DATE:

RESIDUAL SUPPLY AGREEMENT

Between

The Egyptian Electricity Transmission Company

(“EETC”)

and

[●] (as the “Consumer”)

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THIS RESIDUAL SUPPLY 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 Emedad Ramsis St., Abbassia District, PO Code 11517, Cairo, Egypt (the “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 “Consumer”), and each of the parties hereto being a “Party” and the term “Parties” shall be construed accordingly.

WHEREAS:

(A) The Consumer is an Eligible Consumer 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 producers in order to meet the needs of the Regulated Market (as defined by the Electricity Law);

(C) The Consumer has entered into a P2P Agreement with an Eligible Producer for delivery of electricity to its Consumption Site [INSERT THE NAME OF THE CONSUMPTION SITE] (the “Site”) which is a P2P Consumption Site 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 EETC agrees to sell to the Consumer and the Consumer wishes to purchase from EETC, Day-ahead and/or Residual Shortfall Energy on the terms and conditions set out in the Rules and this Agreement; and

(E) The Consumer wishes to sell to EETC, and EETC agrees to purchase from the Consumer, Residual Excess 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 Trade and Settlement Rules (as defined below). Additionally, and to the extent that capitalized terms used in this Agreement have not been defined in the Rules and the Connection Agreement, they shall have the meanings set out below:
“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.

“Approved Credit Rating” an Egyptian long-term unsecured debt rating no worse than BBB- (as determined by Standard & Poor’s Rating Group) or Baa3 (as determined by Moody’s Investor Services, Inc) or an equivalent rating (as determined by a rating agency approved by the EETC).

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

“Authorization” means any consent, authorization, registration, agreement, notarization, certificate, permission, license, approval, permit, authority or exemption.

“Bank Guarantee” is defined in Clause 6.1.

“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 term in Clause 9.1.

“Change in Law” means any of the following events:

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

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

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

which, in each case, occurs after the Execution Date but provided that a Change of Law does not include any Law or Authorization 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

“Condition Precedent” تعني كل من الشروط المسبقة المحددة في البند 3.

“الدعاوي” تعني أي من وجميع الدعاوى والقضايا والإجراءات القانونية والمطالبات والإجراءات والإجراءات القانونية والإجراءات أو المطالبات أو أي غرامات يتم الإلزام بها ضاي أي طرف (وتحمل ذلك أي دعاوي لدفع أموال سواء كانت تعاقدية أو مدنية أو قانونية).

"السلطة المختصة" تعني الحكومة أو أي وزارة أو إدارة أو أسس فرعية سياسية تابعة لها وأي بلديات وأي محكمة أو محكمة تحكم أو أي كيان حكومي آخر أو أي جهاز أو وكالة أو سلطة أو لجنة خاضعة بشكل مباشر أو غير مباشر لإدارة وهيئة الحكومة أو أي أقسام تابعة لها أو أسس فرعية سياسية تابعة لها أو أي سلطة تشريعية.
department or political subdivision thereof, or any independent regulatory authority relating thereto, having jurisdiction under the Law over the Consumer, the Consumer’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 Consumer on or about the date of this Agreement, such agreement setting out the terms on which the Consumer’s Consumption Site may be connected to the Transmission System.

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

“Consumption Site” 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 Point” 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) imported from the Transmission Site at the Delivery 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.

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

“Governmental Force Majeure Event” has the meaning
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:

(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, license, 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.
“P2PAgreement” has the meaning given to such term under the Rules.

“P2PConsumption Site” has the meaning given to such term under the Rules.

“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.

“Project” means the Consumer’s Consumption Site defined in the Preamble to this Agreement.

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

“Register of P2P Applications” has the meaning given to such term in the Rules.

“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.

“Residual Supply Price” means the price to be paid by the Consumer for Residual Shortfall Energy supplied and delivered by EETC to the Consumer under this Agreement.

“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 Consumer’s Consumption Site at which the Production Facility is situated including the lands, spaces, roads and any surface and wayleaves relating to the Project, and such site having been registered as a Registered P2P Production Site 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.

“Trade and Settlement Rules” mean the provisions set out in Part 3 of the Rules.

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

“Transmission System Operator” 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.

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

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

(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.

(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.

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

1) which ceases to exist; or

2) whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

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

(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 sub-paragraph 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:

- 1.3.2 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.
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 Consumer 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
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 Consumer at its own cost and to the satisfaction of EETC:

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

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

3.1.3 the Consumer has delivered to EETC the Bank Guarantee.

3.1.4 The Consumer signed a P2P Agreement with an Eligible Producer.

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 Consumer shall nominate all electricity to be taken by the Site from the
Transmission System and EETC shall process all Physical Nominations received from the Consumer in accordance with the Rules.

4.2 With effect from Effective Date, EETC shall sell and deliver Day-ahead and Residual Shortfall Electricity to the Consumer in accordance with the Rules.

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

5. BILLING AND PAYMENT

5.1 The volume of Day-ahead and Residual Shortfall Electricity delivered by EETC to the Consumer shall be determined in accordance with the Rules.

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

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

5.4 All payments to be made by EETC to the Consumer for the delivery of Residual Excess 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 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 Consumer 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 by the applicable Due Date by direct bank transfer or equivalent transfer of immediately available funds.

**Invoicing**

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

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

5.10 All invoices shall be based on the 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 Consumer under or in connection with this Agreement against any amount it owes to the Consumer under or in connection with this Agreement, the Use-of-System Agreement and the Connection Agreement.

6. **BANK GUARANTEE**

6.1 Upon the Execution Date, and in any
event, by no later than the Connection Date, the Consumer shall deliver to EETC and maintain in full force and effect a bank guarantee (the “Bank Guarantee”) which must comply with the requirements of Clause 6.2.

6.2 The Bank Guarantee shall comprise a Bank Guarantee which shall:

6.2.1 be “on-demand” and issued in favour of EETC and, to EETC’s reasonable satisfaction, conform substantially in the form attached hereto as Schedule 1 (Form of Bank Guarantee) and effective as of the issue date;

6.2.2 issued for an amount equal to the sum of the Residual Supply Price, such amount may be reviewed annually by EETC according to the average monthly transmitted electricity of the previous Year and the Network Access Tariff which applies in the review Years;

6.2.3 valid for the period commencing on the Connection Date and the earlier of:

(a) sixty (60) days after end of the Term; or

(b) termination of this Agreement, provided that:

(i) in the circumstances where this Agreement is terminated pursuant to Clause 8.1 the Bank Guarantee shall be valid for the period ending sixty (60) days after the date of the notice of termination, and

(ii) in circumstances where the Consumer terminates this Agreement in accordance with Clause 8.2, shall be valid for no less than the last Year of this Agreement plus a further period ending sixty (60) days thereafter;
6.2.4 issued as security for payment of any amount due and payable by the Consumer in terms of this Agreement; and

6.3 If EETC calls up the Bank Guarantee in accordance with Clause 6.6, then EETC may on written notice to the Consumer request the Consumer to deliver to EETC a replacement Bank Guarantee within five (5) Business Days of such notice.

6.4 The Consumer shall notify EETC as soon as reasonably possible after the Consumer becomes aware that the bank which has issued any Bank Guarantee ceases to have an Approved Credit Rating. If the bank which has issued any Bank Guarantee ceases to have an Approved Credit Rating, then EETC may on written notice to the Consumer request the Consumer to deliver to EETC a replacement Bank Guarantee issued by a bank with an Approved Credit Rating within five (5) Business Days of such notice.

6.5 The Consumer may by written notice to EETC request EETC to return, and EETC if so requested shall return, to the Consumer any Bank Guarantee which has been replaced by another Bank Guarantee in accordance with Clause 6.4 within five (5) Business Days of EETC’s receipt of such replacement Bank Guarantee. The Consumer may, at any time after the expiry of the period of sixty (60) days after the end of the Term, by written notice to EETC request EETC to return, and EETC if so requested shall return, to the Consumer the Bank Guarantee, provided that the Consumer has no outstanding liabilities to EETC under this Agreement. EETC’s return of any Bank Guarantee is without prejudice to the rights of EETC under this Agreement and does not relieve the Consumer of any of its obligations or liabilities under this Agreement.
6.6 Without limiting any of its other rights under this Agreement, EETC may call up the Bank Guarantee:

6.6.1 if and to the extent that any amount due and payable under this Agreement is not paid on the due date for such payment and such failure remains un-remedied for thirty (30) days following written demand from EETC for payment, whereupon EETC shall apply the proceeds of such call towards the discharge of that amount;

6.6.2 if the Bank Guarantee (including any replacement Bank Guarantee) is not delivered to EETC by the due date for such delivery, provided that if the Consumer subsequently provides the Bank Guarantee, then EETC shall as soon as reasonably practicable return the proceeds of the Bank Guarantee so called, less any portion thereof applied in discharge of any outstanding amount due to EETC hereunder and save for any interest which may have accrued on such proceeds; or

6.6.3 if this Agreement is terminated in accordance with Clause 8(Termination), whereupon EETC shall apply the proceeds of such call towards the discharge of any compensation due to EETC in terms of Clause 8(Termination).

7. EVENTS OF DEFAULT

Events of Default

7.1 Each of the following shall constitute a “Consumer Event of Default”:

7.1.1 the Consumer fails to pay any amount due when due under this Agreement;

7.1.2 Where the Consumer has continued (on more than two occasions) to provide
incorrect information in relation to calculation of Residual Shortfall Energy and refused to amend such invoices for three successive Billing Periods;

7.1.3 the Site ceases to be an P2P Consumption Site;

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

7.1.5 occurrence of an Insolvency Event with respect to the Consumer; or

7.1.6 where the Consumer is otherwise in material breach of this Agreement.

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

7.2.1 EETC fails to pay any amount due when due under this Agreement; or

7.2.2 EETC is otherwise in material breach of this Agreement.

Procedure following an Event of Default

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

7.3.1 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.

8. TERMINATION

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

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

8.3 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.

8.4 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.

9. FORCE MAJEURE

Force Majeure Event

9.1 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:

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

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

9.1.3 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;

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

9.1.5 epidemic or plague,

resulting in or causing a total or partial failure or delay of the Affected Party in the fulfillment of any of its obligations under this Agreement (except the payment of money), but only if and to the extent that:

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

9.1.7 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;

9.1.8 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;

9.1.9 the event is not one of the events set out in Clause 9.5; and

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

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

9.2.1 a ‘Governmental Force Majeure Event’ which has the meaning given to it in Clause 9.3; or

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

9.3 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:

9.3.1 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;

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

(a) caused by the Consumer or any of the Consumer’s officers, employees, agents or subcontractors (or any officers or employees employed or engaged by any Consumer agent or subcontractor); or
(b) which could have been prevented through the use of reasonable security measures by the Consumer 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 Authorization:

(d) ceasing to remain in full force and effect otherwise than through a breach of the Authorization 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 Consumer having complied with the requirements of Law and Authorizations;

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

9.4 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.

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

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

9.5.2 the attachment of any conditions to an Authorization in connection with a default or wrongful act of the Consumer or the exercise of rights by a Competent Authority pursuant to the terms of an Authorization;

9.5.3 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 Consumer was or should have been aware prior to the Execution Date;

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

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

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

9.5.7 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 Consumer, the Project or the Site;

9.5.8 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 Consumer or any of its contractors or subcontractors;

9.5.9 late performance by the Consumer to the extent caused by the Consumer’s failure to engage qualified contractors or subcontractors or to hire an adequate number of personnel or labour;
9.5.10 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;

9.5.11 any failure by a subcontractor of the Consumer which results in the failure or inability of the Consumer to perform its obligations under this Agreement where the cause of such failure by the subcontractor would not otherwise constitute a Force Majeure Event pursuant to this Agreement;

9.5.12 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;

9.5.13 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

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

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

9.7.1 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

9.7.2 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 (including any amendments which are required to allow it to continue).

10. LIMITATION OF LIABILITY

Limitation of Liability

10.1 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

المسؤولية عن الوفاة أو الإصابة الشخصية

10 – حدود المسؤولية

10.1 بشرط الالتزام بالبند 10 – 3 وفيما عدا الحالات حيث أي شرط في هذه الاتفاقية يقدم تعويضاً وتجنيباً للضرر فإن أي طرف (طرف المسؤول) أو أي شخص ينتمي لمجموعته أو العاملين أو الوكلاء لن يكون عليه أي مسؤولية تجاه الطرف الآخر عن التكاليف أو النفقات الإضافية أو الخسائر الناتجة من أي مخالفة لهذه الاتفاقية وبغض النظر عن الأسباب (وسواء كان ذلك كنتيجة لإهمال الطرف المسؤول أو خلاف ذلك) فيما عدا التكاليف الإضافية والتفقات أو الخسائر الناتجة مباشرة من هذه المخالفة والتي في تاريخ هذه الاتفاقية كانت متوقعة في الحدود المناسبة على اعتبار أنها من المحتمل أن تحدث في المجال المعتاد للأحداث كنتيجة لهذه المخالفة.
10.2 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 negligence of the Party Liable or any of its officers, employees or agents.

Exclusion of Liability

10.3 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:

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

10.3.2 any indirect or consequential loss; or

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

Terms Separate

10.4 Each of the sub-clauses of this Clause 10 shall:

10.4.1 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

10.4.2 survive termination of this Agreement.

Benefit of Provisions

10.5 Each Party acknowledges and agrees that the other Party holds the benefit of Clause 10.1, and 10.2 above for itself and as trustee and agent for its officers, employees and agents.

11. GOVERNING LAW

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

12. CONFIDENTIALITY AND ANNOUNCEMENTS

General restriction on the Consumer

12.1 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:

12.1.1 in the circumstances set out in Clause 12.2;

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

12.1.3 with the prior written consent of the Disclosing Party.

Exceptions

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

12.2.1 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.

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

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

12.2.4 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;

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

12.2.6 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

12.3 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:

12.3.1 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;

12.3.2 the confidential information shall not 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;

12.3.3 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 Consumer’s obligations of confidence in relation thereto and the Consumer will be responsible for any failure by such persons to comply with such obligations as if they were parties to this Agreement; and

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

13. MISCELLANEOUS PROVISIONS

Variation

الإجراءات الداخلية

12 – 3 اعتباراً من تاريخ هذه الاتفاقية علي الطرفين إتباع الإجراءات في المؤسسات التابعة لهما لغرض ضمان سرية جميع المعلومات التي يوجد التزام لديهم بالمحافظة عليها كمعلومات سرية طبقاً للبند 12 – 1 وأسوف تكون هذه الإجراءات كما يلي:

12–3.1 المعلومات السرية سيتم نشرها فقط للأشخاص الذين يحتاجون إليها هذه المعلومات لأغراض تنفيذ الوظائف المعينة لهم في وظائفهم.

12–3.2 لا يجوز استخدام المعلومات السرية من قبل أي طرف لكي يحصل لنفسه أو أي من الشركات التابعة أو لأي شخص آخر أي عقود أو أنظمة لتوزيع الكهرباء لأي شخص إلا بالموافقة المسبقة من الطرف المفصح.

12–3.3 العاملين والمديرين والشركات التابعة والوكالات والمتنزل لهم والاستشاريين والمستشارين المهنيين للطرفين عند استلامهم للمعلومات السرية يلزم أن يكونوا على علم كامل بالالتزامات السرية لدى المستهلك بخصوص ذلك ويكون المستهلك مسؤولًا عن أي تقصير من قبل هؤلاء الأشخاص في الالتزام بهذه الالتزامات كما لو كانوا طرفًا في هذه الاتفاقية و

12–3.4 أي نسخ من المعلومات السرية سواء كانت مطبوعة أو إلكترونية يلزم أن تحدد بالتعريف بوضوح المعلومات السرية على اعتبار أنها سرية.

13 – شروط متنوعة

التعديلات
13.1 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

13.2 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

13.3 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

[●]

Consumer
13.4 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:

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

13.4.2 in the case of email, on delivery to the recipient’s server and provided no error message is received by the sender; or

13.4.3 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

13.5 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.

13.6 The Consumer 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

13.7 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:

13.7.1 refuses, or formally indicates an intention to refuse, authorization 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

13.7.2 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

13.8 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

13.9 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.

14. DISPUTE RESOLUTION

14.1 The Parties agree that all Disputes under this Agreement will be resolved by the Parties in accordance with this Clause 14.1.

14.2 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.

14.3 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.

14.4 If the Dispute has not been resolved within the timeframe set out in Clause 14.2 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 in accordance with the Executive Regulations. 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 14.5, refer the Dispute to arbitration in accordance with the applicable provisions of this Clause 14.

14.5 If the Dispute has not been resolved:

14.5.1 within the timeframe set out in Clause 14.2; or

14.5.2 by EgyptERA:

(a) within the timeframe set out in Clause 14.4; or

(b) to the satisfaction of either Party,

then either Party may refer the Dispute to arbitration in accordance with Clause 14.7.

14.6 Regardless of whether or not the timeframe set out in Clause 14.2 has elapsed, as an alternative to continuing to confer in respect of the Dispute under Clause 14.2 or referring the Dispute to determination under Clause 14.4 or to arbitration under Clause 14.7, if the Dispute is a Technical Dispute, either Party may refer such Dispute to a Technical Determination in accordance with Clause 15.

14.7 A Dispute that is not or is not capable of being finally resolved in accordance with Clauses 14.2, 14.4, or 15 may be submitted by either Party to arbitration in accordance with the following provisions of this Clause 14.

14.8 The arbitration will be:

14.8.1 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;

14.8.2 conducted in English;

14.8.3 held at a venue in Cairo, Arab Republic of Egypt;

14.8.4 be seated in Paris, France so that the courts of such country will be the exclusively competent courts in case of any action for annulment of the arbitration award; and

14.8.5 conducted by three (3) arbitrators, unless the Parties otherwise agree.

14.9 Each Party will appoint one (1) arbitrator and the two (2) arbitrators so appointed will choose a presiding arbitrator in accordance with the Arbitration Rules.

14.10 If within thirty (30) days after the appointment of the second arbitrator, the two (2) arbitrators have not agreed upon the choice of the presiding arbitrator, then the Centre will appoint the presiding arbitrator in accordance with the Arbitration Rules.

14.11 The presiding arbitrator must be impartial and independent from both Parties and in particular must not be an employee, former employee or agent of either Party.

14.12 The Centre or the arbitral tribunal may, at the request of a Party, consolidate two or more arbitrations initiated by the Parties into a single arbitral proceeding where the arbitrations concern related questions of law or fact and which, if not consolidated, could result in conflicting awards or obligations. When arbitrations are consolidated, they must be consolidated into one (1) for purposes of award or other disposition of all claims.

الدولي (المركز) والسارية المفعول في تاريخ هذه الاتفاقية أو بموافقة الطرفين ويحسب ما يتم تعديله وساري المفعول في وقت بداية إجراءات التحكيم.

14- 8 - 2 يتم التحكيم باللغة الإنجليزية.

14- 8 - 3 يعقد التحكيم في القاهرة، جمهورية مصر العربية.

14- 8 - 4 مقر التحكيم باريس، فرنسا ويبحث أن المحكمة في هذا البلد ستكون هي المحاكم المختصة حصرياً في حالة أي إجراءات لبطلان حكم التحكيم.

14- 8 - 5 يتم التحكيم عن طريق ثلاثة (3) محكمين ما لم يتفق الطرفان بخلاف ذلك.

14- 9 - 1 يعين كل طرف محكماً (1) وعلى المحكمين المعينين هكذا اختيار رئيس محكمة التحكيم طبقاً لقواعد التحكيم.

14- 10 - 1 إذا حدث في خلال 30 يوم بعد تعيين المحكمة الثالثة ولم يتفق المحكمان على اختيار رئيس محكمة التحكيم فإن المركز سوف يعين رئيس محكمة التحكيم طبقاً لقواعد التحكيم.

14- 11 - 1 يلزم أن يكون رئيس محكمة محايداً ومستقلًا عن الطرفين وصيغة خاصة يلزم ألا يكون من العاملين الحاليين أو السابقين أو الوكلاء لأي من الطرفين.

14- 12 يمكن للمركز أو محكمة التحكيم وبناءً على طلب أحد الطرفين إدراج وضع قضبان أو أكثر للتحكيم من قبل الطرفين في إجراءات تحكيم موحدة حيثما كانت هذه القضايا والتحكيم مرتبطة بمسائل قانونية أو وقائع والتي في حالة عدم إدراجها يترتب عليها أحكام تحكيم أو الزوايا متناقضة. عند إدراج وضع أحكام التحكيم يلزم أن يتم إدراجها في التحكيم الذي بدأ أولاً ما لم يتم
the arbitration that commenced first, unless otherwise agreed by all Parties.

14.13 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.

14.14 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 14. A copy of the Minister’s consent is attached as Error! Reference source not found. (Minister’s Consent to Arbitration).

14.15 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.

14.16 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.

14.17 Despite the provisions of this Clause 14 (and Clause 15 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.

15. TECHNICAL DETERMINATION

15.1 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 15.

15.2 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) but must not be a current or former director, employee, agent or consultant of either Party, a Shareholder or their respective Affiliates.

15.3 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.

15.4 Any Technical Dispute between the Parties may, unless resolved amongst the Parties by conferral and agreement or arbitration under Clause 14, be referred by a Party for determination by the Independent Expert under the terms of this Clause 15 (“Technical Determination”).

15.5 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
15.6 The Parties agree that any Technical Determination will be held and completed promptly and expediently.

15.7 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.

15.8 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.

15.9 Subject to Clause 15.13, the decision of the Independent Expert will be final and binding on the Parties and must incorporate the reasons for the decision.

15.10 Subject to:

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

15.10.2 the Independent Expert not derogating from EETC’s statutory powers as set out in Clause 16,

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.

15.11 For clarity, Clause 15.10 will also apply to any determination by the Independent Expert regarding costs (including the Independent Expert’s fees), unless this Agreement otherwise provides

Subject to Clause 15.13, the decision of the Independent Expert will be final and binding on the Parties and must incorporate the reasons for the decision.

Subject to:

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

15.10.2 the Independent Expert not derogating from EETC’s statutory powers as set out in Clause 16,

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.

For clarity, Clause 15.10 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.

15.12 Subject to Clause 15.13, each decision of an Independent Expert will be enforced promptly by the Parties. Provided such a decision is not disputed under Clause 15.13, the relevant Independent Expert decision will be automatically deemed an arbitral award enforceable pursuant to Clause 14.13. 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.

15.13 If:

15.13.1 the Independent Expert has reached a Technical Determination which is manifestly incorrect, reached negligently or in bad faith;

15.13.2 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

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

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 14.

16. STATUTORY POWERS

16.1 The powers conferred on EETC by or under any Law are in addition to the powers
conferred on EETC by this Agreement, except to the extent inconsistent with the provisions of this Agreement.

16.2 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 Authorization.

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 xxxxxxxx:
for and on behalf of:

Signed by xxxxxxxx:
for and on behalf of:

SCHEDULE 1

BANK GUARANTEE

Egyptian Electricity Transmission Company, S.A.E

Emtedad Ramsis Street

Ministry of Electricity Complex

Abbassia

Cairo, Egypt

(Transmission System Operator)
EETC has entered into an agreement with our client [insert name] (Consumer) for the supply electricity to [insert] under the Electricity Market for P2P Projects on terms and conditions agreed to between EETC and the Consumer (Residual Supply Agreement).

We [insert name] (the Issuing Bank) hereby unconditionally and irrevocably guarantee to pay on demand to EETC the sum or sums which, when aggregated with any other sums paid to EETC under this Bank Guarantee, does not exceed EGP [insert amount] (Maximum Amount of the Guarantee) as follows:

1. Immediately upon receipt of EETC’s written claim for recourse under this Bank Guarantee (Claim) stating that:

(a) ‘the Consumer has failed to pay an amount due under the Residual Supply Agreement’; or

(b) ‘the Consumer has failed to replace the Bank Guarantee as required under Clause 6.3 (Payment of Use of Transmission Charges),

and that:

(c) ‘EETC is entitled to call on this Bank Guarantee in accordance with the terms of the Residual Supply Agreement’.

2. Notwithstanding any objection of the Consumer or of any other party, we, the Issuing Bank will pay to EETC the amounts set out in that Claim by transfer to EETC’s
account with any bank or financial institution in the Arab Republic of Egypt, or by any other method which is acceptable to EETC provided that such amount(s) will not exceed, when aggregated with any other sums paid to EETC under this Bank Guarantee, an amount equal to the Maximum Amount of the Guarantee.

3. For the avoidance of any doubt, any Claim made from time to time in relation to this Bank Guarantee and the amount(s) stated in such Claim will be final and conclusive between the Issuing Bank and EETC of all or any amounts with respect to each Claim made by EETC as may be owing to EETC by the Consumer with respect to that Claim only.

4. Any payments made under this Bank Guarantee must be made without any deductions or withholding for or on account of any Taxes, expenses, fees, charges, deductions or retentions of any kind.

5. This Bank Guarantee is a continuing guarantee and remains valid and in full force and effect until [insert date](Expiry Date). For the avoidance of any doubt:

(a) any Claim made by EETC must be received on or before the Expiry Date; and

(b) with effect from the date immediately following the Expiry Date this Bank Guarantee will be null and void (except for any outstanding Claims submitted on or before the Expiry Date) whether or not returned to the Issuing Bank for cancellation.

6. This Bank Guarantee continues to be binding on the Issuing Bank and the Issuing Bank will not be exonerated from all or any part of such obligations for any reason or cause whatsoever, due to:
(a) any amendment, variation or replacement of the Residual Supply Agreement; or

(أ) أي تعديل أو تغيير أو استبدال في اتفاقية توريد عجز الطاقة.

(b) any assignment of the Residual Supply Agreement.

(ب) أي تنازل عن اتفاقية توريد عجز الطاقة.

7. The Issuing Bank must promptly reissue or amend this Bank Guarantee to change the beneficiary thereof, upon receipt of a written request from EETC stating that EETC has [assigned/novated] the Residual Supply Agreement in favor of the new beneficiary in accordance with the terms of the Residual Supply Agreement.

7. على بنك الإصدار أن يقوم فوراً بإعادة الإصدار أو التعديل لهذا الضمان البنكي لغرض تغيير المستفيد وذلك عند استلام طلب تحريزي من الشركة يفيد بأن الشركة قد قامت بالتنازل / التدجيل لاتفاقية توريد عجز الطاقة لصالح المستفيد الجديد طبقاً لشروط اتفاقية توريد عجز الطاقة.

8. (a) The Issuing Bank’s address for presentation of any notice or other communication (including a Claim) in relation to this Bank Guarantee is:

Address: [insert]

Attention: [insert]

Facsimile: [insert]

(b) EETC’s address for presentation of any notice or other communication in relation to this Bank Guarantee is:

Address: [insert]

Attention: [insert]

Facsimile: [insert]

(c) Any notice or other communication (including a Claim) to be delivered under this Bank Guarantee will be deemed to be given:

if delivered, upon receipt;

if by post, upon delivery to the addressee; and

in case of delivery by post, the document will be deemed to be received when it is received by the addressee.

8. (أ) عنوان بنك الإصدار لإرسال أي إخطارات أو مراسلات أخرى (بما في ذلك الدعاوى) بخصوص هذا الضمان البنكي كما يلي:

العنوان: (يتم بيانه)

يوجه لعناية: (يتم بيانه)

رقم الفاكسميل: (يتم بيانه)

(ب) عنوان الشركة بتقديم أي إخطارات أو مراسلات أخرى (بما في ذلك الدعاوى) بخصوص هذا الضمان البنكي هو:

العنوان: (يتم بيانه)

يوجه لعناية: (يتم بيانه)

رقم الفاكسميل: (يتم بيانه)

(ج) أي إخطارات أو مراسلات أخرى (تتضمن دعاوي وملفات يتم تسليمها طبقاً لهذا الضمان البنكي تعتبر أنها قد تم تقديمهما كما يلي:

في حالة التسليم عند الاستلام.

وفي حالة الإرسال بالبريد عند التسليم لدى المرسل إليه و
if by facsimile, upon receipt by the sender of a confirmation from the intended recipient that the facsimile transmission was sent in its entirety,

but if the delivery or receipt is on a day that is not a Business Day or is after 16:00 (addressee’s time) it is regarded as received at 09:00 on the following Business Day.

9. This Bank Guarantee is governed by, and must be construed in accordance with, the laws of the Arab Republic of Egypt.

_______________________
Authorized signatory

[insert name of Issuing Bank]