inconsistencies and Conflicts

1.4 Subject to Clause 1.5, in the event of inconsistency between the provisions of this Agreement and industry codes or inconsistencies within the Agreement itself, the following order of precedence shall prevail:

1.4.1 The Rules;
1.4.2 This Agreement; and

1.4.3 The Grid Code.

1.5 To the extent that any definitions in this Agreement differ from those contained in the Rules, the definitions provided in this Agreement shall supersede those set out in the Rules but only to the extent that the definitions are inconsistent or conflicting, or a definition under the Rules is incapable of being reconciled with the definition provided for the same term under this Agreement.

2. COMMENCEMENT AND DURATION OF AGREEMENT

Term of Agreement

2.1 This Agreement shall, subject to Clause 3, commence on the Effective Date and, unless terminated in accordance with Clause 8, shall continue in full force and effect until the 23:59 Egypt time on the first (1st) anniversary of the Commencement Date (the “Term”).

2.2 EETC shall upon executing this Agreement notify the Producer in writing that the Agreement has been executed.

Survival of Rights on Termination

2.3 Any expiry or termination of this Agreement shall not affect:

2.3.1 rights or obligations which may have accrued prior to such termination; or

2.3.2 continuing obligations of each of the parties under this Agreement which are expressed to continue after termination of this Agreement.

3. CONDITIONS PRECEDENT
Agreement subject to Condition Precedent

3.1 The Parties’ rights and obligations under this Agreement, save for those set out in this Clause 3.1 shall in all respects be conditional upon each of the following conditions precedent (each a “Condition Precedent”) being fulfilled by the Producer at its own cost and to the satisfaction of EETC:

3.1.1 the Producer has executed and delivered to EETC the Connection Agreement concurrently with the execution and delivery of this Agreement; and

3.1.2 the Connection Agreement has become unconditional and fully binding in accordance with its respective terms and conditions.

3.1.3 The Producer signed a Use of System Agreement with EETC

3.1.4 The Producer signed a P2P agreement with an Eligible Consumer or more

Consequences of Non-Fulfillment

If any of the Conditions Precedent referred to in Clause 3.1 has not been satisfied within ten (10) Business Days from the Execution Date, unless such period is extended in writing by EETC, this Agreement (save for Clause 13) shall be null and void and neither Party shall have any further obligation to the other.

4. SALE AND PURCHASE

4.1 The Producer shall nominate all electricity to be delivered from the Project to the Transmission System and EETC shall process all Physical Nominations received
from the Producer in accordance with the Rules.

4.2 The Producer shall notify all electricity to be delivered from the Project to Eligible Consumers under Active P2P Agreements and EETC shall process all Notifications received from the Producer in accordance with the Rules.

4.3 With effect from Effective Date, the Producer shall be entitled to sell and deliver Day-Ahead and/or Residual Excess Electricity to EETC in accordance with the Rules.

4.4 With effect from Effective Date, EETC shall sell and deliver Residual Shortfall Electricity to the Producer in accordance with the Rules.

5. BILLING AND PAYMENT

Determination of Excess and Shortfall Energy

5.1 The volume of Day-Ahead Excess Electricity and Residual Excess Electricity delivered by the Producer to EETC shall be determined in accordance with the Rules.

5.2 The volume of Residual Shortfall Electricity delivered by EETC to the Producer shall be determined in accordance with the Rules.

Determination of payments for Excess and Shortfall Energy

5.3 All payments to be made by EETC to the Producer for the delivery of Day-Ahead Excess Electricity and Residual Excess Electricity shall be determined in accordance with the Rules.

5.4 All payments to be made by the Producer to EETC for the delivery of the electricity which is sold and delivered from the Project to Eligible Consumers under Active P2P Agreements.
Residual Shortfall Electricity shall be determined in accordance with the Rules.

Payment

5.5 Any payment to be made by either Party to the other Party under this Agreement shall be made in EGP or USD by bank transfer of freely available funds to the bank account designated by the other Party on written notice to the first-mentioned Party from time to time.

Settlement Statement

5.6 EETC shall, in relation to each Month, from the Effective Date, until all amounts payable under this Agreement have been invoiced, prepare and deliver a Settlement Statement to the Producer in accordance with the Rules.

Payment

5.7 Any payment to be made by either Party to the other Party under this Agreement shall be made in EGP or USD by the applicable Due Date by direct bank transfer or equivalent transfer of immediately available funds.

Invoicing

5.8 Each month, the Producer shall submit to EETC an invoice specifying the payments in respect of the delivery of Day-Ahead Excess Electricity and Residual Excess Electricity in accordance with the Rules.

5.9 Each month, EETC shall submit to the Producer an invoice specifying the payments in respect of the delivery of Residual Shortfall Electricity in accordance with the Rules.

5.10 All invoices shall be based on the

المدفوعات

5 - أي مدفوعات مطلوب سدادها من أي طرف للطرف الآخر طبقاً لهذه الاتفاقية يتم سدادها إما بالجنيه المصري أو الدولار الأمريكي بالتحويل البنكي لأرصدة حرة متواضعة إلى الحساب البنكي المحدد من قبل الطرف الآخر بناءً على إخطار تحريري للطرف المذكور أولاً من وقت إلى آخر.

إقرار التسوية

5 - على الشركة وبالنسبة لكل شهر اعتباراً من تاريخ نفاد الاتفاقية وحتى يتم إرسال فواتير بجميع المبالغ المستحقة الدفع في هذه الاتفاقية، أن تعد الشركة وتقدم إقرار التسوية للمنتج طبقاً للقواعد.

الفواتير

5 - أي مدفوعات يتم سدادها من أي طرف للطرف الآخر في هذه الاتفاقية يتم سدادها بالجنيه المصري أو الدولار الأمريكي في تاريخ الاستحقاق المطبق عن طريق تحويل بنكي مباشر أو أي تحويل مماثل من أرصدة متوافرة مباشرة.

أي الفواتير

5 - في كل شهر على المنتج أن يقدم إلى الشركة فاتورة يحدد فيها المدفوعات بخصوص توريد فائض الطاقة المنتجة ليوم مقدماً والمبقي من فائض الطاقة وذلك طبقاً للقواعد.

جميع الفواتير ستكون على أساس إقرار
Settlement Statement for the Billing Period which shall be set forth in the Invoice for that payment. If a Settlement Statement is based on interim or provisional information or an estimate (which shall be reasonable), the party issuing the invoice shall specify in that invoice what interim or provisional information or estimates have been used and the basis therefore. When actual or final information becomes available, the party issuing the invoice shall as soon as reasonably practicable thereafter issue an amended invoice for that Billing Period in accordance with the Rules.

**Default Interest**

5.11 If either Party does not make any payment on the due date for such payment, then that Party shall be liable for interest on the outstanding payment at the Interest Rate calculated from the due date until the date when the payment is made in full. Such interest shall accrue from day to day on the basis of a year of three hundred and sixty five (365) days and shall be compounded monthly in arrears.

**Disputed Payments**

5.12 If either Party disputes any amount shown in a Settlement Statement (each a "Disputed Amount"), it shall make payment of any undisputed amount on or before the applicable Due Date and shall give notice of the Disputed Amount and reasons for the Dispute to the other Party no later than the applicable Due Date. The Parties shall seek to resolve the Dispute in accordance with Clause 14 and the Dispute shall be a Technical Dispute.

**Set-Off**

5.13 Subject to the provisions of the Rules, EETC shall be entitled to deduct or set-off any amount due from the Producer under or
6. EVENTS OF DEFAULT

Events of Default

6.1 Each of the following shall constitute a “Producer Event of Default”:

6.1.1 the Producer fails to pay any amount due when due under this Agreement;

6.1.2 Where the Producer has continued (on more than two occasions) to provide incorrect information in relation to calculation of Excess Electricity and Residual Excess Electricity and refused to amend such invoices for three successive Billing Periods;

6.1.3 the Producer ceases to hold a Generation Licence;

6.1.4 the Project ceases to become an Active P2P Project;

6.1.5 the Connection Agreement is terminated by the EETC, or the Production Facility is disconnected or de-energised for period more than (30) Business Days by reason of a Producer Event of Default;

6.1.6 where the Generating Unit is destroyed or damaged (including by Force Majeure Event) to such an extent as to be incapable of generating electricity;

6.1.7 occurrence of an Insolvency Event with respect to the Producer; or
6.1.8 where the Producer is otherwise in material breach of this Agreement.

6.2 Each of the following shall constitute an “EETC Event of Default”:

6.2.1 EETC fails to pay any amount due when due under this Agreement for a period more than 30 Working Days; or

6.2.2 EETC is otherwise in material breach of this Agreement.

Procedure following an Event of Default

6.3 Upon the occurrence of an Event of Default, the following procedures apply:

6.3.1 the Party not in Default (the “Non-Defaulting Party”) may give a Notice of default (the “Default Notice”) to the other Party (the “Defaulting Party”), specifying:

(a) in reasonable detail the Default giving rise to the Default Notice;

(b) if the Event of Default is rectifiable, the period within which the Defaulting Party must remedy the Default (the “Default Cure Period”), being:

(i) where the Default relates to a failure to pay money but is not an Insolvency Event, a period of thirty (30) Business Days after receipt of the Default Notice; and

(ii) where the Default does not relate to a failure to pay money, a period of sixty (60) Business Days after receipt of the Default Notice.

7. TERMINATION

7.1 If a Producer Event of Default occurs
and remains unremedied at the end of the Default Cure Period, EETC may terminate this Agreement in accordance with the Rules.

7.2 If an EETC Event of Default occurs and remains unremedied at the end of the Default Cure Period, the Producer may terminate this Agreement by giving a Notice of not less than twenty (20) Business Days to EETC.

7.3 Termination by either Party in accordance with this Clause 8 will be by Notice and without the need for any other legal or judicial procedure.

7.4 Upon expiry or termination of this Agreement, the Parties will have no further obligations under it except for obligations that arose prior to that expiry or termination and obligations that expressly survive expiry or termination pursuant to this Agreement.

8. FORCE MAJEURE

Force Majeure Event

8.1 For the purposes of this Agreement, ‘Force Majeure Event’ is any event which is not within the reasonable control, directly or indirectly, of the Party affected (the “Affected Party”) including:

8.1.1 any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy blockade, embargo or revolution;

8.1.2 any riot, insurrection, civil commotion, act or campaign of terrorism or sabotage;

8.1.3 any strike, lock-out or other industrial disturbance or restraint of labour; lightning, fire, earthquake, tsunami, unusual flood,
storm, cyclone, typhoon, tornado or other natural calamity or act of God;

العمالقة والصواعق والحرائق والزلازل والتسونامي والفيضانات غير العادية والعواصف والأعاصير أو أي كوارث طبيعية أخرى أو حالات القضاء والقدر.

8.1.4 closure of shipping or other transportation routes including ports; or

8-1-4 إغلاق طرق الشحن أو طرق النقل الأخرى بما في ذلك المواني أو

8.1.5 epidemic or plague,

والتي تنتج أو تؤدي إلى عطل كلي أو جزئي أو تأخير يضر بالطرف المتضرر في استيفاء أي من التزاماته في هذه الاتفاقية (فمثلا عدا دفع الأموال)

ولكن فقط في الحدود التالية:

8.1.6 that event cannot be or could not have been prevented, avoided or removed by the Affected Party, exercising reasonable diligence;

أن الحالة لا يمكن معالجتها أو لم يكن من الممكن منعها أو تجنبها أو إزالتها من قبل الطرف المتضرر مع ممارسة الاجتهاد اللازم لهذا الغرض.

8.1.7 the Affected Party took, or has taken, all reasonable precautions, due care and reasonable alternative measures to avoid the effect of such event on the Affected Party’s ability to perform its obligations under this Agreement and to mitigate the consequences of that event;

إذا اتخذ الطرف المتضرر الاحتياطات أو سبق له اتخاذ جميع الاحتياطات المناسبة والعناية المناسبة والإجراءات البديلة المناسبة لتجنب تأثير هذه الأحداث على قدرة الطرف المتضرر على أداء التزاماته في هذه الاتفاقية وتفادي عواقب هذه الأحداث.

8.1.8 the event is not, or was not, the direct or indirect result of the breach by the Affected Party of any of its obligations under this Agreement;

و لم تنتج بشكل مباشر أو غير مباشر بسبب مخالفة الطرف المتضرر لأي من التزاماته في هذه الاتفاقية.

8.1.9 the event is not one of the events set out in Clause 9.4; and

8-1-9 هذه الحالة ليست من الأحداث المبينة في البند 9-4 و

8.1.10 the Affected Party has given the other Party (Non-Affected Party) Notice under Clauses 13.3 and 13.4.

8-1-10 قدمن الطرف المتضرر للطرف الآخر (الطرف غير المتضرر) إخطاراً طبقاً للبنود 13.3 و 13.4.

8.2 A Force Majeure Event will be classified as one of the following 2 types:

8-2 يتم تصنيف حالة القوة القاهرة باعتبارها أحد التصنيفين التاليين:
8.2.1 a ‘Governmental Force Majeure Event’ which has the meaning given to it in Clause 9.3; or

8.2.2 an ‘Other Force Majeure Event’ which has the meaning given to it in Clause 9.4.

8.3 For the purposes of this Agreement, ‘Governmental Force Majeure Event’ means, subject to Clause 9.5, an event which, in addition to the criteria for a Force Majeure Event set out in Clause 9.1, consists of the following events:

8.3.1 any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, or revolution, in each case, occurring within or involving the Arab Republic of Egypt;

8.3.2 any riot, insurrection, civil commotion, act or campaign of terrorism, or organized campaign of sabotage but excluding any such sabotage:

(a) caused by the Producer or any of the Producer’s officers, employees, agents or subcontractors (or any officers or employees employed or engaged by any Producer agent or subcontractor); or

(b) which could have been prevented through the use of reasonable security measures by the Producer or the subcontractors,

in each case, occurring within or involving the Arab Republic of Egypt;

(c) action or failure to act by a Competent Authority that results in an Authorisation:

8-2-1 "حالة القوة القاهرة الحكومية" والتي تعني المعنى المحدد لذلك في البند 9-3 أو

8-2-2 "حالات القوة القاهرة الأخرى" وسيكون لها المعنى المحدد لها في البند 9-4.

8 لأغراض هذه الاتفاقية فإن "حالة القوة القاهرة الحكومية" تعني مع الالتزام بالبند 9-5، الحالة حيث بالإضافة إلى المعايير الخاصة بحالة القوة القاهرة المبينة في البند 9-1 تتكون من الحالات التالية:

8-3-1 أي حالة حرب (سواء كانت معلنة أو غير معلنة) والغزو والصراعات المسلحة أو الأعمال من الأعداء الخارجيين والحاصر والحظر أو الثورات وفي كل حالة إذا كانت تحدث داخل جمهورية مصر العربية أو تتضمن جمهورية مصر العربية.

8-3-2 أي حالات للشعب والتمرد والعصيان المدني والأعمال الإرهابية أو حالات التخريب المنظمة ولكن مع استبعاد أي تخريب هكذا:

أ) التخريب الذي يحدث من قبل المنتج أو أي من المسؤولين أو العاملين أو الوكلاء أو المقاولين من الباطن التابعين للمنتج (أو أي مسئولين أو عاملين معينين من قبل أي وكيل للمنتج أو متقاضي من الباطن).

ب) الحالات التي كان من الممكن منعها باستخدام الأنظمة الأمنية المناسبة من قبل المنتج أو المقاولين من الباطن.

وهي التي تحدث في كل حالة وتتضمن أو تحدث في جمهورية مصر العربية.

ج) أي تصرف أو تصريح من جانب سلطة مخصصة مما يترتب عليه أن أحد التصاريح اللازمة:
(d) ceasing to remain in full force and effect otherwise than through a breach of the Authorisation or other unlawful or wrongful act or omission of the Affected Party; or

(e) not being issued or renewed upon application having been timely and properly made and the Producer having complied with the requirements of Law and Authorisations;

8.3.3 A Change in Law occurs which totally or partially prevents or delays the performance of the Producer’s obligations under this Agreement, or which makes the performance of the Producer’s obligations under this Agreement is illegal.

8.4 For the purposes of this Agreement, ‘Other Force Majeure Event’ means, subject to Clause 9.5, to the extent they satisfy the criteria for a Force Majeure Event set out in Clause 9.1, any Force Majeure Events which do not meet the criteria for a Governmental Force Majeure Event.

8.5 For clarity, the following events do not, of themselves, constitute a Force Majeure Event under this Agreement:

8.5.1 any order of a Competent Authority issued for health or safety reasons by reason of any act or omission of the Producer requiring any act on the part of EETC which limits the ability of the Producer to deliver Electricity at the Connection Point;

8.5.2 the attachment of any conditions to an Authorisation in connection with a default or wrongful act of the Producer or the exercise of rights by a Competent Authority pursuant to the terms of an Authorisation;

8.5.3 any action, inaction, intended action or intended inaction by a Competent Authority which has been announced by the relevant Competent Authority in a publicly available....
draft Law of which the Producer was or should have been aware prior to the Execution Date:

8.5.4 any failure by a Party to reach agreement with a third party;

8.5.5 lack of funds for any reason or inability to use available funds for any reason;

8.5.6 failure of either Party to make any payment of money in accordance with its obligations under this Agreement;

8.5.7 any strikes, lock-outs or other industrial disturbances or restraints of labour (whether or not involving employees of the Affected Party) that are specific to the Producer, the Project or the Site;

8.5.8 late or non-delivery of equipment, machinery, plant or materials to the extent caused by the breach or negligent acts or omissions on the part of the Producer or any of its contractors or subcontractors;

8.5.9 late performance by the Producer to the extent caused by the Producer's failure to engage qualified contractors or subcontractors or to hire an adequate number of personnel or labour;

8.5.10 mechanical or electrical breakdown or failure of equipment, machinery or plant owned or operated by either Party due to the manner in which such equipment, machinery or plant has been operated or maintained;

8.5.11 any failure by a subcontractor of the Producer which results in the failure or inability of the Producer to perform its obligations under this Agreement where the cause of such failure by the subcontractor would not otherwise constitute a Force
8.5.12 failure of either Party to perform any of its obligations under this Agreement in accordance with the requirements of this Agreement which contributed to the occurrence of a Force Majeure Event;

8.5.13 reasonably foreseeable unfavourable weather or adverse meteorological conditions (having regard to historical weather and meteorological conditions), not being lightning, fire, earthquake, tsunami, unusual flood, cyclone, typhoon or tornado, to the extent such occurrence is a Force Majeure Event and is not otherwise reasonably foreseeable by the Affected Party; and

8.5.14 reasonably foreseeable unfavourable or unsuitable ground conditions or other similar reasonably foreseeable adverse conditions.

8.6 If the effects of a Force Majeure Event subsist for a continuous period of twelve (12) Months or more, and that event wholly or materially prevents the performance of obligations or the exercise of rights under this Agreement, the Parties must meet and use their best endeavours to agree the conditions on which this Agreement can continue (including any amendments which are required to allow it to continue).

8.7 Where an agreement as described in Clause 9.6 cannot be reached between the Parties and:

8.7.1 the relevant Force Majeure Event is an Other Force Majeure Event (a “Prolonged Force Majeure Event”), either Party will be entitled to terminate this Agreement by Notice to the other Party and such termination will be by Notice and without the need for any other legal or judicial
procedure; or

8.7.2 the relevant Force Majeure Event is a Government Force Majeure Event, neither Party is entitled to terminate this Agreement and the Parties must continue to meet and use their best endeavours to agree the conditions on which this Agreement can continue (including any amendments which are required to allow it to continue).

9. LIMITATION OF LIABILITY

Limitation of Liability

9.1 Subject to Clause 10.3 and save where any provision of this Agreement provides for an indemnity, no Party (the “Party Liable”) nor any of its officers, employees or agents shall be liable to the other Party for additional cost, expense or loss arising from any breach of this Agreement however caused (and whether as a result of the negligence of the Party Liable or otherwise) other than for additional cost, expense or loss directly resulting from such breach and which at the date of this Agreement was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach.

Liability for Death or Personal Injury

9.2 Nothing in this Agreement shall exclude or limit the liability of the Party Liable for death or personal injury resulting from negligence of the Party Liable or any of its officers, employees or agents and the Party Liable shall indemnify and keep indemnified the other Party, its officers, employees or agents, from and against all such and any loss or liability which such other Party may suffer or incur by reason of any Claim on account of death or personal injury resulting from the negligence of the Party Liable or
any of its officers, employees or agents.

Exclusion of Liability

9.3 Subject to Clauses 10.2 and 10.4, no Party, nor its officers, employees or agents shall in any circumstances be liable to the other Party for:

9.3.1 any loss of use, loss of profit, loss of revenue, loss of contract (other than this Agreement) or loss of goodwill;

9.3.2 any indirect or consequential loss; or

9.3.3 loss resulting from the liability of the other Party to any other person however arising save as provided in Clause 10.1.

Terms Separate

9.4 Each of the sub-clauses of this Clause shall:

9.4.1 be construed as a separate and severable contract term, and if one or more of such sub-clauses is held to be invalid, unlawful or otherwise unenforceable the other or others of such sub-clauses shall remain in full force and effect and shall continue to bind the parties; and

9.4.2 survive termination of this Agreement.

Benefit of Provisions

9.5 Each Party acknowledges and agrees that the other Party holds the benefit of Clause 9.4.1, and 9.4.2 above for itself and as trustee and agent for its officers, employees and agents.

10. GOVERNING LAW
This Agreement shall be governed by and construed in all respects in accordance with the laws of the Arab Republic of Egypt.

11. CONFIDENTIALITY AND ANNOUNCEMENTS

General restriction on the Producer

11.1 Neither party shall any time, whether before or after the expiry or earlier termination of this Agreement, divulge or suffer or permit its officers, employees, agents or contractors to divulge to any person any of the contents of this Agreement or any commercially confidential information relating to this Agreement or any commercially confidential information which may be provided by the other Party (“Disclosing Party”) pursuant to this Agreement or the Grid Code or in the course of negotiating this Agreement or otherwise concerning the operations, contracts, commercial or financial arrangements or affairs of the Disclosing Party except:

11.1.1 in the circumstances set out in Clause 12.2;

11.1.2 to the extent otherwise expressly permitted by this Agreement; or

11.1.3 with the prior written consent of the Disclosing Party.

Exceptions

11.2 The restrictions imposed by Clause 12.1 shall not apply to the disclosure of any information:

11.2.1 which now or hereafter comes into the public domain otherwise than as a result of a breach of an undertaking of confidentiality or which is obtainable with no more than reasonable diligence from
sources other than the Disclosing Party.

11.2.2 which is required to be disclosed by any order or by any other Directive or in compliance with the conditions of a licence or any document referred to in a licence with which either Party is required to comply;

11.2.3 to a court, arbitrator or administrative tribunal in the course of proceedings before it to which the Producer is a Party;

11.2.4 which is furnished to the employees, directors, Affiliates, agents, proposed assignees, consultants and/or professional advisers of either Party, in each case on the basis set out in Clause 12.3;

11.2.5 which is permitted to be disclosed by the Trading and Settlement Rules; or

11.2.6 which is furnished to banks, financiers or insurers or their respective consultants and advisers, provided that the recipient agrees to keep such information confidential on terms no less onerous than those set out in Clause 12.1.

Internal Procedures

11.3 With effect from the date of this Agreement both parties shall adopt procedures within their organisations for ensuring the confidentiality of all information which they are obliged to preserve as confidential under Clause 12.1. Those procedures shall be as follows:

11.3.1 the confidential information will be disseminated only to persons who need such information for the purpose of carrying out the functions which they are employed to carry out;

11.3.2 the confidential information shall not be


cُبَعِر من مصادر أخرى غير الطرف المفصح.

11.2.2 المعلومات المطلوبة الإفصاح عنها بموجب أي أوامر أو أي توجيهات أخرى أو بالالتزام بشروط الترخيص أو أي مستند مشار إليه في الترخيص حيث مطلوب من أي من الطرفين الالتزام به.

11.2.3 الإفصاح للمحاكم أو المحكمين أو المحكمة الإدارية في نطاق الإجراءات أمام هذه المحاكم حيث يكون المنتج طرفاً فيها.

11.2.4 المعلومات المقدمة للأعمال والمديرين والشركات التابعة والوكلاء ومن يتم التنازل لهم والمستشارين و/ أو الاستشاريين المهنيين لأي من الطرفين وفي كل حالة على أساس ما هو مبين في البند 12–3.

11.2.5 المعلومات المسموح الإفصاح بها طبقاً لقواعد التجارة والتسوية أو

11.2.6 المعلومات المقدمة لمؤسسات البنوك والمؤسسات المالية أو شركات التامين أو من يتبعهم من المستشارين وبشرط أن يوافق المستلم على حفظ هذه المعلومات سرية بشروط لا تقل عنما هو مبين في البند 12–1.

الإجراءات الداخلية

11.3 اعتباراً من تاريخ سريان مفعول هذه الاتفاقية على الطرفين إتباع الإجراءات داخل المؤسسات التابعة لهما لفرض ضمان سرية المعلومات لجميع المعلومات حيث يوجد التزام بالمحافظة على سريتها طبقاً للفصل 12–1.

وسوف تكون هذه الإجراءات كما يلي:

11.3.1 يتم نشر المعلومات السرية فقط للأفراد الذين يحتاجون لهذه المعلومات لأغراض تنفيذ الوظائف المعينة لهم في وظائفهم.

11.3.2 لا يجوز استخدام المعلومات السرية فقط
be used by either Party for the purpose of obtaining for itself or any of its Affiliates or for any other person any contract or arrangement for the supply of electricity to any person without the prior consent of the Disclosing Party;

11.3.3 employees, directors, Affiliates, agents, proposed assignees, consultants and professional advisers of both parties in receipt of confidential information will be made fully aware of the Producer’s obligations of confidence in relation thereto and the Producer will be responsible for any failure by such persons to comply with such obligations as if they were parties to this Agreement; and

11.3.4 any copies of the confidential information, whether in hard copy or computerised form, will clearly identify the confidential information as confidential.

12. MISCELLANEOUS PROVISIONS

Variation

12.1 This Agreement may not be varied except by an agreement in writing stating the variation to be made and signed by both Parties.

Waivers of Rights

12.2 No delay or forbearance by either Party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair or be construed as a waiver of the right, power, privilege or remedy. For the avoidance of doubt any waiver by either Party of the obligations of the other Party shall be evidenced by an agreement in writing signed by both Parties. A single or partial exercise of any such right, power, privilege or remedy shall not preclude any further exercise thereof or the exercise of
any other right, power, privilege or remedy.

Notice

12.3 Save for notices which are given pursuant to the Grid Code (as to which the procedures provided for in the Grid Code shall apply) any notice or other communication to be given by one party to the other under, or in connection with the matters contemplated by, this Agreement shall be sent to the address given and marked for the attention of the person specified below or such other address, email address, or person as one Party may from time to time designate by written notice to the other.

Notice details:

EETC

[●] Xxxxxxxx

Producer

[●] Xxxxxxxx

12.4 Save for notices which are given pursuant to the Grid Code, any notice or other communication to be given by one Party to the other Party under, or in connection with the matters contemplated by, this Agreement shall be in writing and shall be given by letter delivered by hand or sent by registered post (registered airmail if overseas) or courier service, and shall be deemed to have been received:

12.4.1 in the case of delivery by hand, when delivered;

12.4.2 in the case of email, on delivery to the recipient’s server and provided no error message is received by the sender; or
12.4.3 in the case of registered post, or courier service, on the first(1st) day following the day of posting or (if sent airmail from overseas) on the fifth (5th) day following the day of posting.

**Assignment**

12.5 The EETC may assign its rights and obligations under this Agreement, in the event that it ceases to be the Transmission System Operator in Egypt, to the successor Transmission System Operator in Egypt.

12.6 The Producer may not assign any of its rights or obligations under this Agreement without the prior written consent of the EETC.

**Severance and Effect of Illegality**

12.7 If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable, or is declared by any court of competent jurisdiction or any other Competent Authority to be invalid, illegal or unenforceable or if such Competent Authority:

12.7.1 refuses, or formally indicates an intention to refuse, authorisation of, or exemption to, any of the provisions of or arrangements contained in this Agreement (in the case of a refusal either by way of outright refusal or by way of a requirement that this Agreement be amended or any of its provisions be deleted or that a Party give an undertaking or accept a condition as to future conduct); or

12.7.2 formally indicates that to continue to operate any provision of this Agreement may expose the Parties to sanctions under
any law, order, enactment or regulation, or requests any Party to give undertakings or to accept conditions as to future conduct in order that such Party may not be subject to such sanctions,

and, in all cases, whether initially or at the end of any earlier period or periods of exemption then, in any such case, the parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid, unenforceable or illegal provision which substitute provisions are satisfactory to all relevant Competent Authorities and produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the parties.

Entire Agreement

12.8 This Agreement contains or expressly refers to the entire agreement between the parties with respect to its subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the parties with respect to its subject matter and each of the parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking by the other Party not fully reflected in the terms of this Agreement.

Counterparts

12.9 This Agreement may be executed in two counterparts and by each Party on a separate counterpart, each of which when executed and delivered shall constitute an original, but both counterparts shall together constitute but one and the same instrument.

13. DISPUTE RESOLUTION
13.1 The Parties agree that all Disputes under this Agreement will be resolved by the Parties in accordance with this Clause 13.1.

13.2 In the event that a Dispute arises under this Agreement, the Parties must confer and use reasonable endeavours to resolve the Dispute within thirty (30) days after the date that a Party gives Notice of the Dispute to the other Party.

13.3 Any resolution of the Dispute must be reduced to writing signed by both of the Parties, and will not be binding until so reduced to writing and signed by both of the Parties.

13.4 If the Dispute has not been resolved within the timeframe set out in Clause 13.2 and the Dispute falls within the ambit of disputes to be determined by the Dispute Resolution Committee of EgyptERA pursuant to Chapter 5 of the Executive Regulations, then the Dispute will be referred to EgyptERA. If such determination is not made within 60 Days from referral to EgyptERA or if either Party is not satisfied with any determination actually made, that Party may, subject to Clause 13.5, refer the Dispute to arbitration in accordance with the applicable provisions of this Clause 13.

13.5 If the Dispute has not been resolved:

13.5.1 within the timeframe set out in Clause 13.2; or

13.5.2 by EgyptERA:

(a) within the timeframe set out in Clause 13.4; or

(b) to the satisfaction of either Party,

then either Party may refer the Dispute to
arbitration in accordance with Clause 13.7.

13.6 Regardless of whether or not the timeframe set out in Clause 13.2 has elapsed, as an alternative to continuing to confer in respect of the Dispute under Clause 13.2 or referring the Dispute to determination under Clause 13.4 or to arbitration under Clause 13.7, if the Dispute is a Technical Dispute, either Party may refer such Dispute to a Technical Determination in accordance with Clause 14.

13.7 A Dispute that is not or is not capable of being finally resolved in accordance with Clauses 13.2, 13.4, or 14 may be submitted by either Party to arbitration in accordance with the following provisions of this Clause 13.

13.8 The arbitration will be:

13.8.1 in accordance with the rules (the “Arbitration Rules”) of the Cairo Regional Centre for International Commercial Arbitration (the “Centre”) in effect on the date of this Agreement, or, upon agreement by both Parties, as amended and in force at the time of commencement of the arbitral proceedings;

13.13 The arbitral award rendered will be final, binding, and conclusive and enforcement of the arbitral award in the Arab Republic of Egypt will be in accordance with the procedures set forth in Law 27 of 1994.

13.14 The Egyptian Minister of Electricity and Renewable Energy has granted consent to submit all disputes in relation to this Agreement to arbitration in accordance with this Clause 13. A copy of the Minister’s consent is attached as Attachment 1 (Minister’s Consent to Arbitration).
13.15 Each Party consents, in respect of any legal action or proceeding arising out of or in connection with this Agreement, to the giving of any relief or the issue of any process in connection with such action or proceeding in respect of the making, enforcement or execution of any order or judgment which may be made or given in such action or proceeding against its assets invested in financial, commercial or industrial activities, or deposited in banks.

13.16 Each Party irrevocably agrees for the benefit of the other, and in relation to this Agreement only, not to claim, and irrevocably waives, immunity from suit for itself or from execution or attachment, for its assets invested in financial, commercial or industrial activities or deposited in banks.

13.17 Despite the provisions of this Clause 13 (and Clause 14 where applicable), both of the Parties must (unless otherwise provided for in this Agreement) continue performing their obligations under this Agreement. The existence of a Dispute does not prevent the either Party from exercising any of its rights under this Agreement, including its right to terminate.

14. TECHNICAL DETERMINATION

14.1 Within ten (10) Business Days after the referral of a Dispute to Technical Determination, the Parties will agree on each person to act as an independent expert (each an Independent Expert) in relation to a Technical Determination under this Clause 14.

14.2 The Independent Expert must be an independent engineer with at least ten (10) Years of broad technical experience in the international field of constructing and
operating electrical facilities similar to the Production Facility or the Transmission System (as applicable)

14.3 If the Parties are unable to agree a person to act as an Independent Expert, the Parties will ask the Chairman of the Standing Committee of the ICC International Centre for ADR (or such other body agreed by the Parties) to nominate a person to act as the Independent Expert within a period not exceeding sixty (60) Days.

14.4 Any Technical Dispute between the Parties may, unless resolved amongst the Parties by conferral and agreement or arbitration under Clause 14.3, be referred by a Party for determination by the Independent Expert under the terms of this Clause 14 (“Technical Determination”).

14.5 A Technical Determination will be commenced by a Party delivering a Notice to the other Party requesting the Technical Determination in respect of the Technical Dispute.

14.6 The Parties agree that any Technical Determination will be held and completed promptly and expeditiously.

14.7 Any Technical Determination will take place at Cairo, Arab Republic of Egypt with only the legal and other representatives of the Parties to the Technical Dispute being required to be present.

14.8 Any Technical Determination may be held in an informal and summary manner and, specifically, it will not be necessary to observe or carry out the usual formalities or procedures, pleadings and discovery or the strict rules of evidence.

14.9 Subject to Clause 14.13, the decision of the Independent Expert will be final and binding on the Parties and must incorporate
the reasons for the decision.

14.10 Subject to:

14.10.1 the limitations of liability set out in Clause 10.3; and

14.10.2 the Independent Expert not derogating from EETC’s statutory powers as set out in Clause 15,

the Independent Expert will be entitled to impose such decision (including as to the specific performance, summary measures, damages or penalty or otherwise) as the Independent Expert in its sole and absolute discretion may deem fit and appropriate to resolve the relevant Technical Dispute in accordance with this Agreement.

14.11 For clarity, Clause 14.10 will also apply to any determination by the Independent Expert regarding costs (including the Independent Expert’s fees), unless this Agreement otherwise provides for the manner in which costs are to be dealt with.

14.12 Subject to Clause 14.13, each decision of an Independent Expert will be enforced promptly by the Parties. Provided such a decision is not disputed under Clause 14.13, the relevant Independent Expert decision will be automatically deemed an arbitral award enforceable pursuant to Clause 13.3 Either Party may apply to the issuing Independent Expert for reissuance of such decision in the form of an arbitral award by a sole arbitrator, in case of need, without reconsideration of the matter.

14.13 If:

14.13.1 the Independent Expert has reached a Technical Determination which is manifestly incorrect, reached negligently or

14.13.2 the Independent Expert has reached a Technical Determination which is manifestly incorrect, reached negligently or
14.13.2 the sum in Dispute in the Technical Dispute the subject of the Technical Determination is equal to or greater than US$60,000 per MWac of installed capacity of the Production Facility; or

بنية سينة :

14 - 13 - 2 إذا كان إجمالي النزاع في هذا النزاع الفني موضوع الفصل في النزاع الفني مساوياً أو أكبر من 60,000 دولار أمريكي لكل ميجاوات ac من القدرات المركبة في محطة إنتاج الكهرباء.

14.13.3 the Technical Dispute the subject of the Technical Determination concerns the occurrence of a Producer or EETC Event of Default (or events which would result in the occurrence of Producer or EETC Event of Default),

إذا كان النزاع الفني موضوع الفصل في النزاع الفني يتعلق بمشكلة خاصة بمنشأ الطاقة أو حالة تقصير من جانب المنتج أو الشركة (أو الحالات التي ينتج عنها حالة تقصير من جانب المنتج أو من جانب الشركة).

then either Party may, within twenty (20) Business Days of the Independent Expert's determination, regard the decision of the Independent Expert as a Dispute and refer the Dispute for arbitration under Clause 13.

ففي هذه الحالة فإن أي طرف يمكنه وفي خلال عشرين (20) يوم عمل من قرار الخبر المستقل فيما يتعلق بقرار الخبر المستقل أن يتم اعتباره محل نزاع ويتم إحالة هذا النزاع للتحكيم طبقاً للبند 13.

15. STATUTORY POWERS

15.2 Nothing contained in or implied by this Agreement has the effect of constraining EETC or placing any fetter on its statutory rights, duties, powers and functions, including those contained or referred to in any Law or Authorisation.

لا توجد أي شروط مضمونة أو مشار إليها ضمنياً في هذه الاتفاقية من شأنها أن تحد من الشركة أو تضع أي قيود على ما لديها من حقوق قانونية أو صلاحيات أو وظائف أو سلطات بما في ذلك تلك المضمونة أو المشار إليها في أي قانون أو تصرح.

IN WITNESS WHEREOF the Parties or their duly authorised representatives have executed this Agreement as of the date set out at the beginning of this Agreement.

Signed by …………………………… )

تم التوقيع بواسطة : xxxxxxxXX

for and on behalf of )

xxxxxxxx

Signed by …………………………… )

تم التوقيع بواسطة : xxxxxxxXX

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for and on behalf of )

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xxxxxxxxxx

SCHEDULE 1

SPECIFICATION OF THE PRODUCTION FACILITY

[Template for specification of Generating Plant to which this agreement refers, i.e. including location of the site, generation capacity in MW/MVA etc.]

مواصفات محطة إنتاج الكهرباء 

(مواصفات محطة إنتاج الكهرباء التي تشير إليها)