

**1 JUNE 2023**

**INVESTMENT BOARD  
GOVERNMENT OF NEPAL**

And

**S.J.V.N. LOWER ARUN POWER DEVELOPMENT COMPANY PRIVATE LIMITED**

---

**PROJECT DEVELOPMENT AGREEMENT  
LOWER ARUN HYDROELECTRIC PROJECT**

---

## TABLE OF CONTENTS

Clause	Headings	Page
1.	DEFINITIONS AND INTERPRETATION.....	5
2.	CONCESSION, LOWER ARUN HYDROPOWER PROJECT AND TERM .....	18
3.	CONDITIONS SUBSEQUENT .....	20
4.	PROJECT MONITORING UNIT AND PROJECT COORDINATION COMMITTEE .....	22
5.	PROJECT REVIEW PANEL.....	23
6.	USE OF WATER IN THE PROJECT AREA.....	25
7.	COMMISSIONING, CONSTRUCTION AND COMMERCIAL OPERATIONS DATE .....	27
8.	LAND ACQUISITION.....	29
9.	TAXES AND OTHER INCENTIVES.....	33
10.	IBN OBLIGATIONS AND RESPONSIBILITIES .....	33
11.	COMPANY OBLIGATIONS AND RESPONSIBILITIES .....	43
12.	FORCE MAJEURE .....	61
13.	CHANGE IN LAW.....	68
14.	EVENTS OF DEFAULT AND TERMINATION .....	70
15.	ASSIGNMENT, TRANSFER AND CHANGE OF CONTROL .....	80
16.	LAW AND DISPUTE RESOLUTION .....	82
17.	REPRESENTATIONS AND WARRANTIES .....	84
18.	MISCELLANEOUS.....	84
	SCHEDULE 1 RESTORATION .....	95
	SCHEDULE 2 PROJECT HANDOVER UPON EXPIRY OF THE AGREEMENT .....	98
	SCHEDULE 3 HANDOVER REQUIREMENTS – EXPIRY OF THE AGREEMENT .....	100
	SCHEDULE 4 TERMINATION PLAN UPON EARLY TERMINATION OF THE AGREEMENT .....	103
	SCHEDULE 5 LAND USE PRINCIPLES.....	104
	SCHEDULE 6 INSURANCE .....	105
	SCHEDULE 7 PROJECT AREA.....	106
	SCHEDULE 8 POWER STATION SPECIFICATIONS .....	108
	SCHEDULE 9 TRANSMISSION LINE SPECIFICATIONS.....	109
	SCHEDULE 10 TECHNICAL STANDARDS.....	111
	SCHEDULE 11 SCOPE OF WORK FOR THE PROJECT REVIEW PANEL (PRP).....	115
	SCHEDULE 12 WORK UNDERTAKEN IN RELATION TO THE HYDRO PROPERTY .....	117
	SCHEDULE 13 DISASTER MANAGEMENT PLAN GUIDANCE NOTE .....	118
	SCHEDULE 14 METERING .....	120
	SCHEDULE 15 LOCAL BENEFIT SHARING PLAN GUIDANCE NOTE .....	124
	SCHEDULE 16 NEPAL EMPLOYMENT AND SKILLS TRAINING PLAN GUIDANCE NOTE .....	127
	SCHEDULE 17 NEPAL INDUSTRIAL BENEFITS PLAN GUIDANCE NOTE.....	128
	SCHEDULE 18 USE OF WATER - WATER REQUIREMENTS .....	130
	SCHEDULE 19 LAND ACQUISITION PLAN (LAP).....	132

SCHEDULE 20 APPROVALS SCHEDULE.....	134
SCHEDULE 21 PERMITTED ACTIVITIES.....	137
SCHEDULE 22 OTHER PROJECTS .....	139
SCHEDULE 23 FORM OF PERFORMANCE SECURITY .....	140
SCHEDULE 24 ACCESS ROAD .....	142
SCHEDULE 25 OCCUPATIONAL HEALTH & SAFETY PLAN – GUIDANCE NOTE .....	143
SCHEDULE 26 ESTIMATED ENERGY TABLE .....	144
SCHEDULE 27 TANDEM OPERATION OF THE PROJECT AND ARUN-3 HPP .....	146
SCHEDULE 28 PROJECT IMPLEMENTATION SCHEDULE.....	148

**THIS PROJECT DEVELOPMENT AGREEMENT** is entered into on 1 June 2023 (2080/2/18 BS)

**BETWEEN:**

- (1) **THE INVESTMENT BOARD, GOVERNMENT OF NEPAL** (the "**IBN**" or the "**Board**") established under Public Private Partnership and Investment Act, 2019 (2075) and having its secretariat office (the "**OIBN**") located at the International Convention Center Complex in New Baneshwor, Kathmandu, Nepal; and
- (2) **S.J.V.N. LOWER ARUN POWER DEVELOPMENT COMPANY**, a limited liability company incorporated and registered under the Company Act, 2063 (2006) of Nepal, having its registered office located at Tumlingtar, Arun Sadan, Ward no. 9, Khandbari Municipality, Sankhuwasabha District, Nepal (the "**Company**").

each of IBN and the Company being a "**Party**" and together, the "**Parties**".

**RECITALS:**

**HAVING TAKEN INTO CONSIDERATION THE FOLLOWING:**

- (A) All natural resources (including all water resources) within Nepal are the national wealth of the people of Nepal. Nepal is the sole owner of all natural resources within her territory and has the right to develop, extract and utilize the natural resources in the interest of the people of Nepal.
- (B) The IBN is a statutory authority and constituted in accordance with the provisions of the Public Private Partnership and Investment Act, 2075 (2019) (the "**PPPIA, 2019**"). IBN is an agency of the GON which is responsible to contribute to economic prosperity of the nation by mobilizing domestic and foreign private investment in infrastructure and service sector and managing projects in public-private partnership. The PPPIA, 2019 and Public Private Partnership and Investment Rules, 2077 (2020) (the "**PPPIR, 2020**") grant authority and full power to the IBN to implement energy projects including hydropower projects of 200 MW and above in Public Private Partnership (the "**PPP**").
- (C) IBN showcased the Project during the Investment Summit 2019 held on 29 and 30 March 2019 and further invited Expression of Interest (the "**EOI**") through an international competitive bidding process to select a developer for the Project. The Project was showcased for the indicative installed capacity of 679 MW.
- (D) In response to the EOI, the SJVN expressed its interest to the IBN on 10 April 2019. After examining the interests received, IBN by following Section 25 of the PPPIA, 2019 shortlisted three pre-qualified proponents including the SJVN.
- (E) IBN published a public notice in accordance with Section 26 of the PPPIA, 2019 and issued Request for Proposals (the "**RFP**") dated 09 February 2020 and accordingly invited proposals from the shortlisted proponents pursuant to the RFP by 9 March 2020. The SJVN in its response to the RFP submitted a proposal along with application and fees as per the provisions of the PPPIA, 2019.
- (F) The evaluation committee conducted an evaluation of the proposals submitted by the bidders as per RFP in accordance with the provisions of the PPPIA, 2019 and submitted evaluation report to IBN. Based on the evaluation report of the evaluation committee, the IBN vide its decision adopted during the 46th (forty-sixth) board meeting dated 29 January 2021(2077/10/16 B.S.) decided to:
  - (1) select the proposal of the SJVN to develop the Project pursuant to Section 27 of the PPPIA, 2019 in BOOT modality.
  - (2) prepare a draft of Memorandum of Understanding (**MOU**) to be concluded with the SJVN including the terms and conditions for granting the Survey License to the Company as per the provisions of Section 31 of the PPPIA, 2019 and Sub-Rule (1) of the Rule 29 of the PPPIR, 2020.
- (G) On July 11, 2021 (2078/3/27), IBN and SJVN entered into an MOU to grant Survey License for conducting detailed project study to prepare the DPR of the Project. Since the grant of the Survey License, the Company has undertaken works in relation to the Project, details of

which have been provided in Schedule 12 (*Work Undertaken in relation to the Hydro Property*).

- (H) On May 31, 2022 (2079/2/17), the SJVN submitted the Final DPR to the IBN and on August 8, 2022 (2079/04/23) the IBN acknowledged the DPR prepared by the SJVN. In the DPR, SJVN revised the installed capacity of the Project to 669 MW.
- (I) For the development of the Project, Section 8 (d) and Section 37 of the PPPIA, 2019 states that IBN may enter into an agreement with the Company.
- (J) The SJVN submitted an application requesting the grant of investment approval for the investment of the Estimated Total Project Cost in accordance with provisions of PPPIA, 2019, following which IBN by a Board decision dated April 13, 2023 has granted investment approval in accordance with Section 3 of PPPIA, 2019 and accordingly SJVN has registered the Company as per the laws of Nepal to develop and implement the Project.
- (K) The IBN by a decision dated April 13, 2023 formed a nine (9) member negotiations committee (the "**PDA Negotiations Committee**") pursuant to Section 37 (1) of the PPPIA, 2019, headed by the Chief Executive Officer of IBN to prepare the final draft of the Agreement by negotiating with the Company.
- (L) The IBN has selected the Company to develop and execute the Project, in accordance with the authority granted to it under the PPPIA, 2019, PPPIR, 2020 and the Laws of Nepal and in furtherance to the MOU:
  - (1) The Company has agreed to develop and execute the Project under BOOT modality in accordance with Project Implementation Schedule;
  - (2) The IBN has agreed to support the Company in the development of the Project; and
  - (3) The Company has agreed to own and operate the Hydro Property for the Term and shall transfer the Hydro Property and Project Assets to the IBN in a Good Operating Condition on the Expiry Date, free of charge,in each case, in accordance with this Agreement.
- (M) The Company on 24 April 2023 (2080/01/11 B.S) submitted a letter to IBN to enter into this Agreement with IBN.
- (N) The IBN has approved the execution of this Agreement on 28 May 2023 (2080/2/14 B.S).
- (O) Upon IBN Board's recommendation, the Government of Nepal, Council of Ministers by resolutions dated 30 May 2023 (2080/02/16 B.S) decided: (a) to endorse this Agreement; (b) that the obligations and responsibilities of Government of Nepal and Concerned Agencies including fiscal and contingent obligations under this Agreement shall be inherent with the Government of Nepal, and (c) to perform the activities under the obligations and responsibilities of Government of Nepal through IBN and other Concerned Agencies of Government of Nepal.

**IT IS AGREED** as follows:

## 1. **DEFINITIONS AND INTERPRETATION**

### 1.1 **Definitions**

In this Agreement, unless the subject or the context otherwise requires, the capitalised terms and phrases shall have the meanings given to them in this Section 1.1 (*Definitions*):

**"Abandonment"** means, to the extent not caused due to a Force Majeure Event, Change in Law or as otherwise expressly excused under this Agreement:

- (A) at any time, the Company failing to resume and continue the performance of its obligations under this Agreement within sixty (60) days following the cessation of the effects of the relevant Force Majeure Event, Change in Law or other event as expressly excused under this Agreement which prevented, hindered or delayed such performance;

- (B) at any time, the Company notifying IBN of its decision to abandon the Project;
- (C) at any time, the cessation or termination of substantially all activities relating to the development, design, engineering, financing, procurement, construction, completion, operation, maintenance and repair of the Hydro Property for a continuous period of ninety (90) days; or
- (D) within ninety (90) days of Financial Close, the Company not commencing construction of the Power Station,

and "**Abandoned**" shall be construed accordingly.

"**Additional Construction Period**" has the meaning given to it in Section 7.2 (*Additional Construction Period*)

"**Additional Sale Proceeds**" has the meaning given to it in Section 6.1.1 (C) (*IBN Rights and Responsibilities*).

"**Administrative Costs**" has the meaning given to it in Section 8.4.1 (*Land Acquisition-general*).

"**Affected Party**" means the Party adversely affected by a Force Majeure Event in accordance with, and subject to the terms of, Section 12 (*Force Majeure*).

"**Affiliate**" means any person that directly, or indirectly, Controls, or is Controlled by, or is under common Control with, another person.

"**Agreement Date**" means the date on which this Agreement is executed by the Parties.

"**Agreement**" means this project development agreement (including all the Schedules attached hereto) between the IBN and the Company, as amended, modified and supplemented from time to time in accordance with its terms.

"**All-in Costs**" has the meaning given to it in Section 14.5.3(A) (*Transfer Price Components*).

"**Approvals Schedule**" means Schedule 20 (*Approval Schedule*) of this Agreement.

"**Arun-3 Hydropower Project**" or "**Arun-3 HPP**" means the Arun-3 hydropower project and its associated transmission line developed and implemented in accordance with the Arun-3 HPP PDA.

"**Arun-3 HPP PDA**" means the Project Development Agreement concluded between Government of Nepal and SJVN Arun-3 Power Development Company Private Limited dated 25 November 2014.

"**Arun-3 HPP Transfer Date**" means the date on which Arun-3 HPP shall be transferred to GON pursuant to the provisions of Arun-3 HPP PDA.

"**Benefit Sharing**" has the meaning given to it in Schedule 15 (*Local Benefit Sharing Plan Guidance Note*).

"**BES**" means brief environmental study report approved by the relevant Concerned Agencies.

"**Big Four**" has the meaning given to it in Section 14.6.1 (*Payment of the Transfer Price*)

"**Bonus Amount**" means in the case of the Company, such amount as is prescribed by the Electricity Act, 2049 (1992) and Electricity Regulations 2050 (1993).

"**BS**" means Bikram Sambat of Nepali official calendar.

"**Business day**" means any day on which GON offices in Nepal are open for general public.

"**Calculation Date**" means the date on which a Termination Notice is issued pursuant to Section 14.3 (*Termination Notices*).

"**Capacity Royalty Rate**" means the relevant Capacity Royalty rate figure contained in the table in Section 11.26.1 (*Royalties payable to GON*).

"**Capacity Royalty**" means the capacity royalty payable by the Company in accordance with Section 11.26 (*Royalties payable to GON*).

**"Change in Law"** means, after the Agreement Date:

- (A) the adoption, promulgation, bringing into effect, repeal, amendment, or change in Laws of Nepal by any Concerned Agencies or interpretation by courts of Nepal;
- (B) imposition of any material condition either on re-issuance, replacement, extension, modification, renewal of a Government Approval or a requirement for Government Approvals not required as of the Agreement Date;
- (C) any Government Approval: (i) being revoked, not renewed or ceasing to remain in full force and effect; or (ii) not being re-issued, renewed, extended, replaced or modified upon application; or
- (D) a Change in Tax,

provided that Company agrees to comply with the terms and conditions stated in the letter issued by the relevant Concerned Agencies when approving the EIA report and that the Company will not claim Change in Law when complying to such terms and conditions. Change in Law shall not include any impositions, adoption, promulgation, change in application, change in interpretation or modifications of any Laws of Nepal relating to areas of human rights, labour, health and safety.

**"Change in Tax"** means, after the Agreement Date, the adoption, promulgation, bringing into effect, repeal, amendment or change in interpretation of any Laws of Nepal relating to any tax by any Concerned Agencies which has direct effect in the Project. For the avoidance of any doubt, **"Change in Tax"** shall not have any application to any Taxes on personal income in Nepal.

**"CIL Compensation Amount"** has the meaning given to it in Section 13.4.2 (*Company Relief for Change in Law*).

**"COD"** or **"Commercial Operation Date"** has the meaning given to it in Section 7.1.4 (*COD*).

**"Company Conditions Subsequent"** means the conditions listed in Section 3.1 (Company Conditions Subsequent).

**"Company Land Acquisition Period"** has the meaning given to it in Section 8.2.2 (*Acquisition of Private Land and Private ROWs*).

**"Company Preliminary Termination Notice"** has the meaning given to it in Section 14.2 (*IBN Event of Default*).

**"Company Event of Default"** has the meaning given to it in Section 14.1 (*Company Event of Default*).

**"Concerned Agencies"** means any federal, provincial, local administrative, executive, legislative, judicial, quasi-judicial, regulatory, agency, instrumentality or authority or body of Nepal and includes GON.

**"Confidential Information"** means all documents and other forms of information, including oral and electronic communications, disclosed by a Party or its Representatives to the other Party or that Party's Representatives in connection with this Agreement or the Project and expressly or impliedly indicated to be confidential.

**"Construction Contractors"** means the contractor(s) appointed by the Company for the construction of the relevant component of the Hydro Property.

**"Construction Period"** means the period from Financial Close until the Final COD.

**"Construction Plan"** has the meaning given to it in Section 11.33.8 (*Information sharing*).

**"Construction Power Transmission Line"** has the meaning given to it in Section 11.9.2 (*Construction Power Transmission Line*).

**"Contractor"** means Construction Contractor(s), O&M Contractor(s), or any other contractor(s) appointed by the Company for supply of goods or services in connection with the Project, any sub-contractors to any contractor so appointed and any sub-contractor to

such sub-contractors. Provided that, for any administrative support to be provided under this Agreement by IBN or Concerned Agencies, the "Contractor" shall only mean first level sub-contractors to the main contractor of the Company.

"**Control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise, and "**Controlled**" and "**Controlling**" shall be construed accordingly.

"**Core**" means ten million (10,000,000).

"**Debt**" has the meaning given to it in Section 11.28.2 (*Debt: Equity Ratio*).

"**Deductible**" has the meaning given to it in Section 13.2.2 (*Change in Law Compensation – Deductible*)

"**Delay Liquidated Damages**" has the meaning given to it in Section 7.3.1 (*Delay Liquidated Damage*).

"**Development**" means design, engineering, procurement, construction, completion, testing, commissioning and insurance, and "**Developed**" and "**Develop**" shall be construed accordingly.

"**Direct Agreement**" means the direct agreement to be entered into between the Lenders, the Company and the IBN in respect of the Project.

"**Disaster Management Plan**" means a disaster management plan prepared and/or updated by the Company in accordance with Section 11.30 (*Disaster Management*) and Schedule 13 (*Disaster Management Plan Guidance Note*).

"**Dispute**" means any difference between the Parties arising out of, or in connection with, this Agreement including differences concerning the existence or interpretation legality, validity or enforceability of this Agreement or any provision hereof or the performance or obligations of a Party under any provision hereof.

"**Dispute Notice**" has the meaning given to it in Section 16.4.1 (*Dispute*).

"**Dollar**" or "**USD**" means the lawful currency of the United States of America.

"**DPR**" means the detailed project reports for the Project which have been submitted to IBN pursuant to MOU and the Survey License.

"**DSRA**" has the meaning given to it in Section 14.5 (*Transfer Price components*).

"**EIA**" means the environmental impact assessment report including SEIA for the Project approved by the relevant Concerned Agencies.

"**Encumbrance**" means any claim, option, charge (fixed or floating), mortgage, lien, pledge, equity, encumbrance, right to acquire, right of pre-emption, right of first refusal, title retention or any other third party right, or other security interest or any agreement or arrangement having a similar effect or any agreement to create any of the foregoing and "**Encumbered**" shall be construed accordingly.

"**Energy Receipts**" has the meaning given to it in Section 11.26.2(B) (*Royalties Payable to GON*).

"**Energy Royalty**" means the energy royalty payable by the Company pursuant to Section 11.26 (*Royalties payable to GON*).

"**Energy Royalty Rate**" has the meaning given to it in Section 11.26.2(B) (*Royalties payable to GON*).

"**Environment Management Plan**" means an environment management plan prepared and/or updated by the Company in accordance with Section 11.3.2 (*Plans*).

"**Estimated Total Project Cost**" means INR equivalent of 57,92,37,00,000 (Indian Rupees Fifty-Seven Arab, Ninety-Two Crore, Thirty-Seven Lakhs only).

"**Event of Default**" means IBN Event of Default or the Company Event of Default, as the case may be.



**"Equity"** has the meaning given to it in Section 11.28.2 (Debt: Equity Ratio).

**"Expiry Date"** means the date falling on the 30<sup>th</sup> (thirty) anniversary of the date of issuance of the Project License and such date may be extended from time to time in accordance with this Agreement.

**"Export Offtaker"** means the purchaser for the proportion of the energy and/or capacity from the Power Station sold by the Company under any Export Power Sales Agreement.

**"Export Power Sales Agreement"** or **"Export PSA"** means any long-term (seven (7) years or more) power sales agreement(s) for the sale of energy and capacity from the Power Station from time to time in the export market of India and/or Bangladesh.

**"Financing Charges"** has the meaning given to it in Section 14.5 (*Transfer Price components*).

**"Final COD"** means the date on which the Hydro Property has achieved commercial operations in accordance with Section 7.1 (COD).

**"Final Inspection"** has the meaning given to it in Schedule 2 (*Project Handover upon Expiry of this Agreement*).

**"Financial Close"** means the satisfaction, waiver or deferment of all or part of the conditions for initial drawdown under the Financing Documents including contribution of equity by the SJVN into the Company in accordance with the requirements of the Financing Documents for the Project.

**"Financing Documents"** means the loan agreements, notes, indentures, security agreements, guarantees and other agreements, documents and instruments, including any documents in connection with any hedging transactions entered into by the Company with any Lender, in connection with the financing (including refinancing) of the Project, as amended from time to time.

**"Financing Plan"** means the Company's proposed financing plan for the Project, setting out in reasonable detail the amount and form of equity and debt to be contributed by the Shareholders and/or the SJVN in the Company, the amount of all loans to be provided to the Company by the Lenders, the maximum proposed debt and the repayment schedule.

**"Foreign Investor(s)"** shall have the meaning as provided in Foreign Investment and Technology Transfer Act, 2075 (2019) of Nepal.

**"Force Majeure Event"** has the meaning given to it in Section 12.1.1 (*Definition of Force Majeure Event*).

**"Free Energy and Power"** has the meaning given to it in Section 11.16.1 (*Free Energy and Power*).

**"Free Unit"** means thirty (30) kWh to be made available free of cost by the Company.

**"GHG Reduction"** means the removal, limitation, reduction, avoidance, sequestration or mitigation from the atmosphere of one metric ton of emissions of greenhouse gases measured in Carbon Dioxide Equivalent.

**"GHG Reduction Benefits"** means any unit freely tradable in the open market that is verified and/or certified for issuance and actually issued in respect of GHG Reductions in accordance with the International Rules (including UNFCCC), whether in the Clean Development Mechanism or in the non-Clean Development Mechanism based greenhouse gas emission reduction market, including Certified Emission Reductions (CERs).

**"Generation Project Area"** has the meaning given to it in Section 6.1.1(A) (*IBN rights and responsibilities*).

**"GLOF"** has the meaning given to it in Section 11.8 (*GLOF*).

**"GON"** means Government of Nepal.

**"GON Land"** means land comprising part of the Project Area and which is owned by GON or a Concerned Agency as at the Agreement Date.

**"GON Power Pooling Option"** has the meaning given to it in Section 11.16.5 (*GON Power Pooling Option*).

**"GON ROWs"** means ROWs required in GON Land as per approved EIA/IEE.

**"Good Industry Practice"** means the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from the designers or builders or operators of facilities for the generation and transmission of electricity in accordance with the best practices, methods and standards that are generally accepted internationally for a hydropower project and a transmission line under conditions comparable to those applicable to the Hydro Property, consistent with the Laws of Nepal and taking into account factors such as (A) the use of appropriate hydroelectric technology, (B) the relative size, performance, age and technology of the physical components of the Hydro Property, (C) the safe, efficient and economic design, construction, commissioning, operation and maintenance of the Hydro Property and (D) Technical Standards, provided that such best practices, methods and standards shall be adjusted as necessary, to take account of (1) operation and maintenance guidelines recommended by the manufacturers of the relevant plant and equipment, (2) the Laws of Nepal, and (3) the specific conditions in existence in Nepal and in the Project Area from time to time.

**"Good Operating Condition"** means the condition of the Hydro Property such that the Hydro Property can be operated to the efficiency, maintainability and availability levels which are consistent with those reasonably expected for a similar facility operating in a similar climate and of an equivalent age to the Hydro Property which has been constructed, operated and maintained in accordance with Good Industry Practice and the Technical Standards.

**"Government Approvals"** means consents, approvals, authorisations, notifications, concessions, acknowledgements, licenses (including the Generation License and Transmission License) and permits of any Concerned Agencies.

**"Handover Expert"** has the meaning given to it in Schedule 2 (*Project Handover upon Expiry of the Agreement*).

**"Handover Guarantee"** has the meaning given to it in Schedule 2 (*Project Handover upon Expiry of the Agreement*).

**"Handover Period"** has the meaning given to it in paragraph 2 of Schedule 2 (*Project Handover upon Expiry of the Agreement*).

**"Handover Plan"** means the plan to be delivered by the Company to the IBN setting out the Company's detailed proposals for the transfer of the Hydro Property to IBN or the designated Concerned Agencies in accordance with this Agreement, prepared in accordance with the Handover Requirements.

**"Handover Requirements"** means the handover requirements set out in Schedule 3 (*Handover Requirements – Expiry of the Agreement*).

**"Head Pond"** or **"Tail Race Pond"** means the same project structure which acts as Tail Race Pond for Arun-3 HPP and head pond for this Project.

**"Occupational Health and Safety Plan"** means an occupational health and safety plan prepared and/or updated by the Company in accordance with Section 11.3 (*Plans*).

**"Hydro Property"** means:

- (A) the Power Station;
- (B) the Transmission Line; and
- (C) all the land and rights of way forming part of the Project Area, Restorations, all fixed and movable assets, fixtures, fittings, spare parts, plants and equipment (including test equipment and special tools and vehicles used in plant management and operation), all improvements, associated facilities, infrastructure and civil structure and works.

**"IBN Conditions Subsequent"** means the conditions listed in Section 3.2 (*IBN Condition Subsequent*).

**"IBN Event of Default"** has the meaning given to it in Section 14.2 (*IBN Event of Default*).

**"IBN Preliminary Termination Notice"** has the meaning given to it in Section 14.1 (*Company Event of Default*).

**"IBN Restoration Costs"** has the meaning given to it in Schedule 1 (*Restoration*).

**"IEE"** means the initial environment examination report for the Transmission Line approved by the relevant Concerned Agencies.

**"Initial Inspection"** has the meaning given to it in Schedule 2 (*Project Handover upon Expiry of the Agreement*).

**"Initial License Term"** has the meaning given to it in Section 2.4.4 (*Transmission License*).

**"INR"** means the lawful currency of the Republic of India.

**"Interim COD"** means in respect of each unit (other than the last unit to be commissioned), the date specified in a certificate delivered by the Company certifying that such a unit has commenced commercial operations in accordance with Good Industry Practice.

**"Insurance Policies"** has the meaning given to it in Schedule 6 (*Insurance*).

**"Insurance Proceeds"** has the meaning given to it in Section 14.5 (*Transfer Price Components*).

**"Irrigation Projects"** has the meaning given to it in Section 6.3.1 (*Downstream Irrigation Projects and other studies*).

**"Irrigation and Other Projects"** has the meaning given to it in Section 6.3.1 (*Downstream Irrigation Projects and other studies*).

**"kW"** means kilowatt.

**"kWh"** means kilowatt hour.

**"Lakh"** means one hundred thousand (100,000) and **"Lakhs"** shall be construed accordingly.

**"Land Acquisition Application"** has the meaning given to it in Section 8.2.5 (*Acquisition of Private Land and Private ROWs*).

**"Land Acquisition Delay Event"** has the meaning given to it in Section 8.3.1 (*Land Acquisition Delay Event*).

**"Land Acquisition Plan"** means the Plan as set out in Schedule 19 (*Land Acquisition Plan (LAP)*).

**"Land Ceiling"** means the upper limit of the area of land that the Company may own pursuant to prevailing laws of Nepal.

**"Land Ceiling Approval"** means the approval under the Laws of Nepal to acquire lands in excess of the Land Ceiling.

**"Land Use Agreement(s)"** means the agreement(s) to be entered into between the Company and Concerned Agencies for the use of the GON Land.

**"Laws of Nepal"** means:

- (A) the Constitution of Nepal and all Nepalese laws, statutes, bilateral or international treaties, rules, codes, ordinances, regulations, byelaws, certificates, decisions, orders, memoranda, circulars, decrees, resolutions, directives, rulings, interpretations, approvals, licenses, and permits of any Concerned Agencies;
- (B) judgments, decrees, injunctions, writs, orders or like actions of any Concerned Agencies, court, tribunal or other administrative, judicial or quasi-judicial body or tribunal or agency of competent jurisdiction,

having the force of law in Nepal and in each case that applies to (i) the Company, (ii) a Contractor, Lenders, Shareholders, SJVN, or (iii) the Project.

**"Lenders"** means any lenders, export credit agencies, multilateral institutions, bondholders,

or other lending agencies whose ordinary course of business is the lending of money, or any trustee or agent acting on behalf of any of the foregoing, in each case, providing financing or refinancing to the Company for the Project (or any portion thereof) pursuant to a Financing Document either:

- (A) on a senior and first ranking secured basis ("**Senior Lenders**"); or
- (B) on any other basis other than senior and first ranking secured basis ("**Other Lenders**"),

but (1) shall not include: (i) the Shareholders (other than any Shareholder who provides debt as part of their business); (ii) the SJVN; (iii) any Related Party; (iv) Representative of any of the SJVN, Shareholders or Related Party; and (v) any person providing only working capital facilities; and (2) shall include any banks or financial institutions directly or indirectly Controlled by Government of India or an Indian governmental entity or instrumentality.

"**LILLO**" means Loop In Loop Out transmission line arrangement for the connection of Transmission Line with the Arun-3 HPP Transmission Line in order to evacuate the power and energy generated from the Power Station.

"**Local Area Power Co**" means Concerned Agencies or any other Third Party designated by GON for the transmission and distribution of Local Area Power to Local Households.

"**Local Area Power**" means the amount of electrical energy (in kWh) determined by multiplying the number of Local Households by Free Unit.

"**Local Benefit Sharing Plan**" means the local benefit sharing plan prepared and/or updated by the Company in accordance with this Agreement, the guidance notes for which are set out in Schedule 15 (*Local Benefit Sharing Plan Guidance Note*).

"**Local Households**" means households of the Project Affected Families located in the Local Levels listed in Schedule 7 (*Project Area*).

"**Local Level**" has the meaning given to it in Article 306 (1) (n) of the Constitution of Nepal, provided that for the purposes of this Agreement it shall not include district assembly.

"**Local People**" has the meaning given to it in Section 10.17.1 (*Local shares*).

"**Local Power Delivery Point**" has the meaning given to it in Section 11.9.1(A) (*Local Area Power – options for supply*).

"**Lock-in Period**" has the meaning given to in Section 15.3.2 (*Shareholding Restrictions*).

"**Materials**" means plant, construction and other materials, appliances machinery, equipment, consumables, tools, components required for or in connection with the Project.

"**MW**" means megawatt.

"**NEA**" means the Nepal Electricity Authority, and shall include its successors and permitted assigns.

"**Nepal Employment and Skills Training Plan**" means the employment and skills training plan prepared and/or updated by the Company in accordance with this Agreement, the guidance notes for which are set out in Schedule 16 (*Nepal Employment and Skills Training Plan Guidance Note*).

"**Nepal Industrial Benefits Plan**" means the industrial benefits plan prepared and/or updated by the Company in accordance with this Agreement, the guidance notes for which are set out in Schedule 17 (*Nepal Industrial Benefits Plan Guidance Note*).

"**NPR**" means the lawful currency of Nepal.

"**OIBN**" means Office of the Investment Board Nepal, the secretariat of IBN.

"**OPC**" or "**Operations Procedure Code**" means the operations procedure code for the supply of Free Energy and Power by the Company and to be prepared pursuant to Section 11.16 (*Free Energy and Power*).

"**O&M Contractor**" means the contractor(s) engaged in the operation and maintenance of the Hydro Property.

**“Outstanding Private Land and Private ROWs”** has the meaning given to it in Section 8.2.5 (*Acquisition of Private Land and Private ROWs*).

**"Payment Date"** has the meaning given to it in Section 14.6.2 (*Payment of the Transfer Price*).

**"Performance Security"** means an unconditional and irrevocable, payable on-demand bank guarantee issued by a Nepali bank or an international bank duly confirmed by a commercial bank of Nepal, in the amount equivalent to 0.1% of the Estimated Total Project Cost, submitted to IBN by the Company on or before the Agreement Date, to be kept valid until Expiry Date, and being substantially in the form set out in Schedule 23 (*Form of Performance Security*).

**"Performance Standards"** shall mean the international environment and social sustainability standards determined in accordance with Section 11.4 (*Performance Standards*).

**"Plans"** means, collectively, (A) the Nepal Employment and Skills Training Plan, (B) the Resettlement and Rehabilitation Plan, (C) the Nepal Industrial Benefits Plan, (D) the Local Benefit Sharing Plan, (E) the Disaster Management Plan (F) Occupational Health and Safety Plan (G) Environment Management Plan and all other plans and action plans developed by the Company which set out specific social and environmental measures to be undertaken by the Company, in order to enable the Project to be carried out in compliance with the EIA, IEE and Performance Standards, as updated, if required, in accordance with this Agreement.

**"PMU"** has the meaning given to it in Section 4.1.1 (*PMU*).

**"Power Station"** means all facilities including electro mechanical, hydro mechanical equipment, associated all civil structures constructed after the tail race of Arun-3 Hydropower Project to tail race, including pen stock, head and tail race pond , water spillage ways, generating station, switchyard and other components, other hydro works and all associated works as well as buildings used for offices and housing the operating staff representatives and other associated agencies, the full specifications of which are set out in Schedule 8 (*Power Station Specifications*).

**"PPP"** means Public Private Partnership.

**"PPPIA, 2019"** has the meaning given to it in Recital (A).

**"PPPIR, 2020"** has the meaning given to it in Recital (A).

**"Preliminary Statement"** has the meaning given to it in Schedule 1 (*Restoration*).

**"Preliminary Termination Notice"** means the Company Preliminary Termination Notice or IBN Preliminary Termination Notice.

**"Private Land"** means such land forming part of the Project Area that is not, as at the Agreement Date, owned by the GON or the Company.

**"Private ROWs"** means ROWs required in Private Land as per approved EIA/IEE.

**"Project Assets"** has the meaning given to it in Section 14.6.7 (*Payment of the Transfer Price*).

**"Project Access Infrastructure"** has the meaning given to it in Section 10.11.4 (*Roads*).

**"Project License"** means the applicable license required under the PPPIA, 2019.

**"Prohibited Act"** means:

- (A) committing any of the offences: (i) any offence under any Laws of Nepal relating to the prevention of corruption or bribery, in respect of fraudulent acts or in respect of any attempt or conspiracy to defraud; or (ii) offences covered by the Prevention of Corruption Act, 2059 (2002); or
- (B) harming or threatening to harm, directly or indirectly, any person or their property in order to influence their participation in the negotiation process between the Concerned Agencies and the SJVN and the Company or affect the execution or

operation of this Agreement or any other document relating to the Project.

**"Project"** means the development, design, engineering, financing, procurement, insurance, construction, completion, testing, commissioning, ownership, operation, maintenance, repair and transfer of the Hydro Property with a nameplate capacity of 669MW.

**"Project Affected Families"** means the families affected by the Project as such family are identified or described in the EIA, IEE, Resettlement and Rehabilitation Plan or any Supplementary E&S Documents.

**"Project Area"** means the geographical area within which the Project shall be developed, constructed and operated and includes the right of way between the Power Station and Arun-3 HPP Transmission Line over which the Transmission Line shall be constructed, as more fully described in Schedule 7 (*Project Area*).

**"Project Coordination Committee"** has the meaning given to it in Section 4.2 (*Project Coordination Committee*).

**"Project Engineer"** means the engineer(s) appointed by IBN to, *inter alia*, oversee construction, testing and commissioning of the Hydro Property.

**"Project Implementation Schedule"** means the project implementation schedule prepared and agreed upon by the Parties and provided under Schedule 28 of this Agreement indicating proposed activity sequence, duration and milestone for the Financial Close and construction of the Project.

**"Project Land"** means all GON Land, Private Land and ROWs.

**"Project Review Panel"** or **"PRP"** means the project review panel appointed pursuant to Section 5.1 (*Appointment of the PRP*) or Section, as the case may be.

**"Project Rights"** means all rights, title and interest, in and to, the Project.

**"PRP Agreements"** has the meaning given to in Section 5.1.1 (*Appointment of the PRP*).

**"PRP Costs"** has the meaning given to it in Section 5.5.1 (*Composition of PRP*).

**"Project Specifications"** means the Power Station specifications set out in Schedule 8 (*Power Station Specifications*) and the Transmission Line specifications set out in Schedule 9 (*Transmission Line Specifications*).

**"PTA"** has the meaning given to it in Section 10.20.1 (*Power Trading Agreement*).

**"Qualified Investor"** has the meaning given to it in Section 15.3.7 (*Shareholding Restrictions*).

**"Records"** means the DPR, as-built drawings and audited financial statements and such other documents, information and records which are required to be maintained by the Company pursuant to the Laws of Nepal and this Agreement, in connection with the Project.

**"Related Party"** means in relation to the Company, (A) any of its Affiliates, or (B) any of their respective Affiliates or (C) any person or authority directly or indirectly Controlled by an Indian governmental entity other than any banks or financial institutions or insurance companies, in each case, directly or indirectly Controlled by Government of India or an Indian governmental entity or instrumentality.

**"Remedial Measures"** has the meaning given to it in Schedule 2 (*Project Handover upon Expiry of the Agreement*).

**"Representatives"** means officers, directors, employees, advisers, consultants, contractors, subcontractors or agents, as the case may be.

**"Resettlement and Rehabilitation Plan"** means the plan to be prepared by the Company for resettlement and rehabilitation of the Project Affected Families in accordance with this Agreement.

**"Restoration"** has the meaning given to it in Schedule 1 (*Restoration*), and **"Restored"** shall be construed accordingly.

**"Restoration Cost Estimate"** means a written cost estimate prepared by the Company

setting out the projected range of costs reasonably and necessarily required to effect the Restoration.

**"Restoration Report"** has the meaning given to it in Schedule 1 (*Restoration*).

**"Restoration Schedule"** means the schedule for the completion of the Restoration prepared by the Company, such schedule to include (A) a period for solicitation of engineering services or other services necessary to effect the Restoration, (B) the negotiation and execution of contract(s) for the services referred to in (A) above, and (C) a reasonable period to arrange the financing for the Restoration, and (D) a good faith estimate of the time it shall take to complete the Restoration after financing has been obtained, as such Restoration Schedule may be extended from time to time.

**"Restricted Period"** means the period until the earlier of:

- (A) the date of Financial Close plus fifty-four (54) months; or
- (B) the date on which the Company has entered into contracts for the sale of at least three hundred ninety (390) MW of capacity or equivalent energy from the Hydro Property.

**"ROWS"** means the rights of ways, easement rights and land parcels required for the Transmission Line and shall mean GON ROWs and Private ROWs.

**"Scheduled COD"** means the date falling sixty (60) months from the date of issuance of Project License, and such date as may be extended in accordance with this Agreement.

**"SEIA"** means the supplementary environmental impact assessment report for the Project approved by the relevant Concerned Agencies.

**"Severe Market Disruption"** means any occurrence of any material and/or exceptional circumstances in financial markets in Europe, the United States of America, Singapore, Hong Kong, China or India:

- (A) which results in the suspension or cessation of substantially all lending activity in the financial markets for hydropower projects similar to the Project;
- (B) which materially and adversely affects access by the Company to the financial markets described above; or
- (C) which materially and adversely affects the viability of the Project as a result of steep increase of prices in a given year which is more than 2 (two) times of the last preceding 5 (five) years average price of construction materials in the commodity market.

**"Shareholder"** means any person that is, at the relevant time, a shareholder in the Company.

**"SIAC"** means the Singapore International Arbitration Centre.

**"SIAC Rules"** has the meaning given to it in Section 16.6.1 (*Dispute Resolution by Arbitration*).

**"SMD Period"** means the lesser of: (A) six (6) months; and (B) the duration of the Severe Market Disruption.

**"SJVN"** means SJVN Ltd., a company incorporated under the Company Act, 1956 of the Republic of India, a company having its registered office located at Corporate Headquarters, Shakti Sadan, Shanan, Shimla, Himachal Pradesh, India – 171006.

**"Suitable Mechanism"** means the mechanism to share the Additional Sale Proceeds, agreed between the Parties pursuant to Section 6.1.1(C) (*IBN rights and responsibilities*).

**"Sunk Expenses"** means:

- (A) for the period from the date of signing of the MOU until the Agreement Date, the

reasonable and prudent costs and expenses of the Company, SJVN and Shareholders incurred for Survey License, fees paid pursuant to Section 11.29.1 of this Agreement and cost incurred for the preparation of detailed project report, provided that the aggregate of such amount shall not exceed Nepali Rupees Eighty-Four Crores Twenty-Seven Lakhs Eighty-Three Thousand Five Hundred and Forty-Seven (NPR 84,27,83,547); and

- (B) from the Agreement Date until the Calculation Date which shall occur prior to Financial Close, the reasonable and prudent costs and expenses of the Company incurred in that period for the development of the Project as agreed by the Parties and such amount shall only be limited to direct expenditure related to the acquisition and transfer (as the case maybe) of the Project Land.

**"Supplementary E&S Documents"** means any supplementary documents that the Company prepares and applies to comply or be consistent with the Performance Standards.

**"Survey License"** means the survey license issued by IBN on July 11, 2021 (2078/3/27) having license number 03/2077-78 which permits the Company to conduct surveys, studies and investigations in connection with the generation of electricity and associated matters.

**"Tandem Operation"** has the meaning given to it in Schedule 27 (*Tandem Operation of the Project and Arun-3 HPP*).

**"Tax"** means any tax, levy, cess, impost, fees, octroi, royalties, duty or other charge of a similar nature by whatever name called in Nepal (including taxes on distributions to shareholders and withholding taxes to the extent such withholding taxes are final tax liabilities of the shareholders and are not subject to any credit or adjustment, including any credit or adjustment against any other tax liability in Nepal). The term **"Tax"** shall not include any fee or charge payable to a Concerned Agency as consideration for goods or services which are provided by a Concerned Agency on a commercial basis.

**"Technical Standards"** means the standards for civil, electrical and mechanical works, as set out in Schedule 10 (*Technical Standards*), or such other standards, which are generally accepted as Good Industry Practice in the international hydro power generation, construction and transmission industry, as the case may be (provided that such standards shall also take into account the specific conditions in existence in Nepal and at the Project Area from time to time).

**"Term"** has the meaning given to it in Section 2.3 (*Term*).

**"Termination Notice"** means a notice delivered by a Party to the other Party pursuant to Section 14.3 (*Termination notices*).

**"Time-Based Land Acquisition Activities Schedule"** means table number 1 in the Land Acquisition Plan as set out in Schedule 19 (*Land Acquisition Plan (LAP)*) setting out each Parties' responsibilities and obligations in respect of the acquisition of Private Land.

**"Third Party"** means person as described in Section 1.3.13 (*Interpretation*) or Concerned Agencies.

**"Transaction Documents"** means this Agreement and the Land Use Agreements.

**"Transfer"** has the meaning given to it in Section 15.3.1 (*Shareholding Restrictions*).

**"Transfer Date"** has the meaning given to it in Section 14.6.3 (*Payment of the Transfer Price*).

**"Transfer Debt"** has the meaning given to it in Section 14.5 (*Transfer Price Components*).

**"Transfer Equity"** has the meaning given to it in Section 14.5 (*Transfer Price Components*).

**"Transfer Price"** means the compensation amount payable by IBN to the Company in accordance with Section 14.4 (*Transfer Price*).

**"Transfer Shares"** means any shares of the Company with voting, economic or rights of management and control, and any securities of the Company that are convertible into such



shares at the option of the holder.

"**Transfer Tax**" has the meaning given to it in Section 14.5 (*Transfer Price Components*).

"**Transferee Qualified Investor**" has the meaning given to it in Section 15.3.5 (*Shareholding Restrictions*).

"**Transferor**" has the meaning given to it in Section 15.3.5 (*Shareholding Restrictions*).

"**Transmission License**" means the transmission license required by the Laws of Nepal.

"**Transmission Costs**" has the meaning given to it in Section 11.26.2(B) (*Royalties Payable to GON*).

"**Transmission Line**" means the 400kV Double Circuit (D/C) transmission line running from the switchyard of the Power Station to LILO connection point with Arun-3 HPP Transmission Line as more specifically described in Schedule 9 (*Transmission Line Specifications*).

"**UNFCCC**" means the United Nations Framework Convention on Climate Change adopted in New York on 9 May 1992.

"**Uncontracted Power**" means that portion of the electrical energy and capacity from the Power Station that has not been contracted on the date on which a written request from IBN is received by the Company pursuant to Section 11.17 (*Domestic Commercial Power Purchase Agreement*), excluding Free Energy and Power.

## 1.2 Interpretation

In this Agreement unless the contrary intention appears:

- 1.2.1 a reference to this Agreement or a reference to another instrument includes any variation or replacement of either of them;
- 1.2.2 a reference to a statute, ordinance, code or other law includes regulations and other instruments made thereunder and consolidations, amendments, re-enactments or replacements of any of them;
- 1.2.3 the singular includes the plural and vice versa;
- 1.2.4 one gender includes any other gender;
- 1.2.5 whenever a Party is to provide its consent or perform its duty or exercise its discretion or conduct any act under this Agreement, it shall do so acting reasonably and promptly;
- 1.2.6 in case of a period of time, unless otherwise specified, time periods within or following which any payment is to be made or any act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- 1.2.7 references to performance of an obligation by a Party in "a timely manner" means performance of that obligation so as to allow the other Party a reasonable time within which to perform its obligations under this Agreement;
- 1.2.8 unless otherwise provided herein, whenever a consent or approval is required by one Party from the other Party, such consent or approval shall not be unreasonably withheld or delayed;
- 1.2.9 if a word or phrase is specifically defined in this Agreement, then other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 1.2.10 headings are for ease of reference only and do not affect interpretation;

- 1.2.11 the terms "including" and "include" mean including or include (as applicable) without limitation;
- 1.2.12 in interpreting this Agreement, a construction that would promote the purpose or object underlying this Agreement must be preferred;
- 1.2.13 a person includes a natural person, corporation, partnership, firm, limited partnership, joint venture, trust or unincorporated body (whether or not having separate legal personality) and that person's executors, administrators, successors, personal representatives, and permitted assigns and substitutes;
- 1.2.14 the schedules and annexures form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules and annexures;
- 1.2.15 a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.16 a reference to "day", "month" or "year" shall mean a calendar day, calendar month or calendar year, respectively, pursuant to the Gregorian calendar;
- 1.2.17 a reference to writing or written includes faxes but not e-mails;
- 1.2.18 references to a document in agreed form are to that document in the form agreed by the parties and initialled by or on behalf of them for identification; and
- 1.2.19 any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.

## 2. **CONCESSION, LOWER ARUN HYDROPOWER PROJECT AND TERM**

### 2.1 **Concession**

IBN hereby grants:

- 2.1.1 to the Company for the Term, the right to:
  - (A) Develop, own, operate and maintain the Hydro Property and oversee the development of the Project as a whole;
  - (B) use the water flowing out after the tail race of Arun-3 HPP for the Project;
  - (C) generate electrical energy and make capacity available from the Power Station and sell and supply such electrical energy and make capacity available from the Power Station within and outside the territorial jurisdiction of Nepal; and
  - (D) transmit electrical energy from the Power Station over the Transmission Line in Nepal,

in accordance with this Agreement and the Laws of Nepal.

### 2.2 **Lower Arun Hydropower Project**

- 2.2.1 The Company shall be responsible for and shall Develop, insure, own, operate, maintain and transfer the Hydro Property, in each case, in accordance with (i) the Laws of Nepal, (ii) the Government Approvals, (iii) this Agreement, (iv) the Performance Standards, (v) Technical Standards, (vi) the Project Specifications,

(vii) Good Industry Practices and (viii) to the level of skill, care and diligence, as specified in, and required under, this Agreement.

2.2.2 In consideration for the IBN entering into this Agreement and granting various concessions and other rights to the Company, the Company shall transfer the Power Station, the balance of the Hydro Property and the Project Assets to the IBN or IBN's nominated entity free of charge and free and clear of all Encumbrances and liabilities (other than the liability contemplated in Section 14.6 (*Payment of the Transfer Price*)) on the Expiry Date in a Good Operating Condition, in accordance with the Handover Plan and this Agreement.

### 2.3 Term

2.3.1 The term of this Agreement shall commence on the Agreement Date, subject to Section 14 (*Events of Default, Compensation and Termination*), and expire on the Expiry Date (the "**Term**"), save where an extension of the Term beyond the Expiry Date is expressly provided for in this Agreement.

### 2.4 Project License and Transmission License

2.4.1 The Company shall apply for survey license for Transmission Line no later than six (6) months from the Agreement Date. In accordance with Section 3.1.4 (*Company Condition Subsequent*), the Company shall apply for the Project License and Transmission License to the relevant Concerned Agencies complying with the laws of Nepal.

2.4.2 The fees for the licenses under this Section 2.4 (*Project License and Transmission License*) shall be as follows:

(A) Fees for survey license for Transmission Line and Transmission License shall be as per Electricity Rules, 2050 (1993).

(B) Fees for Project License shall be Nepali Rupees Fifty Lakh (NPR 50,00,000).

2.4.3 If the Company is in compliance with its obligations under Section 2.4.1 (*Project License and Transmission License*), IBN shall, in accordance with Section 3.2.1 (B) (*IBN Conditions Subsequent*) and the Laws of Nepal, procure the issuance of the Project License and Transmission License to the Company on or prior to Financial Close. The Company shall obtain both the Project License and Transmission License on or prior to Financial Close.

2.4.4 The Project License and Transmission License shall have an initial term of thirty (30) years ("**Initial License Terms**") provided that the Initial License Term shall be co-terminus with the Term and shall automatically expire on the Expiry Date or the Transfer Date, as the case may be. If the Term is extended pursuant to this Agreement, then IBN shall procure the extension of the Initial License Term accordingly.

2.4.5 The Company shall comply with the terms of all Government Approvals granted to it.

### 2.5 Permitted activities from the Agreement Date

IBN grants to the Company, from the Agreement Date, the right to undertake the activities set out in Schedule 21 (*Permitted Activities*).

### 2.6 Project Implementation Schedule

The Company undertakes to Develop the Project in accordance with the timeline specified

in the Schedule 28 (*Project Implementation Schedule*) or such other extended date as approved by the IBN. The Parties agree that the timeline provided in the Schedule 28 (*Project Implementation Schedule*) are tentative and shall be revised periodically (not more than once each quarter) through mutual consultation between the Parties.

### 3. CONDITIONS SUBSEQUENT

#### 3.1 Company Conditions Subsequent

The Company shall, unless waived in writing by the IBN or unless prevented due to (A) breach of this Agreement by IBN, (B) IBN Event of Default or (C) Force Majeure Event or (D) Change in Law:

- 3.1.1 no later than thirty (30) days from the execution of each Financing Document, provide a copy of such Financing Document to IBN;
- 3.1.2 no later than sixty (60) days from the Agreement Date, provide or cause to be provided, to the IBN, a legal opinion from the Company's legal counsel confirming: (A) the Company's capacity and authority to enter into and perform its obligations under this Agreement; (B) that this Agreement is in compliance with the Laws of Nepal; and (C) that the Agreement is legal, valid, binding and enforceable against the Company in accordance with its terms;
- 3.1.3 no later than 22 (twenty-two) months from the Agreement Date, the Company shall apply for Project License and Transmission License, provided that, this timeline shall be extended to commensurate to the extension of timeline for the achievement of Financial Close;
- 3.1.4 no later than twenty-four (24) months from the Agreement Date, achieve Financial Close for the Project, provided however that, such period shall be extended upon its expiry by a maximum additional period of one (1) year if the Company is unable to achieve Financial Close for reasons beyond the Company's control (including as a result of a Severe Market Disruption) despite the Company making diligent and commercially reasonable efforts to achieve Financial Close within such period. The Company shall provide details (in writing) of: (A) such reasons beyond Company's control; (B) Company's diligent and commercially reasonable efforts towards achievement of Financial Close; and (C) Company's indicative plan to achieve Financial Close within the extended one (1) year period;
- 3.1.5 no later than thirty (30) days from Financial Close, provide to IBN a written confirmation from the Lenders' agent certifying or confirming that Financial Close has occurred;
- 3.1.6 no later than one (1) month from Financial Close, issue the "notice to proceed" to the Construction Contractors in respect of the relevant packages, works of which are on the critical path for the purpose of achieving Final COD by the Scheduled COD;
- 3.1.7 on or before Financial Close, provide to IBN copies of agreements entered between developer of Arun -3 HPP and the Company for the construction and use of Head Pond required as an integral part of the Project, provided that, such agreements shall be concluded in accordance with the provisions of this Agreement.
- 3.1.8 no later than:
  - (A) six (6) months prior to the Scheduled COD, submit to the IBN copies of long-term open access approvals for the use of transmission line of Arun-3 HPP and Indian segment of the extension of transmission line of Arun-3 HPP, if applicable, in accordance with applicable laws of relevant jurisdictions; and

- (B) six (6) months prior to the Scheduled COD, submit to the IBN copies of connection agreement for LILO with transmission line of Arun-3 HPP.
  - 3.1.9 no later than two (2) years from the Final COD, provide the Handover Plan and operating principles for the Hydro Property to IBN;
  - 3.1.10 no later than the date as specified in the Project Implementation Schedule, prepare and submit the Disaster Management Plan in accordance with Section 11.3.1(*Plans*) and Section 11.30 (*Disaster Management Plan*);
  - 3.1.11 no later than the date as specified in the Project Implementation Schedule, prepare and submit the Resettlement and Rehabilitation Plan in accordance with Section 11.3.1 (*Plans*);
  - 3.1.12 no later than the date as specified in the Project Implementation Schedule, conduct baseline survey of the Project Area by collecting all information like geological mapping, detailed survey, land use, etc., and submit both physical and electronic copies of the survey report along with all raw data to IBN;
  - 3.1.13 no later than three (3) months prior to Scheduled COD, provide evidence to IBN of conclusion of the Export Power Sale Agreement for the sale of at least forty per cent (40%) of energy and capacity generated from the Power Station taking into account the provisions of Section 11.6 (*Arm's Length Transaction*), Section 11.17 (*Domestic Commercial Power Purchase Agreement*) and Section 11.16 (*Free Energy and Power*);
  - 3.1.14 no later than one (1) year from the Agreement Date, submit to IBN copies of agreements entered between SJVN Arun-3 Power Development Company Private Limited and the Company detailing out sharing of transmission line of Arun-3 HPP for evacuation of power from the Project, the operational modalities and procedures of Tandem Operations of Arun-3 HPP and the Project; provided that such agreements shall be concluded in accordance with the provisions of this Agreement; and
  - 3.1.15 achieve Final COD no later than the Scheduled COD.
- 3.2 IBN Conditions Subsequent**
- 3.2.1 Unless waived in writing by the Company or unless prevented due to (A) a breach of this Agreement by the Company, (B) Company Event of Default or (C) Other Force Majeure Event:
    - (A) the IBN shall or shall procure that no later than the expiry of the Land Acquisition Period prescribed in Section 8 (*Land Acquisition*), lease or transfer (as the case may be) the GON Land in accordance with Section 8 (*Land Acquisition*);
    - (B) on or before Financial Close IBN shall issue the Project License and procure the issuance of Transmission License, provided that the Company has submitted applications for Project License and Transmission License in accordance with the Laws of Nepal;
    - (C) No later than sixty (60) days from the Agreement Date, provide or cause to be provided, to the Company, a legal opinion from the Ministry of Law, Justice and Parliamentary Affairs confirming: (A) the IBN's capacity and authority to enter into and perform its obligations under this Agreement; (B) that this Agreement is in compliance with the Laws of Nepal; (C) that the Agreement is legal, valid, binding and enforceable against the IBN; and (D) that Government of Nepal (Council of Ministers) has undertaken to perform

the obligations of IBN and Concerned Agencies including the financial obligations of IBN and Concerned Agencies.

- (D) No later than sixty (60) days from the Agreement Date, provide the extract of the resolution of Government of Nepal (Council of Ministers) endorsing the Agreement.
- (E) within one (1) year of the Agreement Date:
  - (i) exempt the Company from the requirement to pay one hundred per cent (100%) of its assessed income tax for a period of fifteen (15) years from the Interim COD, provided that the Financial Close is achieved by 13 April 2029 (2085/12/30 B.S.); and
  - (ii) exempt the Company from the requirement to pay fifty per cent (50%) of its assessed income tax for the period commencing on the sixteenth (16<sup>th</sup>) anniversary of the Interim COD and ending on the twenty-first (21<sup>st</sup>) anniversary of the Interim COD, provided that the Financial Close is achieved by 13 April 2029 (2085/12/30 B.S.).

### 3.3 Obligations to Achieve Financial Close

3.3.1 Timely completion of Financial Close shall be sole responsibility of the Company.

3.3.2 IBN shall cooperate with the Company for timely achievement of Financial Close.

### 3.4 Extension of timelines for compliance with Conditions Subsequent

3.4.1 For the avoidance of any doubt, it is clarified that the applicable timelines for satisfaction of the Company Conditions Subsequent by the Company shall stand extended in the following circumstances:

- (A) in case of a Force Majeure Event or Change in Law, in accordance with Section 12 (*Force Majeure*) and Section 13 (*Change in Law*), respectively;
- (B) on a day-for-day basis, if the Company has not been able to satisfy the Company Condition Subsequent due to IBN Event of Default; or
- (C) if Parties agree to such extension in writing.

3.4.2 For the avoidance of any doubt, it is clarified that the applicable timelines for the satisfaction of the applicable IBN Conditions Subsequent by IBN shall stand extended in the following circumstances:

- (A) in case of an Force Majeure Event, in accordance with Section 12 (*Force Majeure*);
- (B) on a day-for-day basis, if IBN has not been able to satisfy the IBN Condition Subsequent due to a breach of this Agreement by the Company or a Company Event of Default; or
- (C) if the Parties agree to such extension in writing.

## 4. PROJECT MONITORING UNIT AND PROJECT COORDINATION COMMITTEE

### 4.1 PMU

4.1.1 The IBN may delegate the management and administration of this Agreement to a Project Monitoring Unit established by IBN (the "**PMU**") to monitor that the Company is carrying out the Project in accordance with this Agreement.

- 4.1.2 The PMU shall have the right to monitor and ensure the compliance and the performance of the obligations of the Company under this Agreement.
- 4.1.1 The scope and objectives of Project Monitoring Unit shall be defined by IBN in accordance with this Agreement and shall be notified to the Company.
- 4.1.2 The Company shall provide all necessary co-operation and assistance to the PMU in accordance with this Agreement.

#### 4.2 **Project Coordination Committee**

The Company shall establish a Project Coordination Committee in connection with the Project (the "**Project Coordination Committee**"). The constitution, scope of work and procedures of such Project Coordination Committee shall be formed by the Parties by mutual agreement.

### 5. **PROJECT REVIEW PANEL**

#### 5.1 **Appointment of the PRP**

- 5.1.1 Unless otherwise agreed, the IBN shall appoint (in consultation with the Company), by executing an agreement with each of the core panel members (the "**PRP Agreements**"), a Project Review Panel (the "**PRP**") comprising of members with sufficient technical and professional skills, experience and qualifications to carry out their respective obligations under this Agreement and the PRP Agreements within the following time periods (or such longer period as otherwise agreed between the Parties in writing):
  - (A) the member responsible for engineering geology and geotechnical engineering, within six (6) months of the Agreement Date;
  - (B) the member responsible for general hydropower engineering, within six (6) months of the Agreement Date;
  - (C) the member responsible for environmental matters within ninety (90) days of the Agreement Date; and
  - (D) the member responsible for social and local benefits within ninety (90) days of the Agreement Date.
- 5.1.2 IBN shall have the right to change the composition of the PRP by mutual agreement from time to time in the interest of the Project.
- 5.1.3 The PRP shall not include Related Parties or Representatives of the Company or the Concerned Agencies.
- 5.1.4 If PRP is not appointed by executing the PRP Agreements within the periods referred to in Section 5.1.1 (*Appointment of PRP*) above, then the Company shall, within one hundred and twenty (120) days of the applicable time period, submit to the IBN the names of at least three (3) individuals for each of the posts of the core panel of PRP referred to in Section 5.4.1 (*Composition of PRP*).
- 5.1.5 The IBN shall inform the Company in writing within thirty (30) days of the date of receipt of the list referred to in Section 5.4.1 (*Composition of PRP*), of the names of the individuals who have been selected by IBN from the list submitted by the Company to fill the role of PRP.
- 5.1.6 Within sixty (60) days of the date on which the Company receives a written notice from the IBN of its selection, Parties shall jointly appoint, by executing PRP Agreements, such independent consulting individuals as the PRP.

5.1.7 In the event any position of PRP Panel is vacant, the same mechanism for appointment as provided above shall be applied by Parties to fill the vacant position.

## 5.2 Duty of care

The Parties agree that the PRP Agreements shall include provisions that the PRP members owe a joint duty of care to IBN and the Company.

## 5.3 Role of the PRP

5.3.1 The terms of reference of the PRP are set out in Schedule 11 (*Scope of work for the Project Review Panel (PRP)*).

5.3.2 The Parties shall procure that the PRP shall at all times act: (A) in accordance with the PRP Agreements; (B) independently, reasonably and in good faith; and (C) in accordance with Good Industry Practice and the Laws of Nepal, and the Company shall procure that appropriate provisions in this regard are included in each PRP Agreement.

5.3.3 The recommendations made by the PRP in any report or determination are intended to be advisory and not binding in nature.

5.3.4 The PRP shall meet at a regular interval of six (6) months to discuss and review the scope of work entrusted to PRP provided that, in case of extraordinary or critical circumstances, meeting of PRP shall be called at a shorter interval and/or the services of any member of the PRP shall be solicited in the intervening period(s), if deemed necessary or desirable by party.

## 5.4 Composition of the PRP

5.4.1 The PRP shall consist of a core panel comprising of four (4) members collectively having wide and specialized experience in: (A) engineering geology and geotechnical engineering; (B) general hydropower engineering; (C) environment benefits; and (D) social and local benefits. If required, the PRP shall, with the prior written approval of the Parties, also consult with specialists in other areas, if required, on a case-to-case basis.

5.4.2 The chairman of the PRP shall be the expert appointed with the expertise referred to in Section 5.4.1 (*Composition of the PRP*) above, and shall be appointed by IBN in consultation with the Company to co-ordinate communications of and with the PRP, to call and chair its meetings, to ensure each member's participation in the PRP and to provide balance to its reviews and recommendations.

5.4.3 The composition of the PRP and the areas of expertise which it covers may vary during the period of their appointment as considered appropriate by IBN and the Company by mutual agreement in writing.

## 5.5 Costs of the PRP

5.5.1 All costs, expenses, fees and charges relating to the appointment and operations of the PRP including costs, expenses and fees associated with the appointment of any specialists or experts appointed pursuant to Section 5.4.1 (*Composition of the PRP*) (the "**PRP Costs**") shall be borne by the Company.

5.5.2 The Company shall directly pay to the PRP member, the PRP Costs within thirty (30) days of receiving an invoice for such PRP Costs from the respective PRP member. The evidence of the payment shall be submitted to IBN.

## 5.6 Access



5.6.1 **The Company shall:**

- (A) cooperate with the PRP in all matters relating to the Project;
- (B) subject to compliance with any health and safety requirements promptly provide such access to the Project Area, the Company's premises and any Records, and such office accommodation and other facilities as may reasonably be required by the PRP for the purposes of carrying out its obligations under this Agreement and the PRP Agreements; and
- (C) inform the PRP of all relevant site regulations with which the PRP must comply.

5.6.2 The PRP member shall submit a monthly report detailing out the activities carried out during that particular month to the IBN and the Company within seven (7) days after the end of each month.

5.7 **Information and access**

5.7.1 The Parties agree that:

- (A) all written communications with the PRP shall be copied to each Party;
- (B) the PRP shall provide its reports and recommendations to each Party; and
- (C) each Party shall have the right to access such documents and records of the PRP as such Party may reasonably require in connection with the Project and this Agreement.

5.7.2 Appropriate provisions shall be included in this regard in the PRP Agreements.

5.8 **Tenure**

5.8.1 The initial tenure of the PRP shall commence from the date of its appointment till Financial Close.

5.8.2 The tenure of PRP may be extended up to six (6) months from the Financial Close upon mutual agreement between the Parties.

6. **USE OF WATER IN THE PROJECT AREA**

6.1 **IBN rights and responsibilities**

6.1.1 The IBN:

- (A) hereby confers on the Company, the right to use for the Project, water flowing out from the tail race of Arun-3 HPP within the Project boundary as identified in Schedule 7 (*Project Area*) ("**Generation Project Area**") for the purpose of generation of hydroelectricity for the Term of this Agreement;
- (B) has the right to allow any activity (including a right to utilise water) by any person (including any Concerned Agencies) on the Arun River or its tributaries, whether upstream or downstream of the Generation Project Area ("**Other Uses**"), provided that the IBN shall ensure that there is no adverse impact on the Project;
- (C) and the Company agree that, in the event that it is established that solely due to design and operational parameters of projects commissioned upstream of the Power Station on the Arun River (except for Arun-3 HPP),

there is an increase in the annual sale proceeds from sale of power and energy ("**Additional Sale Proceeds**"), the proceeds received by the Company attributable to such Additional Sale Proceeds shall be shared equally between the IBN and the Company provided that the calculation of IBN's share of such Additional Sale Proceeds shall include calculation of the benefits that IBN is receiving (and the increase in) (i) in the quantum of Free Energy and Power provided to GON or a Concerned Agency and (ii) in the royalties payable to the GON;

- (D) ~~is of the~~ ~~If IBN is of the~~ reasonable opinion that the Company is receiving Additional Sale Proceeds, the IBN shall give a written notice to the Company requesting the Company to discuss and agree a Suitable Mechanism for such sharing of the Additional Sale Proceeds with IBN. If the Company and the IBN cannot agree to the Suitable Mechanism within thirty (30) days of receiving such written notice from IBN, either of IBN or the Company shall be entitled to refer the matter to Dispute in accordance with Section 16 (*Law and Dispute Resolution*);
- (E) if due to natural reasons, the flow or availability of the water at the Generation Project Area gets diverted or is reduced upstream of the Generation Project Area in Nepal, shall allow the Company to undertake and facilitate the undertaking of such activities and works as may be required by the Company to mitigate the impact of such natural event;
- (F) shall coordinate between the Company and owners or operators of other projects on the Arun River or its tributaries, whether upstream or downstream of the Generation Project Area to ensure that the Project is not adversely impacted on account of such other upstream or downstream projects;
- (G) shall ensure that any release of water from the projects upstream of the Power Station shall be in accordance with Good Industry Practice and such release shall take into account the safety and security features similar to the operations protocol as set out in Schedule 18 (*Use of Water - Water Requirements*); and
- (H) shall not be liable to the Company under this Section 6.1 (*IBN rights and responsibilities*) to the extent the availability or use of water by the Company for the Project is adversely affected due to a natural event or act of God.

## 6.2 Company rights and responsibilities

### 6.2.1 The Company undertakes that:

- (A) in undertaking the Project, it shall not impair the use of the Arun River for:
  - (1) drinking and cultural uses;
  - (2) existing irrigation, industrial, and recreational uses, in each case, which are identified in the EIA or any Supplementary E&S Documents and provided that where such uses are impaired, such impairment is mitigated (i) in accordance with the EIA or any Supplementary E&S Documents; or (ii) in any other manner acceptable to IBN; and
  - (3) the purposes referred to in Section 11.2 (*EIA/IEE/BES*) and Section 11.3 (*Plans*).

- (B) it shall ensure that any release of water from the tail race of the Power Station shall be in accordance with Good Industry Practice and such release shall take into account the safety and security procedures pursuant to the operations protocol set out in Schedule 18 (*Use of Water – Water Requirements*);
  - (C) it shall provide information required by IBN to coordinate with owners or operators of other projects on the Arun River or its tributaries, whether upstream or downstream of the Generation Project Area;
  - (D) it shall share its basic engineering design parameters and operating assumptions with IBN to enable IBN: (1) to coordinate design and operations of other projects on the Arun River in order to optimize basin value; or (2) to ensure that such projects are not designed and / or operated in a manner which could adversely affect the Project;
- 6.2.2 If, due to the Company's breach of Section 6.2.1 (*Company rights and responsibilities*), IBN or any Concerned Agencies: (A) suffers any loss which has not been mitigated by the Company; or (B) incurs any reasonable costs and expenses, the Company shall compensate IBN or the relevant Concerned Agencies (as the case may be) for any such loss and any costs and expenses as a result of such breach of Section 6.2.1 (*Company rights and responsibilities*) by the Company.

### 6.3 Downstream Irrigation Projects and other studies

- 6.3.1 Within six (6) months from the Agreement Date, the Company shall undertake a study to update the "Study of Downstream Irrigation Projects and other studies" pursuant to Arun-3 HPP PDA, under the direction and upon the acceptance of IBN, to ascertain the impact on all existing irrigation projects including Sunsari Morang Irrigation Project, (the "**Irrigation Projects**") and other projects as set out in Schedule 22 (*Other Projects*) (the "**Irrigation and Other Projects**") as well as River training works, River banks and settlements.
- 6.3.2 Based on such report and after consulting with the Ministry of Energy, Water Resources and Irrigation, the Company shall at its own cost and expense undertake measures and actions (including a re-regulating dam if feasible) to ensure designed flows of water to the Irrigation and Other Projects and ensure that no negative impacts are incurred on River banks, settlement and existing River training works.
- 6.3.3 The study referred to in Section 6.3.1 (*Downstream Irrigation Projects and other studies*) above, shall be to bring out in detail the impact of the Project on design flows of the aforementioned projects which are existing or under construction as well as river banks, settlement and existing river training works, and accordingly, relevant mitigation measures shall be implemented. The available relevant data as required for the study shall be provided by IBN.
- 6.3.4 The study referred to in Section 6.3.1 (*Downstream Irrigation Projects and other studies*) above shall also study the impact of the Project on dolphins and Koshi Tappu Wildlife Reserve. The study shall be conducted by the Company based on available relevant data provided by IBN.

## 7. COMMISSIONING, CONSTRUCTION AND COMMERCIAL OPERATIONS DATE

### 7.1 COD

- 7.1.1 Without prejudice to Section 2.2 (*Lower Arun Hydroelectric Project*), the Company shall on or before the Scheduled COD, design, engineer, construct, complete, test

and commission the Hydro Property in accordance with this Agreement.

- 7.1.2 The Parties agree that the demonstrated capacity of the Hydro Property as at Final COD shall not be less than 636 MW, Ninety-Five percent (95%) of installed capacity. IBN shall not be entitled to claim Company Event of Default under Section 14.1.3 (*Failure to achieve Final COD by the Scheduled COD*) if the certificates referred to in Section 7.1.4 (*COD*) certify that the Hydro Property has achieved commercial operations for an aggregate capacity that is not less than 636 MW as of Final COD.
- 7.1.3 The Project Engineer along with representative of IBN shall be entitled to witness all performance tests conducted by the Company and in this regard the Company shall give IBN at least fourteen (14) days' notice of its intention to carry out any such performance test.
- 7.1.4 The Company shall issue a certificate to the IBN certifying that Interim COD has been achieved when it commences commercial operations in respect of any unit. When all units of the Power Station have commenced commercial operations, the Company shall communicate the date of achievement of Final COD by issuing a certificate to the IBN, which shall be supported by a certificate issued by the Lenders' independent engineer certifying that the Hydro Property has achieved commercial operations. The date such certificate is issued to the IBN shall be the "**Commercial Operation Date**".

## 7.2 Additional Construction Period

If at any time prior to the Scheduled COD, the Company determines that the construction of the Hydro Property may require an additional period of six (6) months ("**Additional Construction Period**") pursuant to the Construction Plan or associated matters, the Company shall send a sixty (60) days prior written notice to IBN about its intention to extend the Scheduled COD by such Additional Construction Period along with the reason thereof and the Scheduled COD shall stand extended by such Additional Construction Period.

## 7.3 Delay Liquidated Damages

- 7.3.1 The Company shall pay liquidated damages of Nepali Rupees Six Thousand (NPR 6,000) per MW per day (the "**Delay Liquidated Damages**") to GON for each day of delay beyond the Scheduled COD (including extensions under Section 7.4 (*Grounds for Extensions to the Scheduled COD and Term*)), subject to a maximum of twenty-four (24) months. The Delay Liquidated Damages shall not exceed Nepali Rupees One Arab Fifty Crores (NPR 1,50,00,00,000). The Delay Liquidated Damages amount shall be payable on a monthly basis and shall be paid within thirty (30) days from the date of invoice received from GON in respect of such Delay Liquidated Damages amount. If any invoice for Delay Liquidated Damages is not paid within such thirty (30) day period, IBN shall have the right, without any further notice to the Company to drawdown on the Performance Security to the extent any such amount remains unpaid. For avoidance of any doubt, it is clarified that Delay Liquidated Damages shall be levied if Scheduled COD is extended for reasons attributable to the Company.

## 7.4 Grounds for Extensions to the Scheduled COD and Term

- 7.4.1 For the avoidance of any doubt, it is clarified that the Scheduled COD (as applicable) and the Term shall stand extended in either of the following circumstances:
- (A) on a day-for-day basis, in case of a Force Majeure Event, in accordance with Section 12 (*Force Majeure*);
  - (B) on a day-for-day basis, in case of a Change in Law, in accordance with

Section 13 (*Change in Law*);

- (C) on a day-for-day basis, in case of a delay in achieving Commercial Operation Date by the applicable Scheduled COD, by the period in respect of which Delay Liquidated Damage have been set off or paid by the Company in accordance with Section 7.3 (*Delay Liquidated Damage*);
- (D) on a day-for-day basis, for Additional Construction Period, in accordance with Section 7.2 (*Additional Construction Period*);
- (E) in case of Severe Market Disruption, in accordance with Section 18.21 (*Severe Market Disruption*);
- (F) on a day for day basis where a Land Acquisition Delay Event is subsisting pursuant to Section 8.3.1(D) (*Land Acquisition Delay Events*);
- (G) on a day-for-day basis, if the Final COD has not been achieved by the Scheduled COD due to a breach of this Agreement by IBN;
- (H) on a day-for-day basis, if the Final COD has not been achieved by the Scheduled COD due to IBN Event of Default; and
- (I) if Parties agree (in writing).

Provided that, the Company shall not be entitled to claim for duplicate extension of Scheduled COD and Term if more than one event occurs at the same time period.

## 8. LAND ACQUISITION

### 8.1 Acquisition of GON Land and GON ROWs

#### 8.1.1 GON Land – Generation Project

The GON Land shall be leased to the Company under the relevant Land Use Agreements within 12 months (as extended pursuant to Section 8.1.3 (*Acquisition of GON Land and GON ROWs*)) from the date on which the request is submitted by the Company to the IBN after the approval of EIA/IEE. IBN shall procure that the relevant Concerned Agencies enter into Land Use Agreements with Company on the basis of the land use principles set out in Schedule 5 (*Land Use Principles*).

#### 8.1.2 GON ROWs – Transmission Project

The GON ROW shall be made available to the Company for use or easement within 12 months (as extended pursuant to Section 8.1.3 (*Acquisition of GON Land and GON ROWs*)) from the request submitted by the Company to the IBN after the approval of EIA/IEE.

#### 8.1.3 To the extent that:

- (A) the Company has not provided necessary and detailed land parcel information: (i) in respect of GON Land; and (ii) in respect of ROWs pursuant when submitting the request in accordance with Section 8.1.1 (*Acquisition of GON Land and GON ROWs*) and Section 8.1.2 (*Acquisition of GON Land and GON ROWs*), in each case, the time period for making available of such portion of the GON Land and GON ROWs (as applicable), shall stand extended on a day-for-day basis until such time that all such details are provided to IBN;
- (B) the Company fails to implement any provision of the Resettlement and Rehabilitation Plan that is required to be implemented prior to the making

available for use of GON Land or GON ROWs, in each case, the time period for making available of such portion of the GON Land or GON ROWs, shall stand extended on a day-for-day basis until such time that the Company has complied with such provisions of the Resettlement and Rehabilitation Plan (as applicable); and

- (C) there are material changes to the GON ROWs from those approved under the IEE, then the Parties shall agree to an extension for the acquisition of such GON ROWs.

## 8.2 Acquisition of Private Land and Private ROWs

- 8.2.1 Schedule 19 (*Land Acquisition Plan*) sets out the plan agreed by the Parties in respect of the acquisition of Private Land (the "**Land Acquisition Plan**"). The Parties acknowledge that the Land Acquisition Plan has been developed to ensure that the land acquisition process for the Project is undertaken in accordance with the Laws of Nepal and this Agreement, including measures to ensure satisfactory and timely resettlement of Project Affected Families and payment of appropriate compensation where necessary.
- 8.2.2 The Company shall use commercially reasonable efforts, including complying with the arrangements set out in the Land Acquisition Plan and undertaking all actions that are its responsibility under the Time-Based Land Acquisition Activities Schedule within the time period prescribed therein, to acquire in the name of the Company freehold title to and vacant possession of: (a) Private Land within twelve (12) months of the Agreement Date and (b) and the rights of ways, easement rights and land parcels required for the Transmission Line which form part of Private Land ("**Private ROWs**") within (12) months of the issuance of Transmission License (each a "**Company Land Acquisition Period**").
- 8.2.3 IBN shall during each Company Land Acquisition Period undertake all actions that are its responsibility under the Time-Based Land Acquisition Activities Schedule within the time period prescribed therein.
- 8.2.4 If requested by the Company, IBN shall use its reasonable endeavours to assist the Company in relation to the negotiations with any third parties to acquire any Private Land and Private ROWs and any other matters set out in the Land Acquisition Plan within the respective Company Land Acquisition Period.
- 8.2.5 If by the end of the respective Company Land Acquisition Period, the Company has not been able to acquire (or enter into appropriate arrangements for the acquisition of) all or any portion of the Private Land and Private ROWs ("**Outstanding Private Land and Private ROWs** ") in accordance with Section 8.2.2 (*Acquisition of Private Land and Private ROWs*), the Company shall request IBN (in writing) ("**Land Acquisition Application**") to acquire, or procure the acquisition of, such Outstanding Private Land and Private ROWs. The Land Acquisition Application shall set out in reasonable detail:
  - (A) the steps taken by the Company to comply with its obligations under Sections 8.2.1 (*Acquisition of Private Land and Private ROWs*) and Section 8.2.2 (*Acquisition of Private Land and Private ROWs*);
  - (B) the reasons why the Company was unable to acquire such Outstanding Private Land and Private ROWs; and
  - (C) all requisite information required to enable GON to acquire such Outstanding Private Land and Private ROWs.
- 8.2.6 Upon receipt of the Land Acquisition Application, IBN shall use the powers granted to it under the Laws of Nepal, within ten (10) months of the date of the Land Acquisition Application, to acquire (or procure the acquisition of) and transfer (or procure transfer of), title and vacant possession of the Outstanding Private Land and

Private ROWs, to the Company.

8.2.7 In respect of all Project Land (other than GON Land) acquired by IBN for the Company pursuant to this Agreement, the Company shall make advance payment as required by IBN of amounts set out in Section 8.4.1 (*Land acquisition -general*).

### 8.3 Land Acquisition Delay Events

8.3.1 Following the occurrence of an event or circumstance or combination of events or circumstances (other than IBN Force Majeure Event or Change in Law) which prevents or delays IBN from acquiring, or procuring the acquisition of or lease or making available of (as the case may be), the GON Land, GON ROW, Outstanding Private Land and/or Private ROWs within the timelines stipulated in Section 8.1.1 (*GON Land – General Project*), Section 8.1.2 (*GON ROWs – Transmission Project*), Section 8.1.3 (*Acquisition of GON Land and GON ROWs*) and Section 8.2.6 (*Acquisition of Private Land and Private ROWs*) above (in each case a "**Land Acquisition Delay Event**"):

- (A) in respect of the Outstanding Private Land and Private ROW, the time limit set out in Section 8.2.6(*Acquisition of Private Land and Private ROWs*) above shall stand extended on a day-for-day basis until such time that the Land Acquisition Delay Event (or its effects) is no longer subsisting, subject to a maximum period of twelve (12) months;
- (B) in respect of GON ROWs, the ROW Acquisition Period shall stand extended on a day-for-day basis until such time that the Land Acquisition Delay Event (or its effects) is no longer subsisting, subject to a maximum period of twelve (12) months; and
- (C) in respect of GON Land, the time limit set out in Section 8.1.1 (*GON Land – Generation Project*) above shall stand extended on a day-for-day basis until such time that the Land Acquisition Delay Event (or its effects) is no longer subsisting, subject to a maximum period of twelve (12) months; and
- (D) the Scheduled COD and the timeline for achievement of Financial Close by the Company shall stand extended on a day-for-day basis for each day that a Land Acquisition Delay Event (or its effects) is subsisting provided that no such relief shall be granted to the Company to the extent that the Land Acquisition Delay Event is attributable to the breach by the Company of this Agreement or a Company Event of Default.

8.3.2 Where such Land Acquisition Delay Event, or the effects thereof, continues for a period exceeding:

- (A) six (6) consecutive months, the Company shall have the right to terminate this Agreement in accordance with Section 14.3 (*Termination notices*); and
- (B) three (3) years, IBN shall, where the Company has not exercised its rights under Section 8.3.2(A) (*Land Acquisition Delay Events*), have the right to terminate this Agreement in accordance with Section 14.3 (*Termination Notices*),

provided that, if the Company determines that any part of the GON Land, GON ROW, Private Land, Outstanding Private Land and Private ROWs that is subject to the Land Acquisition Delay Event is not required for the Project, the Parties shall not have the right to terminate this Agreement pursuant to Section 8.3.2(A) or (B) (*Land Acquisition Delay Events*) above in respect of such part.

8.3.3 IBN hereby acknowledges that timely acquisition of Project Land is important for timely achievement of Financial Close for the Company. Notwithstanding the timelines provided above, IBN shall use its endeavours to promptly acquire the

Project Land for timely construction and implementation of the Project.

8.3.4 Each Party acknowledges and agrees that it shall act reasonably and in good faith while discussing and agreeing to any extension to the timelines under this Section 8 (*Land Acquisition*).

8.4 **Land acquisition – general**

8.4.1 The Company shall be responsible for meeting all costs and expenses associated with the acquisition and transfer or lease (as the case may be) of:

- (A) Outstanding Private Land and Private ROWs;
- (B) Private Land;
- (C) GON ROWs; and
- (D) GON Land,

in each case, in accordance with Section 8 (*Land Acquisition*). Such costs shall include all reasonable costs and expenses including administrative, management, man-hours, boarding and lodging costs incurred by IBN and any Concerned Agency in complying with the obligations under Section 8 (*Land Acquisition*) ("**Administrative Costs**") provided that such Administrative Costs shall not exceed five per cent (5%) of the aggregate cost of acquiring the Private ROWs, Private Land, GON ROWs and GON Land (excluding the cost of any Private ROWs, Private Land, ROWs and GON Land acquired by the Company as at the Agreement Date).

8.4.2 The Company shall not create or suffer any Encumbrance over the Project Area including transferring any part of the Project Area to a third party, except in favour of Lenders in accordance with Section 15.1.1 (*Assignment and Security – Company*).

8.4.3 On the Expiry Date, the Project Area including the Project Land shall be transferred to IBN (or its nominee) free of charge and all Land Use Agreements shall be surrendered forthwith by the Company. In case of early termination of this Agreement, the Project Area including the Project Land shall be transferred to IBN (or its nominee) upon payment of the applicable Transfer Price in accordance with Section 14.6 (*Payment of the Transfer Price*).

8.4.4 At the end of each quarter, the Company shall submit to IBN a report setting out in reasonable detail:

- (A) the steps taken by the Company to comply with its obligations under Section 8.2.2 (*Acquisition of Private Land and Private ROWs*);
- (B) insofar as the Company is aware, the steps taken by IBN to comply with its obligations under Section 8.2.3 (*Acquisition of Private Land and Private ROWs*) and Section 8.2.4 (*Acquisition of Private Land and Private ROWs*); and
- (C) insofar as the Company is aware, the current status of the acquisition and transfer or lease (as the case may be) of (1) Outstanding Private Land and Private ROW, (2) GON ROWs, (3) Private Land, and (4) GON Land.

8.4.5 The Company shall provide any assistance that IBN may reasonably request in relation to the compulsory acquisition of Outstanding Private Land and Private ROWs in accordance with Section 47 of PPPIA, 2019 and Land Acquisition Act, 2034 (1977).



- 8.5 In any event that the Private Land to be acquired subject to Section 8.2 (*Acquisition of Private Land and Private ROWs*) may exceed the Land Ceiling prescribed under the prevailing Laws of Nepal, the Company shall obtain the requisite approvals from the relevant Concerned Agencies to acquire such lands. The Company has the right to request IBN to permit the mortgage or creation of security or Encumbrance over the Private Land above the Land Ceiling and IBN may obtain special approval.

## 9. TAXES AND OTHER INCENTIVES

### 9.1 Fiscal Benefits

- 9.1.1 Without prejudice to Section 13 (*Change in Law*), the Company shall comply with all prevailing applicable Tax laws.
- 9.1.2 IBN shall ensure that the exemption of value added tax and related facilities which would be applicable to the Company under the Laws of Nepal shall be made available to the Company and/or the Contractors at the request of the Company in a timely manner.
- 9.1.3 IBN shall ensure that the exemption of customs and import duties and related facilities, which would be applicable to the Company or the Contractors under the Laws of Nepal, shall be made available to the Company and/or the Contractors at the request of the Company in a timely manner.
- 9.1.4 IBN shall procure that all fiscal incentives to the Company are made available under the Laws of Nepal, including but not limited to the Industrial Enterprises Act, 2076 (2020), Income Tax Act, 2058 (2002), Value Added Tax Act, 2052 (1995), Custom Act, 2064 (2007), Excise Duty Act, 2058 (2002) and prevailing Finance Act of Nepal and their amendments from time to time.

### 9.2 Export Tax

The Company shall pay to the GON an export tax of point zero zero five per cent (0.005%) of any revenue of the Company accruing from the sale of energy and capacity in the export market.

### 9.3 Water Resource Fees/Charges

The Parties agree and acknowledge that: (A) in accordance with the Laws of Nepal prevailing as of the Agreement Date, no fees or charges are payable or leviable in respect of use of water from the Arun River by the Company for the Project other than as set out in Section 11.26 (*Royalties payable to GON*); and (B) imposition of any fee or charges or Tax on the Company, for use of water from the Arun River for the Project (other than as set out in Section 11.26 (*Royalties payable to GON*)) shall be deemed to be a Change in Tax.

## 10. IBN OBLIGATIONS AND RESPONSIBILITIES

### 10.1 Non discrimination

- 10.1.1 Subject to and in accordance with the Laws of Nepal, IBN shall not take any discriminatory action as described in Section 10.1.2 (*Non-Discrimination*), which materially and adversely affects the Project or the performance of the Company's obligations or the enjoyment of its rights under this Agreement. Nothing in the foregoing shall apply to any actions taken by IBN pursuant to its rights and obligations arising under this Agreement.
- 10.1.2 The use of the term "non-discriminatory" or "discriminatory" in this Agreement is not intended to limit or restrict the ability of IBN or any Concerned Agencies to freely agree with, or impose upon, companies and investors involved in other independent power projects different terms from those set out in or imposed pursuant to this Agreement on the basis of a rational distinction. It is intended, however, to prohibit

the use of governmental authority, to deprive the Company of the benefits of this Agreement by the application of a higher standard to the Company.

- 10.1.3 The IBN shall during Restricted Period ensure that the Tax incentives granted to any other developer of an export-oriented run-of-the-river hydro-electric project in Nepal (a "**Competitor**"), shall not be such that solely on account of such Tax incentives, the generation costs of the Competitor are substantially less than those of the Company thereby enabling the Competitor to sell electrical energy in the Indian market at a more competitive price than the Company.
- 10.1.4 If IBN is in breach of Section 10.1.3 (*Non-discrimination*), IBN shall compensate the Company for the losses suffered by it through the Staggered Remedies pursuant to Section 12.7 (*Staggered Remedies*).

## 10.2 Grant of Government Approvals

- 10.2.1 An agreed list of Government Approvals (including anticipated application dates and the approval dates and the names of the relevant Concerned Agencies), as identified as of the Agreement Date, is set out in the Approvals Schedule. The Parties agree that the Approvals Schedule is not exhaustive and the timelines are only tentative and that the Company shall periodically (but not more than once each quarter) provide a revised (but not exhaustive) list of Government Approvals that the Company requires, in a form substantially similar to the form set out in Schedule 20 (*Approvals Schedule*).
- 10.2.2 The Company shall make, or cause to be made, to the appropriate Concerned Agencies, and diligently pursue, applications for the requisite Government Approvals (including any renewals) in a timely manner, that comply with the necessary legal, regulatory and procedural requirements for such Government Approval as it may be necessary for the Company to perform its obligations under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, IBN shall be under no obligation to grant or renew, or cause any Concerned Agencies to grant or renew, a Government Approval if the applicant has failed to meet any legal, procedural or regulatory requirements for the grant or renewal of such Government Approval.
- 10.2.3 If the Company has complied with its obligations in Section 10.2.2 (*Grant of Government Approval*) and the relevant Laws of Nepal, IBN shall:
- (A) procure that Concerned Agencies grant relevant Government Approvals in respect of which applications have been made in accordance with Section 10.2.2 (*Grant of Government Approval*), as follows: (1) Government Approvals listed in the Approvals Schedule in a timely manner; and (2) any other Government Approvals required in connection with the Project, in a timely manner;
  - (B) Subject to Section 2.4 (*Project License and Transmission License*) so far as the Company has complied with the relevant Government Approval, procure that all Government Approvals to be granted by Concerned Agencies are, upon their expiry, renewed in a timely manner and on substantially similar terms or on terms no less favourable than the then existing terms imposed on the Company;
  - (C) ensure that no Concerned Agency revokes any Government Approval without cause (being a breach of the terms and conditions of such Government Approval);
  - (D) procure that if a Government Approval has been revoked for cause (as described in Section 10.2.3 (C) (*Grant of Government Approval*) above, a

further Government Approval is granted by the Concerned Agency to the Company if the Company provides to the Concerned Agency evidence to demonstrate that the failure to comply with the Government Approval has been rectified and all applicable fines or penalties have been paid in full; and

- (E) upon the request of the Company, use its reasonable efforts to expedite consideration of the application for Government Approvals (including any renewals) made in accordance with Section 10.2.2 (*Grant of Government Approval*) provided that any request for support under this Section 10.2.3(E) (*Grant of Government Approval*) shall (to the extent applicable in the circumstances) be accompanied with (1) copies of the application for the Government Approval, (2) information in relation to the issuance or renewal of the Government Approval which was denied, deferred or was not processed in a timely manner without cause (as described in Section 10.2.3 (C) (*Grant of Government Approval*) above or despite an application for such Government Approval being made in accordance with Section 10.2.2 (*Grant of Government Approval*) and (3) steps taken by the Company in obtaining the Government Approval.
- 10.2.4 If requested by the Company, IBN shall facilitate discussions between the Company and any Concerned Agencies in relation to the grant of Government Approvals required for the Project from the relevant Concerned Agencies.
- 10.2.5 The Company shall make or cause to be made, at least monthly prior to the Interim COD, and at least quarterly thereafter, reports listing its schedule for submitting Government Approval application forms or renewal application forms, the status of any Government Approval applications then outstanding, notifications of the granting or denial of any Government Approval or Government Approval renewal, and notifications of any violations of any Government Approval. Each report shall include copies of all applications and notifications discussed in the report which have not been provided with a previous report.
- 10.2.6 IBN or any Concerned Agencies may attach such terms and conditions to the issuance or renewal of any of the Government Approvals as are in accordance with the relevant Laws of Nepal, and the attachment of such terms and conditions shall not, without prejudice to the rights of the Company under Section 13 (*Change in Law*), in and of itself constitute a breach of this Agreement by IBN, a Force Majeure Event, or IBN Event of Default. The Company shall abide by all such terms and conditions attaching to the Government Approvals. Without prejudice to the rights of the Company under Section 13 (*Change in Law*), if the Company fails to abide by any term or condition of any Government Approval, then IBN or any Concerned Agencies may exercise any power pursuant to the Laws of Nepal or the relevant Government Approval in respect of such failure and such exercise shall not of itself constitute a breach of this Agreement by IBN, a Force Majeure Event, or IBN Event of Default.

### 10.3 **Visas**

- 10.3.1 At least sixty (60) days prior to the proposed start date for the employment of any non-Nepalese employee of the Company for whom visas are required, the Company shall provide to IBN the following details of the Company's employee:
- (A) a certified copy of such proposed employee's passport or similar identification;
  - (B) a full job description for such proposed employee;
  - (C) the proposed start date for such employee with the Company;

- (D) the proposed employee's qualifications;
- (E) a letter of recommendation from the Company addressed to the Ministry of Foreign Affairs in respect of the proposed employee;
- (F) full details of any dependents of such employee;
- (G) evidence of labour market test pursuant to Section 22 of the Labour Act, 2074 (2017); and
- (H) any other information required by the Laws of Nepal in respect of such employee or its dependents, or in relation to the application.

10.3.2 The Company shall obtain prior approval of the IBN of the proposed employee's qualifications as required under Section 10.3.1 (D) (Visas).

10.3.3 At least thirty (30) days prior to the proposed start date for the employment of any non-Nepali employee of the Company for whom visas are required, the IBN shall procure the relevant Concerned Agencies (acting in accordance with the Laws of Nepal) to issue appropriate visas and permits to such employees and their dependents.

#### 10.4 **Communications permits**

Upon the Company's compliance with Section 10.2.2 (*Grant of Government Approvals*), IBN shall cause the relevant Concerned Agencies to issue the necessary Government Approvals to the Company or its Contractors in a timely manner for:

10.4.1 the importation, installation and use of appropriate radio communication systems, including satellite communication equipment and "walkie talkies" which are required for the Company to maintain communication channels among its Representative within the Project Area and/or with representatives of third parties in connection with the Project; and

10.4.2 such radio communication system which connects directly with either (A) the Nepali national telecommunications system or (B) any international telecommunications system.

#### 10.5 **Explosives**

10.5.1 Subject to Company's compliance with Section 10.2.2 (*Grant of Government Approval*), the IBN shall procure that any Government Approvals relating to the import, transport, store and use of any explosives as are reasonably required for construction work in connection with the Project are granted to the Company in accordance with Section 10.2.2 (*Grant of Government Approval*), in each case having a validity period equal to at least six (6) months from the date of its issue, within three (3) months from the date of application made by the Company or its Contractors. The Company may request IBN to issue the approval for explosive having validity up-to 5 (five) years.

10.5.2 Once the Company or its Contractors has obtained the Government Approvals contemplated by Section 10.5.1 (*Explosives*), the Concerned Agency shall have the rights to revoke such Government Approvals if IBN or the relevant Concerned Agency determines that the explosives have been used in violation of the relevant Government Approvals.

10.5.3 Immediately upon any temporary rescission of the Government Approvals contemplated by Section 10.5.2 (*Explosives*) above, Concerned Agency may seize, or cause the relevant Concerned Agencies to seize, and the Company must surrender, any explosives in the possession of the Company or any of its

Representatives.

- 10.5.4 If IBN or the relevant Concerned Agencies determines that the explosives were used in accordance with the relevant Government Approvals, IBN shall immediately reinstate, or cause the relevant Concerned Agencies to reinstate, the Company's or its Contractors, as the case may be, permission to import, transport, store and use the explosives and shall return to the Company or its Contractors, as the case may be, any explosives seized pursuant to Section 10.5.3 (*Explosives*).
- 10.5.5 If IBN or the relevant Concerned Agencies determines that the explosives were not used in compliance with the relevant Government Approvals, IBN may impose such penalties on the Company for such default as are prescribed under the Laws of Nepal or relevant Government Approval.
- 10.5.6 The Company shall use the explosives under the presence of designated security officers of GON.
- 10.5.7 The Company shall dispose any explosive not used after obtaining prior approval from the relevant Concerned Agencies. The Company shall bear all expenses or compensation in relation to disposal or damages caused due to disposal.
- 10.5.8 The Company shall bear all the cost and expenses relating to import, export, use, storage and transportation of the explosives.

**10.6 Fuel**

- 10.6.1 IBN shall procure that the Nepal Oil Corporation (or any other relevant Concerned Agencies) shall, at all times after the Agreement Date, provide the Company with sufficient fuel required for the Project including for maintaining an inventory of fuel sufficient to carry its reasonably anticipated operations and activities for a period of two (2) months.
- 10.6.2 Where Concerned Agency is unable to procure the provision of fuel to the Company in accordance with Section 10.6.1 (*Fuel*), subject to Company's compliance with Section 10.2.2 (*Grant of Government Approval*), IBN shall procure the issuance to the Company of the relevant Government Approvals to enable the Company to import fuel for the Project.
- 10.6.3 IBN shall procure that any Government Approvals granted to the Company for import of fuel is valid until Final COD, or is periodically renewed until Final COD in a timely manner, in accordance with Section 10.2 (*Grant of Government Approval*).
- 10.6.4 The Company shall not be required to pay any Tax for the import of fuel that is not payable by the Nepal Oil Corporation, or pay any applicable Tax at a higher rate than that payable by the Nepal Oil Corporation. Notwithstanding the aforesaid, IBN shall not be required to provide the Company with any subsidy in relation to the import of fuel.

**10.7 Port of entry and transport arrangements**

- 10.7.1 The Company shall be responsible for: (A) importing the Materials into Nepal; and (B) transporting such Materials to the Project Area.
- 10.7.2 The IBN shall, upon the Company's written request, procure:
  - (A) the import of Materials required for the Project at the point of entry into Nepal;
  - (B) the transportation of such Materials to the Project Area; and
  - (C) the issuance to the Company and the Contractors, no later than three (3)

months from the date of application by the Company, all import licenses for Materials required for the Project, provided that the IBN shall be under no obligation to procure the issuance of any such import license if the applicant has failed to meet any requirements for the issue of such import license, or if the Company has failed to comply with Section 10.2.2 (*Grant of Government Approval*) and other applicable provisions of this Agreement in respect of application for Government Approvals.

**10.8 Bank accounts**

The Company shall have the right to open, maintain and operate bank accounts outside Nepal or local bank accounts in INR or certain convertible foreign currencies specified by the Nepal Rastra Bank, in accordance with the Laws of Nepal.

**10.9 Free transfer and repatriation of necessary funds**

10.9.1 In accordance with Section 45 (4) of the PPPIA, 2019, IBN shall, on written request by the Company, provide or procure the availability of all necessary foreign currency at prevailing market rates of exchange. Each person referred to in Section 10.9.2 (*Free transfer and repatriation of necessary funds*) shall be required to obtain approvals for foreign investment, repatriation and loans or repatriation of other funds and financial settlements from the relevant Concerned Agencies in order to enjoy the facilities provided pursuant to this Section 10.9.1 (*Free transfer and repatriation of necessary funds*). Upon receipt of applications made in accordance with Section 10.2.2 (*Grant of Government Approval*), IBN agrees to procure the grant of all such approvals for foreign investment, repatriation and loans or repatriation of other funds and financial settlements from the relevant Concerned Agencies in order for the persons referred to in Section 10.9.2 (*Free transfer and repatriation of necessary funds*) to enjoy the facilities provided pursuant to Section 10.8 (*Bank accounts*) and Section 10.9 (*Free transfer and repatriation of necessary funds*).

10.9.2 IBN:

(A) hereby permits, and

(B) shall ensure without delay, full, timely and unencumbered,

transfer and repatriation of all funds and financial settlements in connection with the Project or as contemplated by this Agreement, from NPR to the convertible foreign currencies specified by the Nepal Rastra Bank, including, the Company's Shareholder's, SJVN's, Contractor's, and Lender's respective investments and other monies relating to the Project, whether converted through normal commercial banking channels or through the Nepal Rastra Bank, without delay.

10.9.3 Company may make a request to NRB to appoint a commercial bank in Nepal as its authorized bank to facilitate the remittance and payment of foreign currencies for the goods and services purchased from the foreign countries. NRB may consider such request of the Company subject to NRB's foreign currency exchange and control directives.

**10.10 Site access**

10.10.1 IBN shall, following the lease, acquisition and/or transfer of the Project Area to the Company subject to and in accordance with Section 8 (*Land Acquisition*), in addition to the rights already available to the Company under the Survey License, promptly, grant, or procure the grant, to the Company and the Contractors:

(A) the right to enter the Project Area to carry out such site investigations and other pre-construction activities as the Company may reasonably require

in connection with the Project; and

- (B) right to access and use such part of the Project Area where infrastructure construction works are being carried out.
- 10.10.2 IBN shall, subject to such Government Approvals as required by the laws of Nepal and approved EIA, grant the Company or procure the grant of the right to access forest land, riverbeds, river banks and water in the Project Area to:
- (A) construct and use all necessary buildings and other structures, roads, ropeways, rail lines and transmission lines;
  - (B) open tunnel adits and dump spoil from tunnels in mutually agreed designated areas;
  - (C) lay pipelines to take water from springs without disturbing or adversely affecting any existing users; and
  - (D) during the Construction Period, open quarries, take out or deposit stone, sand and earth therein.
- 10.10.3 The Company shall not be liable to incur any additional charges other than the charges in connection with the activities permitted pursuant to Section 10.10.2 (*Site access*) provided, however, that the Company shall pay any taxes as may be required for use of quarries or locally available construction material and charges imposed pursuant to Laws of Nepal.
- 10.10.4 The Company shall control access to the requisite portions of the Project Area including the Power Station, the Transmission Line, and the use of all roads constructed by the Company within the Project Area (which are not designated as public roads), and shall have the authority to reasonably restrict access and use to personnel authorised by the Company in the interest of safety, security and non-interference with the Project.
- 10.10.5 The Company may refuse entry to or exclude any person from such part of the Project Area where infrastructure construction works are being carried out, if such refusal or exclusion was necessary or desirable in the interest of safety and security.
- 10.10.6 The Company shall allow local residents free and unfettered access to the Project Area other than where such access is reasonably required to be restricted in the interest of safety and security.
- 10.10.7 IBN shall grant, or shall procure the grant, to the Company and the Contractors, the requisite Government Approvals granting the right to clear the forests and bushes and excavate (above the surface or underground, as required) for carrying out Project-related investigations and works.
- 10.10.8 To the extent any forest land is part of the Project Area, the Company shall, in accordance with the provisions of Section 10.2.2 (*Grant of Government Approval*), apply for the prior necessary Government Approvals from the relevant Concerned Agencies for construction works within such forest areas in accordance with applicable Laws of Nepal. Subject to Land Use Agreement entered for use of forest land, IBN shall procure that the relevant Concerned Agencies permits the Company to assign its rights and interest on such forest land in favour of or for the benefit of the Lenders.

## 10.11 Roads

- 10.11.1 The description regarding the roads providing access to Generation Project Area

is set out in Schedule 24 (*Access Road*).

- 10.11.2 The IBN shall, or shall procure that the relevant Concerned Agencies shall:
- (A) allow the Company or its Contractors, the use of existing public roads, tracks, bridges, tunnels and ropeways in connection with the Project; and
  - (B) grant all necessary Government Approvals as may be required for the Company to, at its own cost and expense (and at no cost to IBN or any other Concerned Agencies), construct, modify, improve and/or strengthen roads, tracks, bridges, tunnels and ropeways, temporarily or permanently, which are required in connection with the Project. Such facilities shall be constructed, and such temporary facilities shall be dismantled and disposed of (except where the Company is notified otherwise by the IBN), by the Company in accordance with the Laws of Nepal and the relevant Government Approvals at the Company's cost and expense.
- 10.11.3 The Company shall, at its own cost, repair or cause to be repaired, any damage to any roads, tracks, bridges, tunnels and ropeways caused by the Company's use of such facilities for the transportation of heavy plant, machineries and other analogous equipment to ensure that any such damaged facilities are returned, subject to reasonable wear and tear, to the same condition they were in immediately prior to such damage as provided in the baseline survey. The Company shall use reasonable efforts to minimise the obstruction of traffic during any repair contemplated by this Section 10.11.3 (*Roads*).
- For the purpose of Section 10.11.3 (*Roads*), the IBN on behalf of relevant Concerned Agency and the Company shall in periodical basis jointly inspect and monitor the repair works required for the damaged roads, tracks, bridges, tunnels and ropeways and IBN shall accordingly issue notice to the Company to repair or cause to repair the damaged roads, tracks, bridges, tunnels and ropeways.
- 10.11.4 The Company shall be permitted to construct or strengthen roads, tracks, bridges, tunnels and ropeways in the Project Area as more fully described in Schedule 7 (*Project Area*) ("**Project Access Infrastructure**") in connection with its use for the Project. Other persons (including individuals, small businesses and members of the local community) shall be entitled to use Project Access Infrastructure free of charge, subject to any reasonable and justifiable safety and security protocol prescribed by the Company and relevant Good Industry Practice.
- 10.11.5 The Parties agree that the Company shall pay for land acquisition cost for the use of road between the section of Mugling (Koshi Highway) to Heluwabesi to Diding (the "**Mugling-Diding Road**"). The Company shall develop and maintain the Mugling-Diding Road at its own costs. The Parties further agree that if the Mugling-Diding Road will be considered as public road and if it is declared as a part of the alignment of Arun Highway Corridor, GON or the Concerned Agency shall reimburse the cost incurred by the Company for the acquisition of private land for the Mugling-Diding Road. For this purpose, the Company shall submit the final land acquisition cost as per actuals once the land acquisition is completed. The IBN shall facilitate the Company for acquisition of required portion of private land for the Mugling-Diding Road.
- 10.11.6 Nothing in this Agreement shall be construed to require IBN or Concerned Agencies to incur any costs in ensuring that roads, access road (pursuant to Schedule), tracks, bridges, tunnels and ropeways in the Project Area are repaired and re-instated or constructed.

## 10.12 Safety and Security



- 10.12.1 The Company shall be responsible for safety, security and protection of the Hydro Property, Project Area, and Company's Representatives provided that this shall not be construed as derogation from the IBN's responsibility to procure the Concerned Agency to maintain law and order in the Project Area.
- 10.12.2 From time to time, the Company may request (in writing) additional security forces from IBN to meet any security requirements. All such additional security forces shall remain under the exclusive control and direction of the relevant Concerned Agencies. As soon as practicable upon the receipt of any written request from the Company to IBN, IBN shall cause the relevant Concerned Agencies and the Company to provide such additional security forces to meet such security requirements for the Hydro Property, Project Area and/or Company's Representatives, for the period requested by the Company.
- 10.12.3 The expenses to be reimbursed by the Company for such additional security forces provided by the Concerned Agencies shall be as per the prevailing Laws of Nepal and directives of GON, Ministry of Home Affairs.
- 10.12.4 The Company shall bear all expenses incurred by any Concerned Agencies in relation to the provision of such additional security forces and the Company shall reimburse such expenses to the relevant Concerned Agencies upon demand from such Concerned Agencies.
- 10.13 Transmission infrastructure**
- 10.13.1 The power and capacity generated from the Power Station shall be evacuated after entering into connection agreements with the developer of Arun-3 HPP for LILO arrangement with the transmission line of Arun-3 HPP.
- 10.13.2 The Company at its sole cost shall be responsible for construction of 400 kV D/C Transmission Line infrastructure including the LILO arrangement Transmission Line and transmission of generated energy from the Power Station over the Transmission Line in Nepal to the export market in India and Bangladesh.
- 10.13.3 Subject to Section 10.14 (*Transmission rights*) IBN may request the Company (in writing): (1) to provide open access to other users to enable such other users to access and use the Transmission Line, when any excess capacity is available); and/or (2) to interconnect the Transmission Line with the Nepalese national grid. The Company shall not unreasonably refuse the request of IBN provided that:
- (A) the right of first use of the Transmission Line shall always remain with the Company for evacuation of entire energy output of the Project;
  - (B) the Lenders do not object to such arrangements and the reliability standards and technical, operational and safety aspects of the Transmission Line shall not be impaired;
  - (C) the Company can comply with the importing country's electricity grid code after acceding to any such requests;
  - (D) the Parties agree on the terms and conditions for such arrangements, including mutually satisfactory compensation arrangements and so long as the relevant third-party user agrees to apply for and obtain all approvals required and pay applicable fees for the use of the Transmission Line and bear the transmission costs;
  - (E) payment of wheeling charges as determined by Electricity Regulatory Commission (or such entity established under Laws of Nepal for determination of electricity tariff) made by other user for the use of Transmission Line to the Company;
  - (F) letters of credit/bank guarantees in a form, for a value and from a bank acceptable to the Company is provided to the Company to secure payment obligations of the third-party users of the Transmission Line; and

- (G) the Company and the third-party users of the Transmission Line enter into appropriate transmission service agreements.

**10.14 Transmission rights**

Subject to Section 10.13.3 (A) (*Transmission infrastructure*), the Company shall and shall procure that the IBN (or a Concerned Agency), for the evacuation of the whole or part of the Free Energy and Power, shall have the right to use the Transmission Line without payment of any charges.

**10.15 IBN's facilitation obligations**

IBN shall facilitate and cooperate with, or cause the relevant Concerned Agencies to facilitate and cooperate with (including by providing reasonable administrative support and assistance), the Company in relation to the implementation of the Project and the exercise of the Company's rights and obligations under this Agreement.

**10.16 Expropriation**

GON shall not, and shall procure that, no Concerned Agencies expropriate, compulsorily acquire, nationalise, or confiscate all or any part of the Project, any assets, rights or other interest of the Company, the Shareholders or the SJVN.

**10.17 Local shares**

10.17.1 The Company agrees to issue ten percent (10%) of all the Company Shares with the value of each share determined on the basis of the face value of such shares without applying any premium in the following order of priority (the "**Local Shares**"):

- (A) First Priority: To persons in Project Affected Families;
- (B) Second Priority: To the extent shares issued pursuant to Section 10.17.1 (A) (*Local shares*) are not fully subscribed by Project Affected Families, to other natural persons residing in the districts of the Project Area.

10.17.2 The Company shall issue the Local Shares under Section 10.17.1 (*Local shares*) and General Public Shares under Section 10.18 (*General public shares*) only after, for the construction of the Project, more than fifty per cent (50%) of the Estimated Total Project Cost has been expended.

10.17.3 The Parties agree that it is their common intention that subject to compliance with Company's dividend policy, Laws of Nepal and any obligations under the Financing Documents, at least two-third (2/3rd) of the Distributable Profits shall be paid as dividends to the Shareholders in respect of the shares in each financial year.

10.17.4 For the purposes of Section 10.17 (*Local shares*) and Section 10.18 (*General public shares*), the term "**Distributable Profits**" means such profits of the Company available for distribution by the Company after it has identified (acting prudently) amounts which it considers should be retained in order:

- (A) to meet commitments, contingencies capital and operating maintenance;
- (B) to provide for unforeseen expenditure, reduction in revenue given the nature of the business and unplanned maintenance including setting aside reserves for such purpose pursuant to prudent utility practises, and
- (C) to develop, implement and operate its business in accordance with the Transaction Documents; and

- (D) to ensure that there is no breach of any covenant or undertaking given by the Company to any Lender under the Financing Documents at the time of the payment of any dividend;
- (E) to maintain the sound financial standing of the Company;
- (F) to ensure that the Company maintains such reasonable and proper reserves for working capital or otherwise as may be required by Applicable Law or as its board of directors may (acting reasonably) consider to be appropriate.

#### 10.18 General Public Shares

10.18.1 The Company shall issue at least fifteen-point one percent (15.1%) of all the Company Shares to the general public ("**General Public Shares**"). Such portion of Company Shares which remain unsubscribed after issuing Local Shares pursuant to Section 10.17.1 (*Local shares*) shall also be added into the portion of General Public Shares.

10.18.2 The Company shall comply with applicable security issuance Laws of Nepal for issuance of Local Shares and General Public Shares.

#### 10.19 Direct Agreements

Upon Lenders' and the Company's written request, IBN shall and shall procure that the relevant Concerned Agency shall, at least sixty (60) days prior to the anticipated Financial Close, enter into mutually acceptable direct agreement(s) with Lenders in relation to the Transaction Documents and provide appropriate legal opinions to the Lenders.

#### 10.20 Power trading agreement

Parties acknowledge and agree that:

10.20.1 the GON and the Government of India have entered into an agreement on electric power trade, cross-border transmission interconnection and grid connectivity (the "**PTA**"); and

10.20.2 notwithstanding anything to the contrary contained in this Agreement, in interpreting and implementing the provisions of this Agreement relating to transmission matters (in particular, Sections 10.13 (*Transmission Infrastructure*) and 10.14 (*Transmission rights*)), Parties shall have regard to, and shall comply with, the PTA and its intent, in particular, the provisions of the PTA relating to: (A) cross-border interconnections; (B) cross-border transmission access; (C) removal of barriers for cross-border interconnections; (D) allowing authorised/licensed electricity producers, buyers, traders of Nepal and India to engage in cross-border electricity trading and provision of cross-border transmission access to such persons.

### 11. COMPANY OBLIGATIONS AND RESPONSIBILITIES

#### 11.1 Purpose of the Company

The Company's sole purpose and objective shall be to conduct the Project and sale of energy, capacity (whether deemed or actual), operating reserve related services and/or any ancillary services derived from all or any part of the Hydro Property and transmission of electricity. The Company shall not, except with IBN's prior written consent, be or become directly or indirectly engaged, concerned or interested in any other business other than the Project and sale of energy, capacity (whether deemed or actual), operating reserve related services and/or any ancillary services derived from all or any part of the Hydro Property and transmission of electricity. The Company shall not, during the Term save as otherwise

expressly provided for in this Agreement, hold any shares or interest or own or participate in any undertaking other than the Project, except with IBN's prior written approval (not to be unreasonably withheld).

## 11.2 EIA/IEE/BES

- 11.2.1 The Company shall comply with the EIA, BES, this Agreement, the Plans and the Performance Standards.
- 11.2.2 The Parties acknowledge that the EIA for the Project have been submitted to the relevant Concerned Agencies and are pending approval. The Company shall submit IEE to the relevant Concerned Agency for approval. The Parties further acknowledge that Concerned Agency's approval of any initial environment examination report is subject to, amongst other factors, the Transmission Line avoiding national parks and protected areas (designated as such as of the Agreement Date).
- 11.2.3 The EIA has been prepared in English. The summaries of the EIA shall be submitted to IBN in Nepali language.
- 11.2.4 The Company shall comply with the EIA, the IEE or BES (and cause its Contractors to comply) and shall promptly rectify any non-compliance with such EIA, the IEE or BES (as the case may be) upon notification from IBN or the relevant Concerned Agencies of such non-compliance.

## 11.3 Plans

- 11.3.1 The Company shall prepare, implement and comply with the Plans in accordance with the Laws of Nepal, this Agreement and Performance Standards.
- 11.3.2 Without prejudice to the generality of Section 11.3.1 (*Plans*), the Company shall prepare and submit the following Plans for IBN's review:
  - (A) no later than the date as specified in the Project Implementation Schedule, the Local Benefit Sharing Plan, in accordance with the guidance notes set out in Schedule 15 (*Local Benefit Sharing Plan Guidance Note*);
  - (B) no later than the date as specified in the Project Implementation Schedule, the Nepal Employment and Skills Training Plan, in accordance with the guidance notes set out in in Schedule 16 (*Nepal Employment and Skills Training Plan Guidance Note*);
  - (C) no later than the date as specified in the Project Implementation Schedule, the Nepal Industrial Benefits Plan, in accordance with the guidance notes set out in Schedule 17 (*Nepal Industrial Benefits Plan Guidance Note*).
  - (D) no later than the date as specified in the Project Implementation Schedule, the Resettlement and Rehabilitation Plan prepared in accordance with one of the performance standards referred to in Section 11.4 (*Performance Standards*), such that it is in compliance with the Laws of Nepal and this Agreement;
  - (E) no later than the date as specified in the Project Implementation Schedule, the Disaster Management Plan, such that it is in compliance with the Laws of Nepal, this Agreement and in accordance with the guidance notes set out in Schedule 13 (*Disaster Management Plan Guidance Note*) taking into consideration the different flood eventualities, GLOF, (if required by the EIA), and any other natural calamity that could occur at various stages of construction and operation of the Project; and

- (F) either on or before the Financial Close, the Occupational Health and Safety Plan, such that it is in compliance with the laws of Nepal and this Agreement, incorporating the occupational health and safety standards for the workers and other employees in accordance with the guidance note provided in Schedule 25 (*Occupational Health and Safety Guidance Note*).

provided however that such Plans shall be updated, revised and finalised prior to achievement of the relevant Financial Close.

- 11.3.3 IBN shall approve the Plans referred to in Section 11.3.2 (*Plans*) provided that the Plans comply with the requirements of this Agreement.

- 11.3.4 The IBN shall provide reasonable administrative support and assistance necessary for the Company to carry out its obligations set out in this Section 11.3 (*Plans*) provided that the Company shall comply with and carry out its obligations in this Section 11.3 (*Plans*) at its own cost and expense.

#### 11.4 Performance Standards

- 11.4.1 No later than six (6) months prior to the anticipated Financial Close, the Company shall send a written notice to the IBN confirming the international social and environmental sustainability standard that it proposes to use for the Project from the following:

- (A) International Finance Corporation's performance standards on environmental and social sustainability; or

- (B) Asian Development Bank's safeguard policy.

- 11.4.2 Notwithstanding anything to the contrary contained in Section 11.4.1 (*Performance Standards*), the Parties may agree (in writing) that the Company shall apply any other appropriate international social and environmental sustainability standard for the Project.

- 11.4.3 The Company shall comply with and carry out the Project in accordance with the Performance Standards and shall, in addition to its obligations under Section 11.3 (*Plans*), develop necessary guidelines and plans (including the Supplementary E&S Documents) to ensure compliance with the Performance Standards. The draft Plans shall be prepared considering any one of the performance standard(s) set out in Section 11.4.1 (*Performance Standards*). The Company shall be responsible for the costs of complying with the Performance Standards.

#### 11.5 Local People Interests

The Company shall give due consideration to the interests of local people in the Project area during the course of implementation of the Project.

#### 11.6 Arm's length transactions

Except with IBN's prior written consent (not to be unreasonably withheld or denied) and subject to SJVN remaining Controlled by the Government of India, the Company shall not enter into any agreement, arrangement or transaction (other than any agreement, arrangement or transaction for consultancy services with the SJVN for design engineering, construction drawings, methodology, development of bidding documents, evaluation of bids, contract management, planning and project management and operation and maintenance) with any (1) Related Party, (2) SJVN, (3) Shareholders or (4) officers, directors or employees of any of the Related Party, SJVN or the Shareholders, except to the extent such agreement, arrangement or transaction is:

- (A) in the ordinary course of business;
- (B) on an arm's length basis; and
- (C) on normal market terms.

#### 11.7 **Certain Infrastructure Facilities**

11.7.1 The Company shall, before Final COD, construct the following infrastructure facilities at its own cost and expense and operate and maintain such facilities during the Term:

- (A) education facilities in accordance with the EIA;
- (B) medical and emergency evacuation facilities in accordance with the EIA; and
- (C) helipad.

11.7.2 The IBN shall provide, or procure the provision of, support and assistance to the Company in relation to the construction of such infrastructure facilities.

11.7.3 Subject to valid and justifiable security and operational factors, the Company shall make available to the general public the Project Access Infrastructure, medical and emergency evacuation facilities and education facilities in accordance with the relevant policy of the Company.

#### 11.8 **GLOF**

If required under the EIA, within one (1) Year after the Agreement Date, the Company shall conduct a study, at its own cost, of the potential effects on the Hydro Property of a glacier lake outburst flood ("**GLOF**") in accordance with the approved EIA. Upon completion of such study, a full and detailed report shall be submitted to the IBN. If the IBN determines that the installation of an early warning system in respect of a GLOF is required, the Company shall, at its own cost, establish such a system in consultation with the IBN.

#### 11.9 **Rural Electrification and energy to local households**

##### ***Local Area Power - options for supply***

11.9.1 From the first Interim COD, the Company shall solely at its own cost and expense, each month:

- (A) make available the Local Area Power to the Local Area Power Co at a delivery point located at the switchyard of the Power Station of the Hydro Property ("**Local Power Delivery Point**"), for further transmission and distribution of such Local Area Power by the Local Area Power Co to each Local Household per month; or
- (B) pay to the Local Area Power Co, on demand, such amount of monies (in NPR) sufficient to enable the Local Area Power Co to purchase the Local Area Power from third parties, for transmission and distribution to each Local Household Local Area Power per month; or
- (C) pay such amount of monies to Local Area Power Co that subsidises payments due from each Local Household to the Local Area Power Co for consumption of electricity by such Local Household, equivalent to Local Area Power in that month.

##### ***Construction Power Transmission Line***

11.9.2 If required for the Project, the Company shall undertake Development of

transmission line from the nearest NEA substation to the power station and intake site of the Hydro Property, for construction power to be used for the Project (“**Construction Power Transmission Line**”). The Company shall transfer all rights, title and interest in such Construction Power Transmission Line, upon Final COD, to the Local Area Power Co at no cost or expense to the Local Area Power Co.

#### 11.10 Use of Nepali resources; training and development

The Company shall, and shall procure that its Contractors and Representatives shall, in connection with the execution of the Project:

- 11.10.1 give opportunities to skilled and unskilled Nepali citizens so that total Nepali employee in the Project shall be maintained approximately 50% to 60%;
- 11.10.2 maximize use of Nepali resources and give first consideration and full and fair opportunity to materials and firms provided that in each case, the use of such Nepali resources meet the quality, quantity and availability requirements of the Company and provided further that use of such resources does not have a material and adverse impact on the costs and the timelines for the Project;
- 11.10.3 ensure that its Nepal Industrial Benefits Plan provides for an outreach programme under which the Company engages with Nepali suppliers for Project-related opportunities;
- 11.10.4 comply with the Laws of Nepal including the Labour Act, 2074 (2017) and Labour Regulation, 2075 (2018);
- 11.10.5 ensure that its Nepal Employment and Skills Training Plan provides for appropriate training of suitable citizens of Nepal for Project-related opportunities;
- 11.10.6 conduct employee training programmes from time to time, including training in each of the skills used in the Project, including management training;
- 11.10.7 comply with the Nepal Employment and Skills Training Plan, Nepal Industrial Benefits Plan, Occupational Health and Safety Plan and Local Benefit Sharing Plan and ensure that appropriate programmes are designed to assist suitable Nepali citizens, entities, and firms to meet the Project's requirements for goods and services;
- 11.10.8 the Company (to the extent applicable) shall submit reports in a manner prescribed in Schedule 15, Schedule 16, Schedule 17, respectively, describing in detail (A) its employee training programmes, (B) the implementation of such training programmes, (C) the progress made towards meeting the objectives set forth in this Section 11.10 (*Use of Nepali resources; training and development*), the Nepal Employment and Skills Training Plan, Nepal Industrial Benefits Plan and Local Benefit Sharing Plan.

#### 11.11 Bonus

- 11.11.1 The Company shall set aside the Bonus Amount for contributing towards bonus and welfare funds in each Nepali fiscal year in accordance with the Electricity Act, 2049 (1992) and Electricity Rules, 2050 (1993).
- 11.11.2 The Company shall distribute the Bonus Amount to its employees in accordance with the Laws of Nepal, provided that the Company shall not be required to pay bonus to any employee which exceeds the aggregate annual salary of such employee in such Nepali fiscal year.
- 11.11.3 The Company shall deposit to the staff welfare fund any amounts remaining from

the Bonus Amount following distribution to the employees in accordance with the Electricity Act, 2049 (1992) and Electricity Rules, 2050 (1993).

#### 11.12 Housing Facilities

Where required at the Project site, the Company shall provide accommodation facilities for its workers and staff at its own cost and expense.

#### 11.13 Other responsibilities of the Company

11.13.1 The Company shall be responsible for:

- (A) implementing the Project in accordance with Project Implementation Schedule;
- (B) planning, scheduling, monitoring, reporting and cost control in relation to the Project;
- (C) establishing the procedures by which drawings, specifications and technical documents and other Records are to be prepared by the Contractors, equipment manufacturers, and any other relevant persons;
- (D) procuring, negotiating the contracts with, and managing the Construction Contractor(s) and the O&M Contractor(s) (and any other Contractor(s) required for the Project from time to time);
- (E) arranging financing for the Project;
- (F) supervision of the Project Area;
- (G) quality assurance;
- (H) obtaining performance guarantees for individual equipment items from the relevant equipment suppliers as is commercially feasible to procure;
- (I) monitoring overall performance of the Project;
- (J) conducting the Project in accordance with the Project Specifications, Technical Standards and Good Industry Practice;
- (K) submit the list of equipment, items and goods to be imported into Nepal for the Project; and
- (L) liaising with the IBN in relation to the Project.

11.13.2 The Company:

- (A) accepts that any failure of the IBN, any Concerned Agencies or the PRP, as the case may be, to object to any Technical Standards, design drawing, specification or technical documents or any change thereto shall not relieve the Company of its obligations and liabilities under this Agreement;
- (B) accepts that no review and examination conducted by IBN, any Concerned Agencies or the PRP (as the case may be) with respect to the design of the Hydro Property or Technical Standards used in connection with the Project shall relieve the Company of any of its obligations or liabilities under this Agreement;
- (C) accepts that IBN, any Concerned Agencies, Project Engineer, the PMU, or the PRP (as the case may be) undertake no responsibility as to the quality of the Project;



- (D) shall in no way represent or imply to any third party that, as a result of any review by IBN, any Concerned Agencies or the PRP (as the case may be), IBN is responsible for the Project;
- (E) acknowledges that it shall be solely responsible for the Project (including technical feasibility, operational capability and reliability of the Project), in each case, in accordance with this Agreement; and
- (F) accepts that the Company shall not carry out any Material Changes to the Hydro Property without IBN or the relevant Concerned Agency's prior written consent. For the purposes of this Section, "**Material Changes**" means any changes to the Hydro Property which in the Company's reasonable opinion, acting in accordance with Good Industry Practice, may have an adverse impact on:
  - (1) the safety or reliability of the Hydro Property;
  - (2) change in Project Specification
  - (3) the ability of the Company to generate and make available the energy and/or capacity on the scale envisaged under this Agreement plus, minus five per cent (+ - 5%);
  - (4) the ability of the Company to transmit the energy on the scale envisaged under this Agreement plus, minus five per cent ((+ - 5%);
  - (5) the ability of the Company to comply with its obligations under this Agreement; or
  - (6) the Company's obligations under the EIA, IEE, BES, Performance Standards and Supplementary E&S Documents (as applicable).

#### 11.14 Cooperation

The Company shall fully cooperate with IBN, Concerned Agencies and the PRP in accordance with this Agreement and the Laws of Nepal.

#### 11.15 Insurance

11.15.1 The Company, at its sole cost and expense, shall obtain and maintain, or cause to be obtained and maintained, during the Term the policies of insurance set forth in Schedule 6 (*Insurance*) in accordance with the Laws of Nepal, Good Industry Practice and this Agreement (the "**Insurance Policies**").

11.15.2 The coverage required pursuant to Section 11.15 (*Insurance*) and Schedule 6 (*Insurance*) and any "umbrella" or excess coverage shall be "occurrence" form policies. In the event the Company has "claims made" form coverage, the Company must provide prior information of all "claims-made" policies to IBN.

11.15.3 The Company shall procure a group insurance policy to cover loss and damages to IBN officers and employees and the officers and employees of the Concerned Agencies, which includes physical injury, loss of property and loss of life, while visiting the Project Site in course of discharging the obligations of the IBN or the Concerned Agencies under this Agreement.

11.15.4 The Company shall cause its insurers or agents to provide to the IBN with certificates of insurance evidencing the policies. Failure by the Company to obtain the insurance coverage or certificates of insurance required by this Section 11.15 (*Insurance*) shall not in any way relieve or limit the Company's obligations and liabilities under any provision of this Agreement. If the Company shall fail to procure or maintain any insurance required pursuant to this Section 11.15 (*Insurance*), then the IBN shall have the right to procure such insurance in

accordance with the requirements of Schedule 6 (*Insurance*) and shall be entitled to offset the premiums paid for such insurance against any amounts owed to the Company pursuant to the terms of this Agreement. The Company shall be named as the Loss payee on any such insurance procured by the IBN pursuant to this Section 11.15 (*Insurance*).

- 11.15.5 The Company shall annually submit to IBN certified copies of the certificates of insurance which it is required to obtain under this Schedule 6 (*Insurance*). Each certificate of insurance shall state that such Insurance Policy has been obtained and is in full force and effect that all premiums on such Insurance Policy are current.
- 11.15.6 The Company shall give preference to insurance companies in Nepal in respect of the provision of insurances for the Hydro Property, subject to Lenders' approval.
- 11.15.7 The Company shall not be entitled to recover any compensation or obtain any monies from IBN without first seeking recourse to any relevant insurance policy and to the extent that such compensation or monies are recovered by the Company under such insurance policy.
- 11.15.8 The Company shall be solely responsible for the payment of all premiums and deductibles under the policies of insurance maintained pursuant to this Section 11.15 (*Insurance*) and Schedule 6 (*Insurance*).
- 11.15.9 Subject to Lenders' rights or requirements under the Financing Documents, the Company shall: (A) in the first instance, apply the proceeds of any insurance claim in respect of any physical loss or damage to the Hydro Property towards the remedy of such loss or damage; and (B) in the second instance, towards repayment of Transfer Debt and Financing Costs to the Lenders.

#### 11.16 Free Energy and Power

- 11.16.1 From the first Interim COD, the Company shall provide (at the option to be requested by IBN) twenty one percent (21%) of the monthly energy and power output generated by the Power Station, net of auxiliary consumption and transformation losses, as measured at the bus-bar ("**Free Energy and Power**") to a designated Concerned Agencies. The Free Energy and Power shall be available free of cost up-to the LILCO connection point with Arun-3 HPP Transmission Line and for the transmission up-to Dhalkebar Substation using the Arun-3 HPP Transmission Line and applicable transmission tariff (as determined by agencies regulating the electricity sector in Nepal) shall be paid to the company operating Arun-3 HPP transmission line. The indicated Estimated Energy Table is provided in Schedule 26 (*Estimated Energy Table*). All costs and expenses incurred by the Company in respect of Free Energy and Power shall be solely for the Company's account and IBN or any Concerned Agencies shall not be required to make any payment to Company in respect of Free Energy and Power.
- 11.16.2 The terms and conditions under which the supply of Free Energy and Power shall take place (including metering, scheduling, dispatch and outages) shall be set out in the OPC. The OPC for scheduling of Free Energy and Power shall be finalized at least six (6) months prior to the first Interim COD collectively by the Company, IBN and relevant Concerned Agencies. The scheduling for such Free Energy and Power shall be aligned with the overall Power Station schedule and shall be firmed up in accordance with the final generation schedule issued by the relevant load dispatch centre, in line with the requirements of the Export power offtaker(s) and the grid code applicable to such offtaker. To enable Parties to achieve the aforesaid objective, the Company shall, as soon as reasonably practicable, submit to IBN: (A) the daily dispatch schedule on an hourly basis; (B) the indicative scheduling of (i) year-ahead energy on a monthly basis, (ii) month-ahead energy on a weekly basis, (iii) week-ahead energy on a daily basis and (iv) day-ahead energy on an

hourly basis. The Company shall issue the indicative weekly schedule (including details of outages) on an hourly basis based on the final generation schedule referred to above. The week-ahead schedule shall, to the extent practicable, indicate the times and capacity at which the Power Station shall be dispatched. IBN shall be entitled to match its own schedule taking into account the final generation schedule and offtake the Free Energy and Power accordingly.

- 11.16.3 The switchyard infrastructure for such supply of Free Energy and Power shall be constructed, operated and maintained by the Company at its own cost and expense.

**Power marketing**

- 11.16.4 The Company shall, upon a request made by IBN procure that the GON Free Energy and Power is transmitted and marketed in India and other export market. The terms of such an arrangement shall be agreed between the IBN and the Company, subject to compliance with Section 10.14 (*GON transmission rights*).

**GON Power Pooling Option**

- 11.16.5 Subject to compliance with Section 10.14 (*Transmission rights*), IBN shall also have the option to sell Free Energy and Power in the export market together with the power being sold by the Company in the export market:

- (A) under such Export Power Sales Agreement that has been executed after the date on which such option is exercised by IBN at the same price, and the Company shall share the revenues so received by the Company under such Export Power Sales Agreement on a pro rata basis; or
- (B) where the Company sells power on a medium, short term or spot basis, GON Free Energy and Power would be sold as and when such medium, short term or spot sale is undertaken by the Company, and the Company shall share the revenues so received by the Company under the applicable agreement or arrangement on a pro-rata basis in terms of quantity and at the same price.

(collectively the "**GON Power Pooling Option**"),

provided that if IBN chooses to exercise the GON Power Pooling Option, IBN shall:

- (1) share transmission costs and open access and other regulatory charges and fees, for such power on a pro rata basis; and
- (2) pay reasonable trading commission to the concerned trading agency, consistent with prevailing market standards.

**IBN's Right to Sale in Export Market**

- 11.16.6 If IBN does not exercise the GON Power Pooling Option, or if no arrangement is entered into pursuant to Section 11.16.4 (*Power marketing*), IBN shall have the right to sell whole or part of Free Energy and Power to any person in the export market provided that during the Restricted Period, IBN agrees not to: (a) approach the same purchaser transacted by the Company; or (b) offer price for the sale of Free Energy and Power which is substantially lower than the price offered by the Company to such purchaser.

**11.17 Domestic Commercial Power Purchase Agreement**

- 11.17.1 In order to meet domestic demand, IBN may request the Company, without limiting the Company's right to market power to third parties, to sell whole or part of Uncontracted Power (in addition to Free Energy and Power).

11.17.2 The Company shall give a written notice to IBN when eighty per cent (80%) of the power has been contracted on the first occasion, offering IBN the option to purchase the balance Uncontracted Power and the indicative terms on which such purchase can be made (including tariff and payment security mechanism). IBN may exercise such an option by making a written request to the Company.

11.17.3 When a notice is issued under Section 11.17.1 (*Domestic Commercial Power Purchase Agreement*), or Section 11.17.2 (*Domestic Commercial Power Purchase Agreement*), IBN and the Company shall then diligently and in good faith negotiate and agree on the terms and conditions for such sale within a period of one hundred and eighty (180) days. The terms and conditions of such sale of Uncontracted Power or supply of electricity under special circumstances, including tariff and payment security mechanism shall be mutually agreed in accordance with the Parties' commercial considerations. If IBN and the Company are unable to agree on the terms and conditions for such an arrangement within such one hundred and eighty (180) day period, then the Company shall be entitled to sell such power from the Project in the export market.

11.17.4 The scheduling for any Uncontracted Power purchased by IBN or the relevant Concerned Agencies shall be aligned with the overall plant availability schedule that shall be firmed up in accordance with the final generation schedule issued by the relevant load dispatch centre, in line with the requirements of the Export Offtaker(s).

#### 11.18 **Export of Power and Export Power Purchase Agreement**

11.18.1 Any arrangements made by the Company for export of power shall comply with the requirements of Section 11.6 (*Arm's length transactions*).

11.18.2 The IBN acknowledges and agrees that the Company shall enter into Export Power Purchase Agreements for supply of power from the Project, and the IBN shall, subject to the Company's obligations under Section 10.2.2 (*Grant of Government Approvals*), grant Government Approvals as may be required to be provided to the Company or the Export Offtaker(s) under the Export Sales Agreement.

#### 11.19 **Operation and Maintenance**

The Company may engage qualified and experienced O&M Contractor(s) to undertake or collaborate in the operation and maintenance of the Hydro Property provided that prior written notice of the identity of such contractors is given to the IBN and any applicable Concerned Agencies.

#### 11.20 **Operating Manuals and other materials**

No later than sixty (60) days prior to Interim COD, the Company shall develop in accordance with Good Industry Practice, maintenance schedule, procedures and manuals required for the safe and efficient operation and maintenance of the Project. The Company shall update such documents as required from time to time in accordance with Good Industry Practice.

#### 11.21 **Handover and Handover Plan**

11.21.1 Schedule 2 (*Project Handover upon Expiry of the Agreement*) and Schedule 3 (*Handover Requirements – Expiry of the Agreement*) shall apply in relation to the transfer of the Power Station, the Transmission Line, the balance of the Hydro Property and the Project Assets to IBN in accordance with this Agreement.

11.21.2 For the avoidance of any doubt, it is clarified that subject to Section 18.8 (*Survival*):

- (A) the Company shall be responsible for its debts, liabilities and obligations in connection with the Project that relate to the period prior to the Expiry

Date or the Transfer Date (as the case may be); and

- (B) IBN shall be responsible for all debts, liabilities and obligations in connection with the Project that relate to the period after the Expiry Date or the Transfer Date (as the case may be).
- 11.21.3 The Company shall submit a Handover Plan in respect of the Hydro Property to IBN no later than two (2) years after the Final COD. The Handover Plan shall be prepared in accordance with the Handover Requirements. The Company while submitting the Handover Plan may request IBN to grant the operation and maintenance obligation to the Company after the Term. The request shall accompany a detail proposal for the operation and maintenance of the Project. The IBN, at its sole discretion, may allow the Company to operate and maintain the Project after the Term subject to terms and conditions mutually agreed between the Parties.
- 11.21.4 During the Handover Period, IBN and the Company shall meet and agree upon the inventories to be transferred to IBN with the Hydro Property and the mechanism for such transfer and safety and security arrangements. Following agreement on the inventories, the Company shall exercise the same degree of care regarding the fixtures, fittings, plant, equipment and all improvements therein as it did prior to such agreement.
- 11.21.5 From the date falling two (2) years prior to the date on which the Hydro Property is to be transferred to the IBN or the IBN's designee in accordance with Schedule 2 (*Project Handover upon Expiry of the Agreement*):
- (A) the Company agrees that the IBN shall be entitled to procure or assign the operator for the Project and the Company shall provide related documents including Operation and Maintenance Manual, Operating Procedures and Records, built up drawings; and
  - (B) the Company shall arrange for training at the Project site, if necessary of a reasonable number of staff of the IBN or any other Concerned Agencies, as nominated by the IBN to the Company, to enable the IBN or IBN designated operator/entity to operate, maintain and manage the Hydro Property to the standards required under this Agreement from the Expiry Date notwithstanding the aforesaid, the primary obligation as to employment of personnel pursuant to transfer of the Project to IBN, shall rest with IBN.
- 11.21.6 At handover of Arun-3 Hydropower Project, the IBN shall ensure that the Company shall have access to the Arun-3 HPP transmission line for the required capacity to wheel the power upon paying required transmission and related charges as determined by agencies regulating the electricity sector in Nepal.

## 11.22 Transfer of technology

- 11.22.1 The Company shall, in accordance with the Laws of Nepal, assist in the transfer of technology utilised in connection with the Project to IBN or any other Concerned Agencies designated by the IBN provided that nothing contained in this Section shall require the Company to violate any applicable intellectual property laws or intellectual property rights of other persons provided that the Company shall, so far as is reasonably practicable, assist IBN in obtaining the requisite rights/licenses for the use of such Intellectual Property at IBN's cost, should IBN choose to take over such intellectual property.
- 11.22.2 For the purpose of transfer of technology, IBN may second a reasonable number of its personnel to the Company or send its representatives to the Company to

observe or assist in the conduct of the Project. Such personnel or representatives of IBN shall work in association with the Company's technical experts and other employees and Representatives and under their general guidance. The IBN shall pay the basic salary and other entitlements of such personnel in accordance with the standard procedures of the IBN.

**11.23 Compliance with Laws of Nepal**

Each Party shall, and shall use its best endeavours (including by way of incorporation of a similar provision in its contracts with its Contractors) to procure that its Representatives and Contractors shall, comply with the Laws of Nepal. Each Party shall perform its obligations and exercise its rights in connection with the Project, this Agreement and the transactions contemplated in this Agreement, in accordance with the Laws of Nepal and all Government Approvals.

**11.24 National Security**

11.24.1 The Company shall abide by the Laws of Nepal regarding Nepal's national security.

11.24.2 Should IBN conclude that certain aspects of the Company's activities pose a threat to Nepal's national security, IBN may, after:

- (A) giving a written notice to the Company providing details of such Company's activities that pose a threat to Nepal's national security;
- (B) providing the Company with a fair and reasonable opportunity to make representations to IBN; and
- (C) providing the Company with an opportunity to remedy or cease such activities,
- (D) take such action as may be permitted under the Laws of Nepal.

**11.25 Performance Security**

11.25.1 The IBN shall be entitled to draw upon and retain the Performance Security if a Company Event of Default has occurred and not remedied in accordance with Section 14 (*Event of Default and Termination*).

11.25.2 The IBN shall, by written notification to the issuer of the Performance Security, release the Performance Security promptly after the Expiry Date or such earlier date on which this Agreement is terminated for any reason other than a Company Event of Default.

**11.26 Royalties Payable to GON**

11.26.1 The Company shall pay the following royalties to the GON:

For the period commencing on the first Interim COD and ending on the fifteenth (15th) anniversary of the Final COD		For the period commencing on the day falling immediately after the fifteenth (15th) anniversary of the Final COD and ending on the last day of the Term	
Capacity Royalty Rate (per KW)	Energy Royalty Rate	Capacity Royalty Rate (per KW)	Energy Royalty Rate
NPR 400	7.5%	NPR 1,800	12%

#### 11.26.2 Calculation of Royalties:

- (A) The Capacity Royalty shall be calculated as follows:
- (1) From and after the first Interim COD till Final COD: Capacity Royalty Rate multiplied by the total nameplate capacity for which Interim COD has been declared less twenty-one per cent (21%);
  - (2) From and after Final COD: Capacity Royalty Rate multiplied by the total nameplate capacity of the Power Station less twenty-one per cent (21%).
  - (3) The Capacity Royalty Rate mentioned in the table above in Section 11.26.1 (Royalties Payable to GON) shall be escalated at the rate of five per cent (5%) per annum.
- (B) The Energy Royalty shall be calculated as follows: Energy Royalty Rate multiplied by Energy Receipts.
- "Energy Royalty Rate"** means the relevant Energy Royalty Rate figure contained in the table in Section 11.26.1 (*Royalties payable to GON*).
- "Energy Receipts"** means proceeds received from the sale of energy and capacity less the transmission costs incurred by the Company.

11.26.3 For the avoidance of any doubt, it is clarified that no royalties (whether Energy Royalty or Capacity Royalty) shall be payable in respect of: (A) technical losses incurred in transmitting energy from the Power Station to the first inter-connection point in India; (B) self/auxiliary consumption; (C) Free Energy and Power; and (D) Local Area Power. It is further clarified that in the event of non-payment of any undisputed amounts due and payable by IBN to the Company under this Agreement, the Company shall, at its option, be entitled to set-off such amounts against the Capacity Royalty and/or Energy Royalty payable by the Company.

11.26.4 The Company shall pay to GON the royalties payable for a quarter, within thirty (30) days of the end of such quarter.

#### 11.27 Financing Documents and Financing Plan

11.27.1 Within three hundred and sixty-five (365) Days of the Agreement Date, the Company shall submit the Financing Plan to IBN. Within fifteen (15) days of Financial Close, the Company shall submit an updated copy of the Financing Plan to IBN.

11.27.2 Within fifteen (15) days after the execution or amendment (as the case may be) of each Financing Document, the Company shall submit to the IBN certified copies of such executed amended Financing Document.

11.27.3 Prior to Financial Close, the Company shall deliver to IBN a schedule or a copy of the term sheet reflecting the proposed material terms of the Financing Documents, and setting forth a principal repayment schedule, together with the maximum principal amounts and interest rate or rates and any schedules or formulae that shall be included in the Financing Document for the computation of fees and charges payable to the Lenders under the Financing Documents, and shall also identify the equity and debt commitments, individually and in total, of each of the Shareholders as well as the tenor of any debt from the Lenders. The Company shall also provide a hard copy of its financial model in respect of the Project to IBN as of the relevant Financial Close.

#### 11.28 Debt: Equity Ratio

11.28.1 The Company undertakes that the ratio of its Debt to its Equity shall not exceed:

- (A) 75:25 at Financial Close for the Company; and
- (B) 80:20 at all other times (including at the time of funding any cost overruns in relation to the Project).

11.28.2 For the purpose of this Section 11.28 (*Debt: Equity Ratio*),

"**Debt**" shall mean all such indebtedness, quasi-equity or other instruments that the Lenders permit to be included within the meaning of debt for the purpose of calculating the debt to equity gearing under the Financing Documents and shareholder loans; and

"**Equity**" shall mean the amounts that the Lenders permit to be included within the meaning of equity for the purpose of calculating the debt to equity gearing under the Financing Documents but shall exclude any shareholder loans.

#### 11.29 **Negotiations and Facilitation fee**

11.29.1 IBN hereby acknowledges the receipt of Nepali Rupees Eighteen Crores Fifty-Three Lakhs Fifty-Five Thousand Eight Hundred and Forty Rupees (NPR 18,53,55,840) from the Company paid pursuant to Rule of 35(6) of the PPPIR, 2020.

11.29.2 In consideration of IBN facilitating the Project, administering this Agreement and undertaking a number of specific facilitation activities, from the first Interim COD, the Company shall, subject to their being no subsisting IBN Event of Default, pay to IBN a facilitation fee a sum of USD Eleven Thousand Five Hundred (USD 11,500) per month. The facilitation fee for each month shall be deposited by the Company in the IBN Fund created pursuant to Section 57 of PPPIA, 2019 within thirty (30) days of the end of each month.

#### 11.30 **Disaster Management Plan**

The Company shall prepare the Disaster Management Plan taking into consideration the different flood eventualities, GLOF and any other natural calamity that could occur at various stages of construction and operation of the Project. The Company shall submit a copy of the Disaster Management Plan to IBN.

#### 11.31 **Existing facilities**

In case any existing facilities (including but not limited to irrigation systems, water supplies, roads, bridges, buildings, communication system(s), power systems and water mills) are adversely affected because of the implementation of the Project, the Company shall be responsible for taking remedial measures to mitigate such adverse effects at its own cost and expense, to the extent required under the EIA and/or the IEE, the Resettlement and Rehabilitation Plan, the Performance Standards and any Supplementary E&S Documents.

#### 11.32 **Metering**

11.32.1 The Company shall ensure that the metering system and the check metering system are in compliance with Schedule 14 (*Metering*) at all times. The Company shall, at its own cost and expense, procure, install, operate and maintain the metering system, the check metering system and switch yard infrastructure required for such supply of Free Energy and Power to the GON.

11.32.2 The metering system and check metering system shall be sealed, and the seals broken only when the metering system and check metering system are to be inspected and tested or adjusted in accordance with Schedule 14 (*Metering*) or in accordance with the Laws of Nepal.

#### 11.33 **Information sharing**



- 11.33.1 The Company shall provide to IBN and if requested, the PRP:
- (A) copies of the Records contemplated in this Section 11.33 (*Information sharing*); and
  - (B) any other information as may reasonably be required in connection with the Project, including:
    - (1) as soon as reasonably practicable, notification of accidents within the Project Area causing death or serious injury;
    - (2) as soon as reasonably practicable, notification of incidents causing any pollution or other forms of environmental damage;
    - (3) as soon as reasonably practicable, notification of material industrial relations issues; and
    - (4) once a month, notification of material public complaints received.
- 11.33.2 From and after the Interim COD, the Company shall submit a report to the IBN within thirty (30) days of the end of each month setting out, inter alia:
- (A) the quantum, and the price of, energy and capacity sold to third parties in the previous month from the Project (other than under the Export Power Sales Agreement); and
  - (B) in each relevant market, the published market price for such energy and capacity, and sale prices actually achieved in respect of such energy and/or capacity.
- 11.33.3 The Company shall prepare and maintain Records in accordance with the Laws of Nepal, Good Industry Practice and as required under this Agreement. The Company shall provide the following information and reports to IBN:
- (A) its audited financial statements;
  - (B) progress report on pre-construction activities in every three (3) months;
  - (C) monthly reports on construction progress;
  - (D) such information as required by the Laws of Nepal or any Government Approval;
  - (E) occurrence of any emergencies including pollution incidents and strikes;
  - (F) any key reports received by the Company from the Lenders' independent engineer in relation to construction, safety and security;
  - (G) operation and maintenance schedule; and
  - (H) on 1 December of each year, a notice setting out indicative foreign exchange requirements for the next year.
- 11.33.4 The Company shall provide the following documents to the IBN:
- (A) copies of the executed Export Power Sales Agreement within thirty (30) days of execution;
  - (B) copies of the transmission arrangements relating to the sale and purchase or transmission of energy and/or capacity from the Power Station within thirty (30) days of execution;

- (C) within thirty (30) days of the end of each month, provide copies of the executed short-term, medium-term and spot offtake arrangements executed in the previous month provided that any information identifying the counterparty shall be redacted;
  - (D) if the Export PSA(s) is subject to regulated cost- plus tariff or competitive bid, a notice intimating the proposed execution of such Export PSA(s);
  - (E) if the Export PSA(s) is to be entered into on a negotiated basis and is not covered in Section 11.33.4(D) (*Information sharing*) above, then the key terms of the proposed contract, not later than thirty (30) days prior to the intended date of execution of any such agreement.
- 11.33.5 On the Expiry Date or the Transfer Date (as the case may be), the Company shall also deliver or cause to have delivered to IBN such operating manuals, operation summaries/transfer notes, design drawings and other information as may reasonably be required for IBN or its nominee to operate the Project in accordance with Good Industry Practice.
- 11.33.6 The Company shall, at its own cost and expense, submit to the IBN three (3) print copies and one (1) electronic copy of:
- (A) the proposed design of the Hydro Property within ninety (90) days of Financial Close; and
  - (B) all "as built" drawings within ninety (90) days following Final COD, or, if any such "as built" drawing is not available by such date, within ninety (90) days of the date on which such "as built" drawing becomes available but, in any event, not later than six (6) months after the Final COD.
- 11.33.7 Following Interim COD, the Company shall submit to the IBN all annual reports required pursuant to the Government Approvals and the Laws of Nepal.
- 11.33.8 The Company shall prepare plans, specifications and a schedule for the implementation of the construction of the Hydro Property and any initial ancillary facilities, which shall include separate plans, specifications and schedules for each such element of the Hydro Property and an integrated schedule for all such construction for IBN's information (such plans, specifications and schedules are referred to collectively as the "**Construction Plan**"). The PRP shall be required to provide their recommendations on the Construction Plan. The Company shall deliver the Construction Plan to PRP and IBN and shall promptly deliver to PRP and IBN any major amendments to the Construction Plan. The Company shall submit, during the Construction Period until the Final COD is achieved, a progress report in three (3) copies every six (6) months to IBN in accordance with the Electricity Regulations, 2050 (1993).
- 11.33.9 The Company shall submit three (3) copies of its annual reports to IBN concerning its production and operation in accordance with the Electricity Rules. Such annual report shall, inter alia, include loan repayment progress, operational expenses and all amendments or modifications to the Financing Documents.

#### 11.34 Access and inspection

The Company shall permit the PRP, IBN, Concerned Agencies or their respective designated Representatives to enter, inspect and/or access the Hydro Property and the Project Area at any time:

- 11.34.1 during the normal working hours of the Company, for the purpose of verifying the Company's compliance with, or to fulfil their respective obligations under, this

Agreement or the Laws of Nepal;

- 11.34.2 without prior notification, in case of an emergency, accident or threat to the public, health, environment and safety;
- 11.34.3 to access their respective or other person's facilities where alternative means of access are not available; or
- 11.34.4 for the purpose of carrying out any activities which they are legally entitled to carry out in the Project Area pursuant to the Laws of Nepal, this Agreement or any Plans,
- 11.34.5 provided that any person granted such right of access or way shall follow the rules concerning safety, traffic, security and other regulations relating to the Hydro Property and/or Project Area and the performance of the Project prescribed by the Company, which rules shall not be discriminatory in application and provided further that any such visit shall not unreasonably interfere with the Company's performance of the Project.

**11.35 Contractors and subcontractors**

- 11.35.1. The Company may enter into contracts with the Contractors in relation to the Project provided that the appointment of any Contractor by the Company or subcontractor by the Contractor shall not relieve the Company of any of its obligations or liability in relation to the Project under this Agreement.
- 11.35.2. The Company shall ensure that the Contractor appointed by the Company and/or sub-contractors appointed by its Contractor are not blacklisted or are under sanction list by Public Procurement Monitoring Office or by Credit Information Bureau Limited in accordance with prevailing Laws of Nepal or any other laws of the jurisdiction to which Contractor and/or sub-contractor is subject to.
- 11.35.3. Subject to the availability and suitability, the Company undertakes to appoint the Contractor and ensure that the Contractor and sub-contractor(s) appointed by Contractor are appointed from available Nepali nationals or entities.

**11.36 Anti-Corruption**

- 11.36.1 The Company covenants that (i) with respect to any of the matters which are the subject of this Agreement or in connection with this Agreement and any matters resulting from it, that it and any person acting on its behalf, including owners, stockholders and Representatives, in dealings with the public or government sector, shall not commit any Prohibited Act in relation to the Project and that (ii) neither it nor any of its Representatives, promoters, shareholders, SJVN or subsidiaries has obtained or induced the procurement of this Agreement, any other Transaction Document or any contract, consent, approval, right, interest, privilege or other obligation or benefit related thereto or to the Project from IBN or any other Concerned Agencies through any Prohibited Act.
- 11.36.2 The Company shall incorporate an obligation not to commit a Prohibited Act in its contracts with its Contractors.
- 11.36.3 The Company undertakes to keep books, accounts and records that properly, fairly and accurately record and report all transactions with respect to the matters which are the subject of this Agreement or in connection with this Agreement and any matters resulting therefrom for a period of at least five (5) years following the period to which they relate. IBN shall be entitled, having given reasonable notice, to inspect any such document or where it is otherwise permitted, to inspect such documents in accordance with the Laws of Nepal or any relevant Government Approval or in connection with investigations into any Prohibited Act.
- 11.36.4 The Company shall design and implement an appropriate anti-bribery and

corruption prevention and compliance programme.

- 11.36.5 The Company undertakes that it and its Representatives shall immediately report to IBN, where permitted by the Laws of Nepal, any suspected violations of the Laws of Nepal or conduct of any Prohibited Act in connection with any matters to which this Agreement relates (which includes acts or omissions which may affect the Company).
- 11.36.6 The Company agrees that any contract, consent, approval, right, interest, privilege or other obligation or benefit obtained or procured by the Company making any false declaration, misrepresenting any facts or taking any action likely to defeat the purpose of this Section 11.36 (*Anti-corruption*) shall, without prejudice to any other right and remedies available to IBN, be voidable and without legal effect at the option of IBN, provided that this provision shall not apply and no action shall be taken against such Company for any actions of any of its Representatives, employees of itself or its promoters, shareholders, SJVN, or its subsidiaries, which have not been authorised by such Company.

### 11.37 Ecosystem Conservation

- 11.37.1 The Company shall undertake ecosystem and impacted watershed conservation measures in accordance with the EIA and Supplementary E&S Documents which shall be prepared in accordance with any one of the performance standards set out in Section 11.4.1 (*Performance Standards*).
- 11.37.2 The Company shall pay for ecosystem services fee of 1% of the net profit to GON in accordance with Forest Act, 2076 (2019) and Forest Regulations, 2079 (2022).

### 11.38 Carbon and Environmental Benefits

- 11.38.1 The Company shall apply for or obtain GHG Reduction Benefits that could be generated from the Project, the Project Land or any other aspect of Company's operation.
- 11.38.2 To the extent GHG Reduction Benefits are generated by the Company from the Project, IBN shall own them as between the Company and IBN and save that the Company shall have the exclusive right to market and sell all the GHG Reduction Benefits generated by the Project, the Project Land or any aspect of the Company's operations and to determine the timing and circumstances of doing the same.
- 11.38.3 If and when any revenues are received from any sale of GHG Reduction Benefits, the revenues less costs and expenses associated with pursuing, applying for, obtaining, marketing and selling such GHG Reduction Benefits shall be distributed to the Parties as follows: (A) fifty percent (50%) to IBN; and (B) fifty percent (50%) to the Company.

### 11.39 Arrangements after Handover of Arun-3 HPP

- 11.39.1 The Company acknowledges that the Arun-3 HPP shall be transferred to GON on or before the Arun-3 HPP Transfer Date. The Company further confirms that IBN or any entity designated by IBN shall be the owner and operator of Arun-3 HPP after the Arun-3 HPP Transfer Date.
- 11.39.2 IBN shall, five (5) years before the Arun-3 HPP Transfer Date, give written notice to the Company requesting the Company to discuss and agree regarding the terms and conditions governing the scheduling and tandem operation of Arun-3 HPP and the Project from the Arun-3 HPP Transfer Date until the Expiry Date. The Company shall agree to IBN's request based on the following conditions:

- (A) at the option of IBN, provide continuity to the power sales agreement of Arun-3 HPP until the Expiry Date such that it maximizes the revenue for Arun-3 HPP;
- (B) if the repair works are required at the headworks of Arun-3 HPP as a consequence of a natural event, undertake activities and works as may be required jointly with IBN or IBN designated operator to mitigate the impact of the event;
- (C) payment of transmission tariff, wheeling and open access charges as determined by Electricity Regulatory Commission (or such entity established under Laws of Nepal for determination of electricity tariff) for the use of Arun-3 HPP Transmission Line;
- (D) terms and conditions governing tandem operation of Arun-3 HPP and the Project to ensure smooth tandem operation and scheduling of both the projects;
- (E) the continuation of interconnection agreements for the interconnection and electricity flow between Dhalkebar substation and Sitamarhi substation; and
- (F) if the Company and IBN fail to agree on the above conditions, Arun-3 HPP may be operated as per the market availability for Arun-3 HPP.

## 12. FORCE MAJEURE

### 12.1 Definition of Force Majeure Event

12.1.1 A "**Force Majeure Event**" shall mean any circumstance, event or condition (or any combination thereof), or the effects thereof, beyond the reasonable control of the Affected Party, but only if, and to the extent that:

- (A) such circumstance, event or condition (or any combination thereof) or the effects thereof, cannot be prevented, avoided or overcome by the Affected Party despite the exercise of diligence;
- (B) such circumstance, event or condition (or any combination thereof) or the effects thereof materially and adversely affects the performance by the Affected Party of its obligations under this Agreement;
- (C) the Affected Party has taken all reasonable precautions, due care and measures (including, in the case of the Company, acting in accordance with Good Industry Practice), to prevent, avoid or overcome the effect of such circumstance, event or condition (or any combination thereof) on its ability to perform its obligations under this Agreement; and
- (D) such circumstance, event or condition (or any combination thereof) has not occurred due to the Affected Party's breach of this Agreement or an Event of Default.

12.1.2 Subject to the exclusions in Section 12.2 (*Exclusions from Force Majeure Events*) and provided that they satisfy the requirements in Section 12.1.1 (*Definition of Force Majeure Event*) above, "**Other Force Majeure Events**" means all Force Majeure Events other than IBN Force Majeure Events, and include (but are not limited to) the following circumstances, events or conditions (or any combination thereof) or the effects thereof:

- (A) drought, if declared by the GON or appropriate Concerned Agencies that drought has occurred;
- (B) flood, if the flood exceeds the designed flood of specified return period mentioned in the latest Project reports submitted to GON;
- (C) earthquake, cloudburst, storm, landslides, mudslides, cyclone, tornado, typhoon, hurricane, volcanic eruption, lightning, or any other act of God;
- (D) geological surprises and unforeseen site conditions;
- (E) fire or explosion;
- (F) an epidemic, plague or quarantine;
- (G) the discovery of any antiquities or other objects or species or cultural and religious items of value at the Project site;
- (H) meteorites, the occurrence of pressure waves caused by aircraft, or other aerial devices travelling at supersonic speeds;
- (I) an air crash, shipwreck, train wreck or failure or delay of transportation;
- (J) any strike, work-to-rule, industrial disputes, lock outs, industrial difficulties, work bans, picketing, go-slow, or analogous labour action that is not IBN Force Majeure Event;
- (K) an act of war (whether declared or undeclared), invasion or armed conflict that is not IBN Force Majeure Event;
- (L) blockade, embargo or closure of borders that is not IBN Force Majeure Event; or
- (M) any radioactive contamination or ionising radiation, toxic or dangerous chemical contamination or biological contamination occurring in nature, excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the site of contamination or radiation by the Company or persons employed by the Company or engaged by the Company (including the Contractors).

12.1.3 Subject to the exclusions in Section 12.2 (*Exclusions from Force Majeure Events*) and provided that it satisfies the requirements in Section 12.1.1 (*Definition of Force Majeure Event*) above, "**IBN Force Majeure Event**" means the following circumstances, events or conditions (or any combination thereof) or the effects thereof:

- (A) any strike, work-to-rule, industrial disputes, lock outs, work bans, picketing, go-slow, actions associated with or directed against any Company or Contractors as part of a broader pattern of actions against companies or facilities with foreign ownership or management or analogous labour action, in each case:
  - (1) in existence for a continuous period of twenty-one (21) days; and
  - (2) that is politically motivated or instigated.
- (B) an act of war (whether declared or undeclared), invasion or armed conflict initiated by or against Nepal;
- (C) revolution, exercise of military or usurped power, mutiny, rebellion, state of siege; declaration or maintenance of martial law or national emergency occurring within Nepal;
- (D) any acts of rebellion, riot, civil commotion, insurrection, civil disturbance, civil disobedience or act or campaign of terrorism or political sabotage occurring within Nepal;

- (E) blockade, embargo or closure of international borders of Nepal for more than thirty (30) consecutive days or GON imposing any import restrictions or rationing;
- (F) failure or breakdown of the Nepalese grid system;
- (G) any radioactive contamination or ionising radiation, toxic or dangerous chemical contamination or biological contamination occurring in Nepal where the source or cause of contamination or radiation is brought or has been brought into or near the site of contamination or radiation by a Concerned Agency or third parties; or
- (H) any event or circumstance of a nature analogous to any of the above,  
provided that any event affecting the Contractors which are the same as events specified in Section 12.1.2 (*Definition of Force Majeure Event*) and/or Section 12.1.3 (*Definition of Force Majeure Event*) above, shall fall within the meaning of an "**Other Force Majeure Event**" or a "**IBN Force Majeure Event**", as the case may be.

## 12.2 Exclusions from Force Majeure Events

Notwithstanding anything to the contrary in Section 12.1 (*Definition of Force Majeure Event*), Force Majeure Events shall not include the following circumstance, event, or condition (or any combination thereof) or the effects thereof save to the extent such circumstance, event or condition (or any combination thereof) is caused by a Force Majeure Event or Change in Law:

- 12.2.1 any strike, work-to-rule, industrial disputes, lock outs, work bans, picketing, go-slow, or analogous labour action solely or primarily by employees of the Affected Party or its Contractors due to or arising from the terms and conditions of employment or working conditions of employees at the Project site or claim for improvement of working conditions, which are reasonable having regard to the hydro power industry in Nepal (regardless of whether there is any political support for such action subsequently);
- 12.2.2 failure to make a payment of money in accordance with a Party's obligations under this Agreement;
- 12.2.3 any failure by the Company or its Contractors to obtain or maintain any Government Approval due to a breach by the Company of this Agreement, Company Event of Default or default by a Contractor;
- 12.2.4 any failure to take into account site conditions which have been identified in the EIA, IEE or DPR;
- 12.2.5 any failure in performance by a Contractor or offtaker which results in the failure or inability of the Company to perform its obligations under this Agreement;
- 12.2.6 late delivery of equipment, machinery, works or materials caused by negligent acts or omissions on the part of the Company or any Contractor;
- 12.2.7 mechanical or electrical breakdown or failure of the Materials or works owned or operated by the Affected Party due to the manner in which such Materials or works have been procured, operated, transported or maintained;
- 12.2.8 normal wear and tear in materials and equipment;
- 12.2.9 changes in market conditions, Severe Market Disruption (for the avoidance of any doubt, it is clarified that Severe Market Disruption shall be dealt with in accordance with Section 18.21 (*Severe Market Disruption*)); or
- 12.2.10 lack of funds but not including a lack of funds due to non-availability of cash or facilities to convert currency.

## 12.3 Obligation to notify

- 12.3.1 If an Affected Party reasonably considers that a Force Majeure Event has occurred, such Affected Party shall give the other Party a written notice as soon as is reasonably practicable (but in any event no later than fourteen (14) days of becoming aware or when it ought to have been aware of the occurrence of such a Force Majeure Event), of the Force Majeure Event and as soon as is reasonably practicable give a further written notice setting out the following in reasonable detail:
- (A) the information, as is available, to justify the claim;
  - (B) a description of the relevant Force Majeure Event;
  - (C) the rights or obligations of the Affected Party under this Agreement which have been or shall be, or are likely to be, affected by such Force Majeure Event; and
  - (D) an estimate of the expected duration of such Force Majeure Event and remedial steps proposed and an estimate of time required to overcome such Force Majeure Event.
- 12.3.2 Failure by the Affected Party to give notice of a Force Majeure Event to the other Party within the fourteen (14) day period required by Section 12.3.1 (*Obligation to notify*) above shall not prevent the Affected Party from giving such notice at a later time, provided, however, that in such case, the Affected Party shall not be excused pursuant to this Section 12 (*Force Majeure*) for any failure or delay in complying with its obligations under or pursuant to this Agreement until such notice has been given. If such notice is given within such fourteen (14) days period, the Affected Party shall be excused for such failure or delay from the date of commencement of the relevant Force Majeure Event.
- 12.3.3 The Affected Party shall provide further information about the Force Majeure Event and adequate opportunity for inspection to the other Party.
- 12.3.4 In the case of a Force Majeure Event which prevents the Affected Party from performing an obligation under this Agreement, the Affected Party shall provide monthly progress reports to the other Party in relation to:
- (A) the Affected Party's estimate of the likely duration of such Force Majeure Event;
  - (B) the action taken and the action proposed to be taken by the Affected Party in order to mitigate and cure such Force Majeure Event;
  - (C) the cessation of such Force Majeure Event or the successful mitigation or minimisation of the effects of such Force Majeure Event; and
  - (D) any other matter which the other Party may reasonably request from the Affected Party in connection with the occurrence of such Force Majeure Event.
- 12.3.5 Within five (5) days following the cessation of any Force Majeure Event, the Affected Party shall submit to the other Party reasonable proof of the nature of such delay and its effect upon the performance of its obligations under this Agreement.
- 12.4 **Obligation to mitigate**
- 12.4.1 The Affected Party shall use all reasonable endeavours and shall proceed with reasonable diligence to:
- (A) prevent and reduce to a minimum and mitigate the effect of any delay, loss or damage occasioned by any Force Majeure Event, including recourse to insurance or alternate sources of services, equipment and materials, where feasible; and
  - (B) as soon as reasonably possible, and in accordance with Good Industry Practice, ensure the resumption of normal performance of this Agreement



and the Hydro Property after the cessation of any Force Majeure Event or its effects and shall otherwise perform its obligations under this Agreement to the extent not excused under the Force Majeure provisions contained in this Section 12 (*Force Majeure*).

- 12.4.2 The non-Affected Party shall provide all such assistance to the Affected Party as is reasonably required in respect of undertaking steps to mitigate the occurrence of any Force Majeure Event in respect of the Project.
- 12.4.3 The suspension of performance shall be of no greater scope and of no longer duration than until such time as the Force Majeure Event and any effect thereof is remedied.

## 12.5 Relief during Force Majeure Events

Upon the occurrence and during the continuance of a Force Majeure Event and the effects thereof:

### ***Suspension of performance obligations***

- 12.5.1 The Affected Party shall not be liable for any delay or failure in performing its obligations (including payment obligations (subject to the proviso below) arising during the period of occurrence and continuance of a Force Majeure Event or its effects) under this Agreement to the extent that such failure or delay in performance has been caused or contributed to by one or more Force Majeure Events or its or their effects or by any combination thereof. For the avoidance of any doubt, it is clarified that a temporary suspension of the Company's obligation to Capacity Royalty during the continuance of a Force Majeure Event shall not be construed as an exemption from the payment of Capacity Royalty by the Company and the Company shall be required to pay the Capacity Royalty which it was unable to pay on account of a Force Majeure Event after the Company ceases to be adversely affected by such Force Majeure Event. For the avoidance of doubt, the Company's obligation to pay Capacity Royalty shall be suspended immediately upon occurrence of IBN Force Majeure Event;
- 12.5.2 The obligation of the Company to generate/supply power and the obligation of the Company to transmit power shall be suspended (but only to the extent that this is affected by the Force Majeure Event);
- 12.5.3 In the event of occurrence of an Other Force Majeure Event which leads to reduction in availability of water for the Project, in addition to the reliefs available to the Affected Party under this Section 12 (*Force Majeure*), IBN agrees that, it shall, during the period of six (6) months or the duration of such Other Force Majeure Event (whichever is shorter) seek to agree with the Company amendments to this Agreement to the extent appropriate and reasonable.

### ***Extension of time limits and deadlines***

- 12.5.4 The time limits and deadlines for the performance by the Affected Party of its obligations under this Agreement which are affected by such Force Majeure Event shall be extended on a day-for-day basis for as long as the Affected Party is unable to comply, or is delayed in complying, with its obligations in this Agreement because of the occurrence of such a Force Majeure Event;
- 12.5.5 Without prejudice to Section 12.9 (*Termination due to prolonged Force Majeure or Change in Law*), if IBN Force Majeure Event occurs in the period on and from Final COD, the Term of this Agreement shall, to the extent IBN does not pay full compensation to the Company pursuant to Section 12.7 (*Staggered Remedies*), stand extended at the Company's option without double recovery for as long as is

required for the Company to generate additional revenues equivalent to the amount of compensation not paid by IBN;

- 12.5.6 If an Other Force Majeure Event occurs after Final COD, the Term of this Agreement shall stand extended for the period equivalent to the period of continuance of the Other Force Majeure Event or effects thereof.

**No relief**

- 12.5.7 Provided that no relief shall be granted to the Affected Party pursuant to this Section 12.5 (*Relief during Force Majeure Events*) to the extent that such failure or delay was caused due to the Affected Party's breach of this Agreement or Event of Default.

**Pre-COD IBN Force Majeure Event compensation**

- 12.5.8 Upon the occurrence of IBN Force Majeure Event in the period on and after the Agreement Date until Final COD, the Company shall be entitled to recover without double recovery, the costs and expenses reasonably and necessarily incurred by the Company as a result of one or more IBN Force Majeure Events or its or their effects:

- (A) in protecting and preserving the Hydro Property against damage or deterioration;
- (B) in suspending the delivery of (and storing, pending the resumption of deliveries) any plant, equipment and materials which have been ordered by the Company for the Hydro Property;
- (C) payment obligations accrued under the Financing Documents;
- (D) increase in the capital cost of the Project;
- (E) damages and charges paid to the offtakers and transmission utilities;
- (F) operating and maintenance expenditure;
- (G) in demobilising and, upon resumption of performance, remobilisation of the plant and employees and those of any contractor or subcontractor, including the cost of such employees being kept on standby, pending resumption of the works;
- (H) in extending the hire period of any plant, equipment, appliances and vehicles, including the additional cost of hire;
- (I) any additional construction costs which are incurred by the Company and against which the Company has not otherwise been held harmless under any other arrangements; and
- (J) any additional costs incurred by the Company in relation to the financing of the costs specified above, including any fees payable to the Lenders in respect of such further financing,

(the "**Pre-COD Compensation Amount**").

**12.6 Post-COD IBN Force Majeure Event Compensation**

- 12.6.1 Upon the occurrence of IBN Force Majeure Event on or after Final COD, for the period during which the IBN Force Majeure Event or the effects thereof are outstanding, the Company shall, in addition to any outstanding Pre-COD Compensation Amount, also be entitled to recover any: (A) costs reasonably and necessarily incurred by the Company; and (B) loss of revenue from sale and transmission of energy and/or capacity to the Company as a result of one or more IBN Force Majeure Events or its or their effects (the "**Post-COD Compensation Amount**").

**12.7 Staggered Remedies**

- 12.7.1 The Pre-COD Compensation Amount and Post-COD Compensation Amount (as applicable) shall be referred to as the "**Relevant IBN Compensation Amount**". With respect to any Relevant IBN Compensation Amount, the Company shall provide the IBN with a report setting out full details of such additional costs or loss of revenue, and the steps which the Company has taken to comply with its obligation to mitigate under Section 12.4 (*Obligation to mitigate*), along with an itemised invoice and any other supporting documentation.

The Company shall have the right to recover any Relevant IBN Compensation Amount, without double recovery, by way of one or more of the following methods upon receipt by IBN of an itemised invoice (together with full supporting documentation) from the Company in this regard payable within thirty (30) days of its receipt until such time that the Relevant IBN Compensation Amount is paid:

- (A) setting-off against the Delay Liquidated Damages amount;
- (B) reducing the Energy Royalty payable by the Company to the GON following Interim COD under Section 11.26.1 (*Royalties payable to GON*);
- (C) reducing the Capacity Royalty payable by the Company to the GON following Interim COD under Section 11.26.1 (*Royalties payable to GON*);
- (D) assigning all, or a proportion of, the revenues being received by a Concerned Agency, from the sale of Free Energy and Power in the export market pursuant to Section 11.16 (*Free Energy and Power*);
- (E) reallocating all, or a proportion of, the Free Energy and Power which the Company shall sell in the export market on an arm's length basis;
- (F) increasing the tariff payable for power purchase under the domestic power supply agreement entered into pursuant to Section 11.17 (*Domestic Commercial Power Purchase Agreement*), if any.

(the "**Staggered Remedies**").

**Funding of any outstanding compensation – final invoice**

- 12.7.2 If the Affected Party is unable to fully recover: (i) the Pre-COD Compensation Amount within six (6) months from the date of demand by the Company; or (ii) the Post-COD Compensation Amount within twelve (12) months of the date of demand by the Affected Party in accordance with Section 12.7.2 (*Staggered Remedied*), the Affected Party shall be entitled to present an itemised invoice (together with full supporting documentation) for any remaining amount which the Affected Party is entitled to recover from IBN under Sections 12.5 (*Relief during Force Majeure Events*) or 12.6 (*Post-COD IBN Force Majeure Event Compensation*) (as applicable). The IBN shall reimburse the Company within sixty (60) days of IBN receiving such invoice (together with full supporting documentation) provided that in the event of non-payment of any undisputed amounts due and payable by the Company to GON under this Agreement, IBN shall, at its option, be entitled to set-off such amounts against the Pre-COD Compensation Amount or the Post COD Compensation Amount, as applicable.

**12.8 Restoration due to Force Majeure Events**

If the Hydro Property or any part thereof requires Restoration as a result of any Force Majeure Event, Schedule 1 (*Restoration*) shall apply.

**12.9 Termination due to prolonged Force Majeure or Change in Law**

- 12.9.1 If IBN Force Majeure Event or Change in Law occurs, the effects of which continues for a period exceeding twenty-four (24) consecutive months and the Affected Party notifies the other Party prior to the expiry of such twenty-four (24) month period that it shall be unable to resume performance within such period, then either IBN or the Company may terminate this Agreement in accordance with Section 14.3

(*Termination notices*) provided that the Company shall not be entitled to terminate this Agreement on the occurrence of IBN Force Majeure Event or Change in Law if the IBN is complying with its payment obligations.

- 12.9.2 If an Other Force Majeure Event occurs, the effects of which continues for a period exceeding twenty-four (24) consecutive months and the Affected Party notifies the other Party prior to the expiry of such twenty-four (24) month period that it shall be unable to resume performance within such period, then either IBN or the Company may terminate this Agreement in accordance with Section 14.3 (*Termination notices*) provided that if the Company gives a notice to IBN that it intends to not exercise its right to terminate this Agreement and continue with this Agreement, then on receipt of such notice, IBN shall be prohibited from terminating this Agreement for a period of a further twenty four (24) months over and above the initial twenty-four (24) month period.

### 13. CHANGE IN LAW

#### 13.1 Increase in Costs

- 13.1.1 Subject to 13.2 (*Change in Law compensation – deductible*), if during the Term of this Agreement a Change in Law occurs:

- (A) which increases in cost incurred and results in loss of revenue; and
- (B) which, is more restrictive, discriminatory or onerous than the most restrictive or onerous requirement: (1) in effect pursuant to the Laws of Nepal as of the Agreement Date, or (2) specifically agreed to by the Company in this Agreement or the EIA,

then the Company shall be entitled to the reliefs described in Section 13.4 (*Company Relief for Change in Law*).

#### 13.2 Change in Law compensation – deductible

- 13.2.1 No damages or compensation shall be payable by IBN in respect of any Change in Law (and any claim by the Company in this respect shall be deemed invalid) where any action which is undertaken by IBN or a Concerned Agency and is a Change in Law, was taken: (i) to rectify any breach by the Company of this Agreement; or (ii) in response to a petition to any Concerned Agency by the Company which is acceptable to such Concerned Agency, and the intended effect of which petition is a Change in Law; or

- 13.2.2 IBN shall not be liable for a claim from the Company for compensation until the amount of all claims, when taken together, exceed NPR Ten Crores (Nepali Rupees 10,00,00,000) (the "**Deductible**"), in which case, all amounts over and above the Deductible (but excluding the Deductible) shall be recoverable by the Company as compensation for Change in Law.

#### 13.3 Obligation to Notify (Company)

- 13.3.1 If the Company considers that a Change in Law has occurred, the Company shall give IBN a written notice as soon as is reasonably practicable (but in any event no later than thirty (30) days of becoming aware of such a Change in Law), and as soon as is reasonably practicable give a further written notice setting out the following in reasonable detail:

- (A) a description of the relevant Change in Law; and
- (B) the rights or obligations of Company under this Agreement which have been or shall be, or are likely to be, affected by such Change in Law; and

- (C) the increase in cost expected to be suffered as a result of the Change in Law.

13.3.2 In case of a Change in Law which prevents the Company from exercising any right or performing an obligation under this Agreement, the Company shall provide IBN with such information as IBN may reasonably require from the Company in connection with the effect of such Change in Law on the Company.

#### 13.4 Company Relief for Change in Law

13.4.1 The time limits and deadlines for the performance by the Company of its obligations under this Agreement which are affected by a Change in Law or its effects shall be extended on a day-for-day basis for as long as the Company is unable to comply, or are delayed in complying, with its obligations in this Agreement because of the occurrence of such a Change in Law (or its effects).

13.4.2 Subject to Section 13.2 (*Change in Law compensation – deductible*), the Company shall be entitled to recover from IBN the costs reasonably and necessarily incurred by the Company (the "**CIL Compensation Amount**") in accordance with Sections 13.4.3 to 13.4.5 (*Company Relief for Change in Law*) (inclusive).

13.4.3 The Company shall provide IBN with a report setting out full details of such CIL Compensation Amount along with an itemised invoice and any other supporting documentation.

13.4.4 The Company shall have the right to recover any CIL Compensation Amount, without double recovery, by way of one or more of the following methods. The Company shall provide to IBN an itemised invoice (together with full supporting documentation) in this regard. The IBN shall, within sixty (60) days of the receipt of an itemised invoice (together with full supporting documentation) from the Company, provide its decision whether to pay the Company in these terms:

- (A) setting-off against the Delay Liquidated Damages amount;
- (B) reducing the Energy Royalty payable by the Company to GON following Commercial Operation Date under Section 11.26 (*Royalties Payable to GON*);
- (C) reducing the Capacity Royalty payable by the Company to GON following Commercial Operation Date under Section 11.26 (*Royalties Payable to GON*); or
- (D) IBN putting in place an irrevocable and legally binding exemption (by issuing a notification to this effect in the official Gazette of Nepal or in any other manner permitted under the Laws of Nepal) for the Company from all, or a proportion of, the taxes which it would otherwise be required to pay under the Laws of Nepal.

until such time that the CIL Compensation Amount is paid.

13.4.5 If the Company is unable to fully recover the CIL Compensation Amount within one hundred and twenty (120) days of the date of demand by the Company in accordance with Section 13.4.4 (*Company Relief for Change in Law*), the Company shall be entitled to present to GON an itemised invoice (together with full supporting documentation) for any remaining amount which the Company is entitled to recover from IBN under this Section 13 (*Change in Law*). The IBN shall reimburse the Company within sixty (60) days of IBN receiving such invoice (together with full supporting documentation) provided that in the event of non-payment of any undisputed amounts due and payable by the Company to IBN under this Agreement, IBN shall, at its option, be entitled to set-off such amounts against the

CIL Compensation Amount.

**13.5 Restoration due to Change in Law**

If the Hydro Property or any part thereof requires Restoration as a result of a Change in Law, the provisions of Schedule 1 (*Restoration*) shall apply.

**13.6 Beneficial Change in Law**

13.6.1 If as a consequence of Change in Law, the Company benefits from a reduction in costs or increase in net after-tax return or other financial gains and as result Company's Return on Equity exceeds 16.5% (Sixteen-point Five percent) for the Project (the "**CIL Beneficial Amount**"), then GON shall be entitled to the reliefs described in Section 13.6.2 (*Beneficial Change in Law*).

13.6.2 GON shall be entitled to receive a fifty per cent (50%) share of the CIL Beneficial Amount. Nepali Rupees Ten Crores (NPR 10,00,00,000) shall be deductible from the share of CIL Beneficial Amount to be received by the GON.

**14. EVENTS OF DEFAULT AND TERMINATION**

**14.1 Company Event of Default**

Subject to any Lenders' rights that may exist under any Lenders' direct agreement, each of the following events shall be an event of default of the Company (each a "**Company Event of Default**") which if not remedied within the time period permitted (if any) after receipt of written notice from the IBN giving reasonable details of the breach by the Company and demanding remedy thereof (a "**IBN Preliminary Termination Notice**"), shall give rise to the right of the IBN to terminate this Agreement pursuant to Section 14.3 (*Termination notices*), provided that no such event shall become a Company Event of Default if it results substantially from (A) a breach of this Agreement by IBN or IBN Event of Default, (B) the occurrence of IBN Force Majeure Event; or (C) Change in Law:

***Breach of payment obligations***

14.1.1 Company's failure to pay any undisputed amount due from it by the due date which is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

***Insolvency events***

14.1.2 The occurrence of any of the following events in respect of the Company:

- (A) the passing of a resolution by the shareholders of the Company for the winding up of the Company except in the case of a solvent restructuring;
- (B) the voluntary filing by the Company of a petition of bankruptcy, moratorium, or other similar relief;
- (C) the passing of a resolution for the bankruptcy, insolvency, winding up, liquidation or other similar proceeding relating to the Company;
- (D) the appointment of a liquidator, custodian or similar person in a proceeding for the winding up of the Company, which appointment has not been stayed or set aside within ninety (90) days of such appointment;
- (E) the making of an order for the winding up or otherwise confirming the bankruptcy or insolvency of the Company, which order has not been set aside or stayed within sixty (60) days of such making; or
- (F) the Company entering into any agreement of merger, consolidation or amalgamation with any person not previously approved in writing by the

IBN or any other Concerned Agencies.

**Failure to achieve Final COD by the Scheduled COD**

- 14.1.3 Failure to achieve Final COD by the Scheduled COD (as extended in accordance with this Agreement) that is not remedied within one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties), after receipt of IBN Preliminary Termination Notice.

**Failure to deliver the Performance Security or the Handover Guarantee**

- 14.1.4 The failure of the Company to deliver or renew (as the case may be):
- (A) the Performance Security by the respective due dates in accordance with this Agreement and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice; or
  - (B) the Handover Guarantee in accordance with Schedule 2 (*Project Handover upon Expiry of the Agreement*) and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Abandonment**

- 14.1.5 The Company has Abandoned the Project and where such Abandonment has not been remedied within ninety (90) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Breach of Shareholding/Assignment Restriction**

- 14.1.6 The Company is in breach of the provisions of Section 15.3 (*Shareholding Restrictions*) or Section 15.1 (*Assignment and Security - Company*) and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Breach of Land Use Agreement(s) by the Company**

- 14.1.7 The Company's failure to pay any undisputed amount due from it under any Land Use Agreement by the due date which is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Breach of any representations and warranties**

- 14.1.8 Any of the representations or warranties by the Company given in Section 17.2 (*Company representations and warranties*) proving to have been incorrect in any material respect, when made or deemed to have been made, and such failure or incorrect representation or warranty having a material and adverse effect on the Company's ability to perform its obligations under this Agreement or on the obligations or liabilities of IBN under this Agreement and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Non-Compliance with order of Arbitral Tribunal**

- 14.1.9 The Company fails to comply with a final award of an arbitral tribunal pursuant to Section 16.6 (*Dispute Resolution by Arbitration*) and such non-compliance is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**Non-fulfilment of the Conditions Subsequent**

- 14.1.10 Any Company Conditions Subsequent remain unfulfilled by the applicable date and such non-compliance is not remedied within a further one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties) after receipt of an IBN Preliminary Termination Notice.

**Supply of Free Energy and Power**

- 14.1.11 The Company is in breach of its obligation to make available Free Energy and Power to the GON or a Concerned Agency in accordance with Section 11.16.1 to 11.16.3 (inclusive) (*Free Energy and Power*) of this Agreement and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of IBN Preliminary Termination Notice.

**14.2 IBN Event of Default**

Subject to any Lenders' rights that may exist under any Lenders direct agreement, each of the following events shall be an event of default of IBN (each a "**IBN Event of Default**") which, if not remedied within the time permitted (if any) after receipt of written notice from the Company giving reasonable details of the breach by the IBN and demanding remedy thereof (a "**Company Preliminary Termination Notice**"), shall give rise to the right of the Company to terminate this Agreement pursuant to Section 14.3 (*Termination notices*) provided that no such event shall become IBN Event of Default if it results substantially from: (1) a breach of this Agreement by the Company or a Company Event of Default; or (2) the occurrence of Other Force Majeure Event:

**Payment Default**

- 14.2.1 IBN's failure to pay any undisputed amount due from it by the due date which is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of the Company Preliminary Termination Notice.

**Nationalization etc.**

- 14.2.2 The expropriation, nationalisation or compulsory acquisition by IBN or any Concerned Agencies of any constituent element of the Project, the Transaction Documents, the Project operations, or any Contractor and where such breach is not remedied within one hundred and twenty (120) days (or such longer period as otherwise agreed between the Parties) after the receipt of the Company Preliminary Termination Notice.

**Failure to achieve COD by the Scheduled COD**

- 14.2.3 The Project's failure to achieve Final COD by the Scheduled COD (as extended) as a result of a breach of this Agreement by IBN which is not remedied within one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties) after the receipt of the Company Preliminary Termination Notice.

**Non-Compliance with order of Arbitral Tribunal**

- 14.2.4 The IBN fails to comply with any final award of the arbitral tribunal pursuant to Section 16.6 (*Dispute Resolution by Arbitration*) and such non-compliance is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of the Company Preliminary Termination Notice.

**Fundamental Change in Law**

- 14.2.5 Where any Change in Law:
- (A) makes unenforceable, invalid or void, or limits or restricts any material right or performance of any obligation of the Company under this Agreement (including the right to sell energy and capacity in the export market and comply with scheduling requirements of any offtaker or load dispatch centre) or any Land Use Agreement(s); or



- (B) makes it unlawful for or limits or restricts the Company's or any Contractor's right to make or receive any payment (including to its shareholders, Lenders and Contractors), to perform any material obligation or to enjoy or enforce any material right under any Government Approval, this Agreement or any Land Use Agreement(s), as the case may be);

and where any of the above occurrences has not been remedied within one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties) after receipt of the Company Preliminary Termination Notice.

**Non-fulfilment of the Conditions Subsequent**

- 14.2.6 Any of the IBN Conditions Subsequent remain unfulfilled by the applicable date and such non-compliance is not remedied within one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties) after receipt of the Company Preliminary Termination Notice.

**Breach of Land Use Agreement(s) by IBN**

- 14.2.7 The IBN or a Concerned Agency is in breach of its obligations under any Land Use Agreement(s) and where such breach affects the development, construction or operation of the Project and such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of a Company Preliminary Termination Notice.

**Breach of any representations and warranties**

- 14.2.8 Any of the representations or warranties by IBN given in Section 17.1 (*IBN Representation and Warranties*) proving to have been incorrect in any material respect, when made or deemed to have been made, and such failure or incorrect representation or warranty having a material and adverse effect on IBN's ability to perform its obligations under this Agreement or on the obligations or liabilities of the Company under this Agreement and where such breach is not remedied within sixty (60) days (or such longer period as otherwise agreed between the Parties) after receipt of the Company Preliminary Termination Notice.

**Failure to grant or renew any Government Approvals**

- 14.2.9 Any failure of IBN or a Concerned Agency to grant, renew or extend any Government Approval without cause (being a breach of the terms and conditions of such Government Approval) in accordance with Section 10.2 (*Grant of Government Approvals*) and where such failure has not been remedied within one hundred and eighty (180) days (or such longer period as otherwise agreed between the Parties).

**14.3 Termination notices**

- 14.3.1 Following delivery of a Preliminary Termination Notice, the Party in default may continue to undertake efforts to cure or remedy the Event of Default and if the default is cured or remedied at any time prior to the delivery of a Termination Notice in accordance with this Section 14.3 (*Termination notices*), then the non-defaulting Party shall have no right to terminate this Agreement in respect of such cured Event of Default.

- 14.3.2 If:

- (A) the Company has not cured or remedied the applicable Company Event of Default in accordance with Section 14.1 (*Company Event of Default*) or Section 14.3.1 (*Termination Notices*), or in the case where Section 12.9.1 or Section 12.9.2 (*Termination due to prolonged Force Majeure*) applies, then the IBN shall be entitled (but not obligated) to terminate this Agreement by giving a final written notice terminating this Agreement.

(B) IBN has not cured or remedied the applicable IBN Event of Default in accordance with Section 14.2 (*IBN Event of Default*) or Section 14.3.1 (*Termination Notices*), or in the case where Section 12.9.1 or Section 12.9.2 (*Termination due to prolonged Force Majeure*) applies, then the Company shall be entitled (but not obligated) to terminate this Agreement by giving a final written notice terminating this Agreement,

(each a "**Termination Notice**").

#### 14.4 Transfer Price

The following table sets out the events giving rise to the termination of this Agreement, the Party that is entitled (but not obligated) to serve a Termination Notice in respect of each such event, the instant when such event occurs and the Transfer Price applicable to each such event:

Termination Event	Party that is entitled (but not obligated) to serve the Termination Notice	Transfer Price
<b>Prior to Financial Close</b>		
Termination of this Agreement pursuant to Section 14.1 ( <i>Company Event of Default</i> ) due to a Company Event of Default	IBN	<ul style="list-style-type: none"> <li>Project Land shall be transferred to IBN at no cost; and</li> <li>Other Project assets that IBN wishes to acquire shall be acquired at a price determined by one of the Big Four accountants.</li> </ul>
Termination of this Agreement pursuant to Section 14.2 ( <i>IBN Event of Default</i> ) due to IBN Event of Default	Company	<ul style="list-style-type: none"> <li>Sunk Expenses plus Transfer Taxes.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 ( <i>Termination due to prolonged Force Majeure or Change in Law</i> ) due to a prolonged Other Force Majeure Event	Either of the Company or IBN	<ul style="list-style-type: none"> <li>Project Land shall be transferred to IBN at no cost.</li> <li>Other Project assets that IBN wishes to acquire shall be acquired at a price determined by one of the Big Four accountants.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 ( <i>Termination due to prolonged Force Majeure or Change in Law</i> ) due to a prolonged IBN Force Majeure Event or Change in Law	Either of the Company or IBN	<ul style="list-style-type: none"> <li>Sunk Expense plus Transfer Taxes.</li> </ul>

Termination Event	Party that is entitled (but not obligated) to serve the Termination Notice	Transfer Price
<b>On or after Financial Close and until Final COD</b>		
Termination of this Agreement pursuant to Section 14.1 ( <i>Company Event of Default</i> ) due to a Company Event of Default	IBN	<p>A. <i>in case of Company Event of Default, except for Section 14.1.2 (Insolvency):</i></p> <ul style="list-style-type: none"> <li>• Project Land shall be transferred to IBN at 70% (seventy percent) of the total cost price incurred at the time of acquisition of Project Land.</li> <li>• Other Project assets that IBN wishes to acquire shall be acquired at a price determined by one of the Big Four accountants.</li> </ul> <p>B. <i>In case of Company Event of Default, which is a default under 14.1.2 (Insolvency):</i></p> <ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes less Insurance Proceeds and less DSRA.</li> </ul>
Termination of this Agreement pursuant to Section 14.2 (IBN Event of Default) due to IBN Event of Default	Company	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes plus Transfer Equity plus Pre-COD ROE Amount less Insurance Proceeds and less DSRA.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law) due to prolonged Other Force Majeure Events	The Company or IBN pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law)	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes less Insurance Proceeds and less DSRA.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 ( <i>Termination due to prolonged Force Majeure or Change in Law</i> ) due to a prolonged IBN Force Majeure Event or Change in Law	The Company or IBN pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law)	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes plus Transfer Equity plus Pre-COD ROE Amount less Insurance Proceeds and less DSRA.</li> </ul>
<b>On or after Final COD</b>		

Termination Event	Party that is entitled (but not obligated) to serve the Termination Notice	Transfer Price
Termination of this Agreement pursuant to Section 14.1 (Company Event of Default) due to a Company Event of Default	IBN	<ul style="list-style-type: none"> <li>• Project Land shall be transferred to IBN at no cost.</li> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes less Insurance Proceeds and less DSRA, <u>provided that</u> only if the Project is generating 90% of 669 MW.</li> <li>• In the event that the Project is not generating 90% of 669MW then other Project assets that IBN wishes to acquire shall be acquired at a price determined by one of the Big Four accountants, <u>provided that</u>, if IBN arrives at a decision not to acquire the Project Assets, then the Lenders, subject to the Financing Documents, shall have the right to recover debts owned against the Company by disposing the Projects Assets.</li> </ul>
Termination of this Agreement pursuant to Section 14.2 ( <i>IBN Event of Default</i> ) due to IBN Event of Default	Company	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Equity plus Post-COD ROE Amount plus Transfer Taxes less Insurance Proceeds and less DSRA.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law) due to prolonged Other Force Majeure Event	The Company or IBN pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law)	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Taxes less Insurance Proceeds and less DSRA.</li> </ul>
Termination of this Agreement pursuant to Section 12.9 ( <i>Termination due to prolonged Force Majeure or Change in Law</i> ) due to a prolonged IBN Force Majeure Event or Change in Law	The Company or IBN pursuant to Section 12.9 (Termination due to prolonged Force Majeure or Change in Law)	<ul style="list-style-type: none"> <li>• Transfer Debt plus Financing Charges plus Transfer Equity plus Post-COD ROE Amount plus Transfer Taxes less Insurance Proceeds and less DSRA.</li> </ul>

#### 14.5 Transfer Price components

Where, as at the Calculation Date:

Transfer Debt means	<p><b>“Transfer Debt”</b> means the aggregate of the following sums outstanding on the Transfer Date:</p> <p>(A) The principal amount of the debt provided by the Lenders under the Financing Documents for financing the Total Project Cost (the <b>“Principal”</b>) and used solely for the Project which remained outstanding for payment to Lenders but excluding any part of the Principal that had fallen due for repayment 3(three) months prior to the Transfer Date; and</p> <p>(B) All accrued interest payable under the financing documents on, in respect of, the debt referred to in (A) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due 3(three) months prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Document to any Lender and (iii) any pre-payment charges in relation to accelerated re-payment of debt.</p> <p><u>Provided that</u>, for purposes of Transfer Price, ratio of Debt to Equity shall be considered as 70:30.</p>
Financing Charges means	subject to Section 14.5.3 ( <i>Transfer Price Components</i> ) and Section 14.5.4 ( <i>Transfer Price Components</i> ) any outstanding charges payable to the Lenders in accordance with the Financing Documents as a result of the transfer of the Project (including prepayment charges, wind up costs, hedge break costs, outstanding accrued interest charges)
Transfer Equity means	book value of outstanding equity (including shareholder loans)
Pre-COD ROE Amount means	an amount that ensures return equal to 10 (ten) % of its Transfer Equity which shall be determined from annual audited financial statement.
Post-COD ROE Amount means	120% of Transfer Equity
Insurance Proceeds means	any insurance proceeds actually received under any insurance policies by the Company
DSRA means	any remaining amount held by the Company in a debt service reserve account as established under the Financing Documents
Transfer Tax means	Any Tax imposed on, applicable to, or withheld from the payment of the Transfer Price or the transfer of the Hydro Property and Project Assets.

14.5.2 The Company shall submit to IBN, within sixty (60) days of the end of each financial year, a statement setting out the Company's assessment of the Sunk Expenses incurred by the Company in the previous financial year.

14.5.3 The Company acknowledges and agrees that IBN has agreed to include Transfer Debt and Financing Charges as a component of the Transfer Price to make the Project bankable. In consideration for allowing Other Lenders to provide financing or refinancing in connection with the Project, the Company shall ensure that:

- (A) the commissions, costs, fees, rates, interest, charges, premia, prepayment costs, commitment fees, payments and other costs and expenses (by whatever name called) ("**All-in Costs**") payable to Other Lenders shall not be more than two hundred and fifty (250) basis points above the

corresponding All-in Costs payable to the Senior Lenders;

- (B) any breakage fees (by whatever name called) payable to the Other Lenders shall not be higher than the breakage fees (by whatever name called) payable to the Senior Lenders; and
- (C) the Debt: Equity ratio set out in Section 11.28 (*Debt: equity ratio*) is complied with at all times.

14.5.4 Notwithstanding anything to the contrary contained in this Agreement, if the Company is in breach of:

- (A) Section 14.5.3 (A) or (B) (*Transfer Price components*), then IBN shall not be liable for the payment of such portion of Financing Charges to any person that IBN would otherwise not have been liable for if the Company had ensured compliance with Section 14.5.3 (A) and (B) (*Transfer Price components*) and the quantum of Financing Charges shall stand reduced accordingly; or
- (B) Section 14.5.3 (C) (*Transfer Price components*), then IBN shall not be liable for the payment of such portion of Transfer Debt to any person that IBN would otherwise not have been liable for if Company had ensured compliance with Section 14.5.3 (C) (*Transfer Price components*) and the quantum of Transfer Debt shall stand reduced accordingly.]

#### 14.6 Payment of the Transfer Price

- 14.6.1 Within thirty (30) Business days from the date of the Termination Notice, the Company shall submit an invoice ("**Termination Invoice**") to IBN setting out the Transfer Price owing to the Company pursuant to Section 14.5 (*Transfer Price*). The Termination Invoice shall be accompanied by a certificate any of Ernst & Young, PricewaterhouseCoopers, KPMG or Deloitte (the "**Big Four**"), verifying the calculation of all of the components of the Transfer Price listed in the Termination Invoice.
- 14.6.2 If IBN does not dispute the Termination Invoice, IBN shall pay the Company the amount shown in the Termination Invoice no later than one hundred and eighty (180) Business days from receipt of the Termination Invoice (the "**Payment Date**"). If IBN disputes the Termination Invoice, it shall pay the Company, the undisputed amounts under the Termination Invoice within the aforementioned one hundred and eighty (180) day period. Any portion of the Termination Invoice in dispute shall be paid by the IBN once any final award has been issued in favour of the Company.
- 14.6.3 On the Payment Date, the Company shall transfer the Hydro Property and Project Assets to IBN, free and clear of all Encumbrances and liabilities, in accordance with Schedule 4 (*Termination Plan upon Early Termination of the Agreement*) (the "**Transfer Date**").
- 14.6.4 Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the payment of the applicable Transfer Price and any interest thereon pursuant to Section 18.20 (*Default Interest*) by the IBN to the Company (or the Lenders): (A) is the sole and exclusive remedy of the Company for termination of this Agreement before the Expiry Date and all loss or damage suffered by the Company on account of such early termination of this Agreement; (B) shall constitute full and final settlement of IBN's obligations and liabilities on account of such early termination of this Agreement; and (C) the Company shall have no further claim or recourse against IBN under this Agreement or otherwise on account of such early termination of this Agreement.

- 14.6.5 If any Transfer Tax is imposed or withheld from payment made by IBN to the Company or the Lenders, then such payment to the Company or the Lenders shall be increased by an amount such that the Company or the Lenders shall receive the same amount had no such Transfer Tax been increased or withheld.
- 14.6.6 Notwithstanding anything to the contrary in this Agreement, the Company shall not be obliged to transfer the Hydro Property and Project Assets to IBN or its designee in accordance with Schedule 4 (*Termination Plan upon Early Termination of the Agreement*) unless and until the applicable Transfer Price (together with any interest thereon pursuant to Section 18.20 (Default Interest)) has been irrevocably and unconditionally paid in full by IBN without any set off or deduction (whether to the Company or the Lenders, as applicable).
- 14.6.7 Upon the effectiveness of the Termination Notice in accordance with Section 14.9 (*Effectiveness of Termination Notice*) or on the Expiry Date (as the case may be), all rights granted by IBN or any other Concerned Agencies to the Company in relation to the Project and the Hydro Property shall stand revoked. Simultaneously with the transfer of the Hydro Property to IBN on the Transfer Date or Expiry Date (as the case may be), the Company shall also transfer the following to IBN or its designee, in each case, free and clear of all Encumbrances and liabilities: (A) Project Rights; (B) Project Area and Project Land; (C) all stocks of spare parts and other consumables relating to the Hydro Property provided that IBN takes the liability to the creditors for such stocks of spare parts and other consumables as appearing in the books of the Company; (D) all Records in relation to the Project; (E) at IBN's option, any agreements relating to the Project which are valid and subsisting and capable of being transferred to IBN or its designee; and (F) the benefit of any warranties given by third parties in respect of any property or assets being transferred to IBN or its designee which are valid as at the Transfer Date provided that such warranties are capable of being transferred; and (G) all outstanding or unpaid claims under any insurance policies relating to physical loss or damage occurring prior to the Transfer Date (as the case may be), save where the loss or damage has been remedied prior to such date at the cost of the Company (collectively, "**Project Assets**").

#### 14.7 **Performance Security**

- 14.7.1 If this Agreement is terminated due to a Company Event of Default Section 11.25 (*Performance Security*) shall apply.
- 14.7.2 If this Agreement is terminated for any reason other than as set out in Section 14.7.1 (*Performance Security*), the IBN shall return the Performance Security to the Company.

#### 14.8 **Arbitration**

If any Party disputes the Transfer Price or any interest thereon pursuant to Section 18.20 (*Default Interest*), it shall be entitled to refer such dispute to arbitration in accordance with Section 16 (*Law and Dispute Resolution*).

#### 14.9 **Effectiveness of Termination Notice**

If a Party issues a Termination Notice, such Termination Notice shall not be effective until such time as the applicable Transfer Price and any interest thereon pursuant to Section 18.20 (*Default Interest*) is paid to the Company (or where applicable, the Lenders) in accordance with this Agreement and the Company or the Lenders (as the case may be), have been able to repatriate such Transfer Price and any interest thereon pursuant to Section 18.20 (*Default Interest*). The Company or the Lenders (as the case may be) shall apply to the Nepal Rastra Bank for repatriation of the Transfer Price within thirty (30) days of receiving such Transfer Price.

**14.10 Power of Attorney**

The Company agrees to grant to the IBN a power of attorney to execute all documents and do all acts as may be necessary or required to effect and complete the transfer of the Project to the IBN or its designee thereof on the Expiry Date or the Transfer Date, as the case may be, in accordance with this Agreement.

**15. ASSIGNMENT, TRANSFER AND CHANGE OF CONTROL**

**15.1 Assignment and Security - Company**

15.1.1 The IBN hereby irrevocably consents to assignment or other transfer of the Company's rights or benefits (but not its obligations) under this Agreement to any Lender or their agents for the purposes of arranging or re-arranging financing pursuant to the terms of the Financing Documents or for any refinancing of the Project.

15.1.2 Upon an assignment or transfer under Section 15.1.1 (*Assignment and Security - Company*), the assignee or transferee shall be vested with all the rights and benefits (but not obligations) assigned or transferred to it provided that such assignment or transfer shall not increase the IBN's financial obligations under this Agreement.

15.1.3 The Company shall promptly give the IBN written notice of any assignment or transfer under Section 15.1.1 (*Assignment and Security - Company*), and the IBN shall promptly acknowledge in writing such assignment.

15.1.4 The Company may mortgage or otherwise give security over its assets and undertakings to any Lender providing financing or refinancing for the Project. The Company may assign its rights, interests or obligations under any lease, license or other interests granted by the IBN pursuant to this Agreement or Land Use Agreement for the benefit of the Lenders to obtain financing or refinancing for the Project.

15.1.5 Other than as provided in Sections 15.1.1 to 15.1.4 (*Assignment and Security - Company*) (inclusive) above, the Company shall not assign or otherwise transfer its rights, obligations or benefits under (i) this Agreement, (ii) the Project or (iii) the Hydro Property, wholly or partially to any person without first obtaining the prior written consent of the IBN (such consent not to be unreasonably withheld or denied). Any assignment in contravention of this Section 15.1 (*Assignment and Security - Company*) shall be void ab initio.

**15.2 Assignment by IBN**

The IBN may assign any benefits under this Agreement without the prior written consent of the Company, to any Concerned Agencies. The IBN shall not assign its obligations under this Agreement to any other person or entity, without the prior written consent of the Company. Any assignment in contravention of this Section 15.2 (*Assignment by IBN*) shall be void ab initio.

**15.3 Shareholding Restrictions**

15.3.1 Subject to Sections 15.1 (*Assignment and Security - Company*), 10.17 (*Local shares*) and 15.3.2 to 15.3.7 (*Shareholding Restrictions*) (inclusive), the Company shall not (and shall procure that the Shareholders, SJVN and its Affiliates shall not), directly or indirectly, whether by way of merger, consolidation, sale of stock, change of Control or otherwise: (A) sell; (B) assign; (C) transfer; (D) convey; (E) create any Encumbrances; (F) subcontract or delegate (except where expressly permitted or contemplated by this Agreement); (G) declare a trust in favour of a third party or declare itself a trustee for a third party; or (H) otherwise dispose of in any manner,



- ("Transfer") the Project, the Hydro Property, this Agreement or their respective benefits, interests, rights and obligations in, under, relating to, or in connection with the Project, the Hydro Property or this Agreement.
- 15.3.2 Between the period beginning after the date of Financial Close and third (3rd) anniversary of Final COD (the "**Lock-in Period**"), the Company shall be permitted to cause Transfer to the extent the Transfer to Qualified Investor does not cause the aggregate holding of SJVN together with its Affiliates in the total equity to decline below forty-nine per cent (49%).
- 15.3.3 At any time after the third (3<sup>rd</sup>) anniversary of the Final COD, SJVN shall be permitted to Transfer its equity shares in the Company to (A) Qualified Investors or (B) any person subject to the prior written approval of IBN which shall not be unreasonably withheld provided that when Transferring its equity shares to non-Foreign Investor, the Transfer per financial year shall not be more than fifteen per cent (15%) of its total equity shares in the Company.
- 15.3.4 Prior to any agreement (whether written or otherwise) between the SJVN and a Qualified Investor becoming effective, the Company shall provide, or shall procure that the SJVN shall provide, the IBN with written notice from the SJVN setting out such SJVN's intention to transfer all, or any part, of its interests in the Company.
- 15.3.5 If any Transfer Shares in the Company are transferred to any Qualified Investor (the "**Transferee Qualified Investor**") by any person (the "**Transferor**"), the Transferor and the Company shall procure that such Transferee Qualified Investor shall not transfer any Transfer Shares in contravention of the provisions of this Section 15.3 (*Shareholding Restrictions*). The provisions of this Section 15.3 (*Shareholding Restrictions*) shall mutatis mutandis apply to the subsequent transfer of any shares.
- 15.3.6 The Company shall:
- (A) make appropriate provisions in its articles of association to ensure compliance with the provisions of this Section 15 (*Assignment, Transfer and Change of Control*);
  - (B) include appropriate legends on all share certificates evidencing the ownership of share capital so as to put prospective purchasers of such share capital on notice of the restrictions on share transfers set forth in this Section 15 (*Assignment, Transfer and Change of Control*); and
  - (C) not register or give effect to any purported transfer of share capital of the Company that is not in compliance with the restrictions set out in this Section 15.3 (*Shareholding Restrictions*); and
  - (D) forthwith notify IBN of any proposed change or of any actual Change of Control of the Company from the SJVN to any other person.
- 15.3.7 For the purposes of this Section, the term "**Qualified Investor**" means a person:
- (A) who is a regulated entity in the jurisdiction of its incorporation and is in the business of banking, insurance, lending or financing projects; OR who are licensed entities in relevant jurisdiction permitted to purchase power in bulk from power generating company OR who is a regulated entity in the jurisdiction of its incorporation with a credit rating (issued by Standard & Poor, Moody's, Fitch or ICRA) equivalent to or higher than the SJVN as of the date of this Agreement OR a person whose credentials, in the field of hydropower are similar to or better than that of the SJVN and upon IBN being reasonably satisfied that the induction of such investor is unlikely to materially and detrimentally affect the implementation of the Project in

accordance with this Agreement; and

- (B) who is not of a nationality that is prohibited by the prevailing Laws of Nepal from investing in Nepal; and
- (C) who is not, in IBN's reasonable opinion, a threat to Nepal's national security.

15.3.8 Any transferee of shares in the Company: (A) shall not be of a nationality that is prohibited by the prevailing Laws of Nepal from investing in Nepal; or (B) a person who is, in IBN's reasonable opinion, not a threat to Nepal's national security. Any Shareholder shall be entitled to transfer its shares in the Company subject to compliance with Section 15.3 (*Shareholding Restrictions*).

#### 15.4 **Pledge of Shares in favour of Lenders**

IBN hereby agrees and confirms that, nothing contained in this Agreement shall restrict the Shareholders from creating a pledge on its shares in the Company in favour of the Lenders. IBN further agrees and confirms that an enforcement of the pledge by Lenders shall not result in a breach of this Agreement.

### 16. **LAW AND DISPUTE RESOLUTION**

#### 16.1 **Laws of Nepal**

The Company shall comply with the laws of Nepal.

#### 16.2 **Interpretation of this Agreement**

This Agreement and any dispute or claim arising out of or in connection with this Agreement or its subject matter, existence, validity, termination, interpretation or enforceability shall be governed by and construed in accordance with the laws of England and Wales.

#### 16.3 **Dispute Resolution**

Any Dispute shall be resolved in accordance with the procedure set out in Sections 16.4 (*Dispute Notices*) to 16.6 (*Dispute Resolution by Arbitration*) (inclusive).

#### 16.4 **Dispute Notice**

16.4.1 A Party who desires to submit a Dispute for resolution shall commence the dispute resolution process by providing the other Party with written notice of the Dispute (a "**Dispute Notice**").

16.4.2 The Dispute Notice shall:

- (A) identify the Parties to the Dispute;
- (B) indicate that a Dispute has arisen;
- (C) contain a brief statement of the nature of the Dispute; and
- (D) request a meeting of directors or senior executives to seek to resolve the Dispute in accordance with Section 16.5 (*Resolution by consultation*).

#### 16.5 **Resolution by consultation**

Within thirty (30) days of the service of a Dispute Notice one (1) senior representative of each Party with authority to settle the Dispute shall meet to seek to resolve the Dispute in good faith. If within thirty (30) days of service of the Dispute Notice no meeting has taken place or the Dispute has not been resolved, either IBN or the Company shall be entitled to refer the Dispute to be resolved in accordance with Section 16.6 (*Dispute Resolution by Arbitration*).

#### 16.6 **Dispute Resolution by Arbitration**

- 16.6.1 If the Parties are unable to resolve a Dispute in accordance with Section 16.5 (*Resolution by consultation*), any such Dispute shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("**SIAC Rules**") for the time being in force, which rules are deemed to be incorporated by reference in this Section 16.6 (*Dispute Resolution by Arbitration*).
- 16.6.2 The tribunal shall consist of three (3) arbitrators. The IBN shall nominate (1) one arbitrator and the Company shall appoint one (1) arbitrator. The two (2) arbitrators nominated by the Parties shall within thirty (30) days of the appointment of the second (2nd) arbitrator agree upon a third (3rd) arbitrator who shall act as presiding arbitrator of the tribunal. If no agreement is reached within thirty (30) days, the Chairman of SIAC shall nominate and appoint a third (3rd) arbitrator to act as presiding arbitrator of the tribunal.
- 16.6.3 The seat of the arbitration shall be Singapore, the Republic of Singapore.
- 16.6.4 The language of the arbitration shall be English.
- 16.6.5 This arbitration agreement and any dispute or claim arising out of or in connection with this arbitration agreement, including its interpretation, subject matter and formation, shall be governed by and construed in accordance with the laws of England and Wales.
- 16.7 **Waiver of sovereign immunity**
- 16.7.1 The IBN hereby irrevocably and unconditionally agrees that it is subject to the jurisdiction of the relevant arbitration tribunal and the courts of any jurisdiction (including Nepal and England) in support of arbitration proceedings (whether before or after any final arbitration award and including a judgment or order in support of any arbitration) with respect to its obligations hereunder, and that the execution, delivery, and performance of this Agreement constitute private and commercial acts of the IBN.
- 16.7.2 The IBN hereby irrevocably and unconditionally agrees that:
- (A) should any proceedings be brought against the IBN or its assets, (other than the Protected Assets) in any jurisdiction in connection with this Agreement or any of the transactions contemplated by this Agreement, no claim of immunity from such proceedings shall be claimed by or on behalf of the IBN on behalf of itself or any of its assets (other than the Protected Assets);
  - (B) it waives any right of immunity which it or any of its assets (other than the Protected Assets) now has or may in the future have in any jurisdiction in connection with any such proceedings; and
  - (C) it consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings (including without limitation, the making, enforcement, or execution against or in respect of any of its assets whatsoever (other than the Protected Assets) regardless of the use or intended use of the assets.
- 16.7.3 For the purposes of this Section 16.7 (*Waiver of sovereign immunity*), "**Protected Assets**" means:
- (A) aircraft, naval vessels and other defence related assets or assets protected by the diplomatic and consular privileges under the State Immunity Act of England or the Foreign Sovereign Immunities Act of the United States or any analogous legislation
  - (B) property forming part of the cultural heritage of GON or part of its archives and not placed or intended to be placed on sale;

- (C) property forming part of an exhibition of objects of a scientific, cultural or historical interest and not placed or intended to be placed on sale; and
- (D) assets that are not owned by or that do not belong to GON.

16.7.4 For the avoidance of doubt, it is clarified that in connection with any claims under or pursuant to this Agreement, the Company shall not be entitled to seek enforcement against any assets that are not owned by IBN or that do not belong to IBN.

## 17. REPRESENTATIONS AND WARRANTIES

### 17.1 IBN Representations and Warranties

The IBN hereby represents and warrants to the Company that it has full power, right and authority to execute and deliver this Agreement and to perform its obligations hereunder.

### 17.2 Company representations and warranties

The Company hereby represents and warrants to the IBN that:

- 17.2.1 it is a limited liability company, duly organised and validly existing under the Laws of Nepal, and has all requisite corporate power, right and authority to carry on its business as currently conducted;
- 17.2.2 it has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
- 17.2.3 the execution, delivery and performance of this Agreement by it:
  - (A) has been duly authorised by all requisite corporate action on the part of the Company, and no other proceedings on the part of the Company or any other person are necessary for such authorisation; and
  - (B) shall not violate any provision of the constitutional documents of the Company; and
- 17.2.4 this Agreement constitutes a legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms.

### 17.3 No untrue statements or omissions

- 17.3.1 Each Party to this Agreement represents to the other Party that no written information supplied by it or on its behalf to the other Party relating to the Project or to any transactions contemplated by this Agreement contains any untrue statement or omission in relation to a material fact or the Laws of Nepal.
- 17.3.2 The representation set out in Section 17.3.1 (No untrue statements or omissions) shall be deemed to be repeated on each occasion any such written information is provided by each Party to the other Party.

## 18. MISCELLANEOUS

### 18.1 Disclosure of Confidential Information

- 18.1.1 All Confidential Information shall be held by each Party and its Representatives in strict confidence and shall not be disclosed (by failure to exercise due care or otherwise by any act or omission) to any third party without obtaining the other Party's prior written consent. However, such prior written consent shall not be required for disclosure by a Party of any Confidential Information:
  - (A) to its Representatives, Affiliates and other persons, to the extent required

to enable such Party to carry out its obligations under this Agreement or those persons who need to know of such matters for the ordinary business purposes of the Party and who shall in each case be made aware by such Party of its obligations under this Agreement and shall be required by such Party to observe the same confidentiality restrictions on the use of the relevant Confidential Information as are contained in this Agreement;

- (B) where reasonably required by a Party for the purpose of exercising or performing its rights and obligations under this Agreement including in connection with internal government coordination, approvals and other governmental processes;
- (C) where disclosure is made to prospective lenders or investors of the Company or its Shareholders and/or the SJVN or their Affiliates, and their Representatives (provided that such persons are required to comply with the same confidentiality restrictions on the use of the relevant Confidential Information as are contained in this Agreement);
- (D) to the extent required by any Laws of Nepal or laws of any other jurisdiction to which such Party or its Affiliates is subject;
- (E) to the extent required by (1) a Concerned Agency, (2) any governmental authority, offtaker or regulator in the export market, or (3) the rules of a recognised stock exchange; or
- (F) to the extent that the relevant Confidential Information is, or was, (1) in the public domain otherwise than by breach of this Agreement by such Party, (2) available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party or (3) available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not prohibited from disclosing such information to the receiving Party.

18.1.2 Nothing contained in this Section 18.1 (Disclosure of Confidential Information) shall limit the obligation on the Company to disclose any such Confidential Information to the PRP who may require such Confidential Information in connection with the discharge of their obligations under this Agreement provided that the PRP enters into adequate confidentiality undertakings for the release of such information.

18.1.3 Subject to the provisions of this Section 18.1 (Disclosure of Confidential Information) and the Laws of Nepal and internal GON regulations and policies on disclosure of Confidential Information of GON, each of the Parties shall, within a reasonable period following receipt of a reasonable request, provide the other Party with such information as that Party has available which is, or may be, necessary to enable such other Party to perform its obligations under this Agreement, the Export Power Sales Agreement or the OPC, as the case may be.

## 18.2 **Rights cumulative with those at Law**

Subject to Section 16.3 (*Dispute Resolution*), the powers, rights and remedies conferred on the Parties herein, including the rights of termination, shall be in addition and without prejudice to all other powers, rights and remedies available to the Parties in accordance with the Laws of Nepal.

## 18.3 **Liability and Indemnification**

### 18.3.1 **Limitation of liability**

- (A) Notwithstanding anything to the contrary contained in this Agreement, neither Party shall be liable to the other Party in contract, tort, warranty,

strict liability, statute or any other legal theory for any actual or expected:

- (1) loss of profits that are indirect;
  - (2) loss of revenue, loss of goodwill, loss of opportunity or loss of business that are indirect (in each case);
  - (3) wasted expenditure including pre-contract expenditure that are indirect;
  - (4) increased costs or expenses that are indirect; or
  - (5) any other special, indirect or consequential, incidental, punitive or exemplary loss or damage of any type including any loss arising out of any liability of a Party to any other person.
- (B) No Party shall have any liability to the other Party except pursuant to, or for breach of, this Agreement, provided, however, that this Section 18.3.1 (*Limitation of liability*) is not intended to constitute a waiver of any rights of any Party against the other with regard to matters unrelated to this Agreement or any activity not contemplated by the Transaction Documents or the Financing Documents.
- (C) The IBN shall not be liable to the Company for any loss or liability incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, by the Company arising out of, in connection with, or in relation to, any comment or recommendation of the PRP, whether made in accordance with this Agreement or otherwise.
- (D) Nothing in this Section 18.3.1 (*Limitation of liability*) shall exclude or limit any liability which any Party may have to an individual for the death of, or personal injury sustained by, such individual to the extent such death or personal injury was caused by that Party's or its Representatives' negligence.
- (E) Each part (including a sub-section or part thereof) of this Section 18.3.1 (*Limitation of liability*) shall be construed as a separate and severable contract term, and if one or more parts is held to be invalid, unlawful or otherwise unenforceable, the remaining parts shall remain in full force and effect.
- (F) For the purposes of Sections 18.3.1(A) to 18.3.1(E) (*Limitation of liability*) (inclusive) "liability" means any liability, whether pursuant to a claim for contribution or under statute, tort (including but not limited to liability for negligence), contract or otherwise (save that any exclusions or limitations of liability shall not apply in respect of fraud), and "liable" shall be construed accordingly

#### 18.3.2 **Indemnification**

- (A) Subject to Section 18.3.1 (*Limitation of liability*), the IBN shall indemnify the Company against, and defend and hold the Company and its Representatives harmless from, at all times after the Agreement Date, any and all losses incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, the Company or its Representatives, for personal injury or death to persons or damage to property arising out of any negligent act or omission by the IBN in connection with this Agreement. Notwithstanding the foregoing, indemnification shall not be required to the extent that the Company is reimbursed pursuant to any policy of insurance.
- (B) Subject to Section 18.3.1 (*Limitation of liability*), the Company shall

indemnify the IBN against, and defend and hold the IBN and its Representatives harmless from, at all times after the Agreement Date, any and all losses incurred, suffered, sustained or required to be paid, directly or indirectly, by, or sought to be imposed upon, the IBN, or its Representatives, for personal injury or death to persons or damage to property arising out of any negligent act or omission by the Company or its Representatives in connection with this Agreement. Notwithstanding the foregoing, indemnification shall not be required to the extent that the IBN is reimbursed pursuant to any policy of insurance.

- (C) The provisions of this Section 18.3.2 (*Indemnification*) shall survive for a period prescribed under the Laws of Nepal following any expiry or termination of this Agreement with respect to any acts or omissions or claims for indemnification which occurred or arose prior to such expiry or termination.

#### 18.3.3 **Indemnification for fines and penalties**

Any fines or other penalties incurred by a Party (other than fines or penalties due to the negligence or intentional acts or omissions of another Party) for non-compliance with the Laws of Nepal or any applicable consent, permit, license or approval shall not be reimbursed by any Party but shall be the sole responsibility of the non-complying Party.

#### 18.3.4 **Notice of proceedings**

- (A) Each Party shall promptly notify the other Party of any loss or proceeding in respect of which such notifying Party is or may be entitled to indemnification pursuant to Section 18.3.2 (*Indemnification*). Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of the loss or proceeding and that such loss or proceeding may give rise to an indemnification, but in any event no later than fourteen (14) days after the receipt by the Party seeking indemnification of notice of the commencement of any action for which indemnity may be sought.
- (B) The delay or failure of such indemnified Party to provide the notice required pursuant to this Section 18.3.4 (*Notice of proceedings*) to the other Party shall not release the other Party from any indemnification obligation which it may have to such indemnified Party except:
  - (1) to the extent that such failure or delay materially and adversely affected the indemnifying Party's ability to defend such action or increased the amount of the loss; and
  - (2) that the indemnifying Party shall not be liable for any costs or expenses of the indemnified Party in the defence of the claim, suit, action or proceeding during such period of failure or delay.

#### 18.3.5 **Defence of claims**

- (A) Upon acknowledging in writing its obligation to indemnify an indemnified Party to the extent required pursuant to this Section 18.3 (*Liability and Indemnification*), the indemnifying Party shall be entitled, at its option (subject to Section 18.3.5 (*Defence of claims*)), to assume and control the defence of such claim, action, suit or proceeding at its expense with legal counsel of its selection, subject to the prior approval of the indemnified Party.
- (B) Unless and until the indemnifying Party acknowledges in writing its obligation to indemnify the indemnified Party to the extent required

pursuant to this Section 18.3 (Liability and Indemnification), and assumes control of the defence of a claim, suit, action or proceeding in accordance with Section 18.3.5(D) (*Defence of claims*), the indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with legal counsel of its own selection, any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder.

- (C) Neither the indemnifying Party nor the indemnified Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other, provided, however, that after agreeing in writing to indemnify the indemnified Party, the indemnifying Party may, subject to Section 18.3.5(D) (*Defence of claims*), settle or compromise any claim without the approval of the indemnified Party. Except where such consent is unreasonably withheld, if a Party settles or compromises any claim, action, suit or proceeding in respect of which it would otherwise be entitled to be indemnified by the other Party, without the prior written consent of the other Party, the other Party shall be excused from any obligation to indemnify the Party making such settlement or compromise in respect of such settlement or compromise.
- (D) Following the acknowledgement of the indemnification and the assumption of the defence by the indemnifying Party pursuant to Section 18.3.5(A) (*Defence of claims*), the indemnified Party shall have the right to employ its own counsel and such legal counsel may participate in such action, but the fees and expenses of such legal counsel shall be at the expense of such indemnified Party, when and as incurred, unless:
  - (1) the employment of legal counsel by such indemnified Party has been authorised in writing by the indemnifying Party;
  - (2) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party that there may be a conflict of interest between the indemnifying Party and the indemnified Party in the conduct of the defence of such action;
  - (3) the indemnifying Party shall not in fact have employed independent legal counsel reasonably satisfactory to the indemnified Party to assume the defence of such action and shall have been so notified by the indemnified Party; or
  - (4) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party that there may be specific defences available to it which are different from or additional to those available to the indemnifying Party or that such claim, action, suit or proceeding involves or could have a material adverse effect upon the indemnified Party beyond the scope of this Agreement.

If any of Sections 18.3.5(D)(2) (*Defence of claims*), 18.3.5(D)(3) (*Defence of claims*) or 18.3.5(D)(4) (*Defence of claims*) are applicable, then legal counsel for the indemnified Party shall have the right to direct the defence of such claim, action, suit or proceeding on behalf of the indemnified Party and the reasonable fees and disbursements of such legal counsel shall constitute reimbursable legal or other expenses hereunder.

### 18.3.6 Subrogation



Upon payment of any indemnification by a Party pursuant to this Section 18.3 (*Liability and Indemnification*), the indemnifying Party, without any further action, shall be subrogated to any and all claims that the indemnified Party may have relating thereto, and such indemnified Party shall at the request and expense of the indemnifying Party cooperate with the indemnifying Party and give at the request and expense of the indemnifying Party such further assurances as are necessary or advisable to enable the indemnifying Party vigorously to pursue such claims.

**18.4 Performance Security genuine pre-estimate of loss**

The Parties confirm that any Performance Security retained by IBN under this Agreement or any liquidated damages payable under this Agreement by the Company, represents a genuine pre-estimate of IBN's loss and is not a penalty.

**18.5 No double recovery**

Each Party agrees that it shall not be entitled to an extension of time or to recover damages or obtain payment, reimbursement, restitution or indemnity more than once in respect of the same shortfall, damage, deficiency, breach or other set of circumstances giving rise to one or more claims.

**18.6 Duty to Mitigate**

Each Party agrees that it has a duty to mitigate damages and covenants that it shall use commercially reasonable efforts to minimise any losses it may incur as a result of the other Party's performance or non-performance of this Agreement.

**18.7 Right to Specific Performance**

If a Party fails to perform its obligations under this Agreement, the other Party shall have the right to require specific performance of the obligation not performed.

**18.8 Survival**

18.8.1 If this Agreement expires pursuant to Section 2.3 (*Term*) or is terminated pursuant to Section 14 (*Events of Default and Termination*), each Party's rights and obligations under this Agreement shall, subject to any provision to the contrary, cease immediately on such expiry or termination (as the case may be), other than Sections 10.8 (*Bank accounts*), 10.9 (*Free transfer and repatriation of necessary funds*), 14.5 (*Transfer Price components*), 14.6 (*Payment of the Transfer Price*), 14.7 (*Performance Security*), 14.8 (*Arbitration*), 14.9 (*Effectiveness of Termination Notice*), 14.10 (*Power of Attorney*), 16 (*Law And Dispute Resolution*), 18.1 (*Disclosure of Confidential Information*), 18.2 (*Rights cumulative with those at Law*), 18.3 (*Liability and Indemnification*), 18.4 (*Performance Security genuine pre-estimate of loss*), 18.5 (*No double recovery*), 18.6 (*Duty to Mitigate*), 18.7 (*Right to Specific Performance*), 18.8 (*Survival*), 18.9 (*Expenses of the Parties*), 18.10 (*Notices*), 18.11 (*Amendments*), 18.12 (*Waiver*), 18.13 (*Further Assurances*), 18.14 (*No Third Parties*), 18.15 (*Entire Agreement*), 18.16 (*Severability*), 18.17 (*Inadequacy of damages*), 18.18 (*Language*), 18.19 (*No partnership or agency*), 18.20 (*Default Interest*) as well as Schedule 2 (*Project Handover upon Expiry of the Agreement*), Schedule 3 (*Handover Requirements – Expiry of the Agreement*), Schedule 4 (*Termination Plan upon Early Termination of the Agreement*) and Schedule 5 (*Land Use Principles*) which shall survive such expiry or termination.

18.8.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

18.8.3 Expiry or termination of this Agreement shall not affect the rights and obligations of the Parties accruing before such expiry or termination, as the case may be.

**18.9 Expenses of the Parties**

Each Party shall bear its own costs and expenses incurred in connection with the negotiation, preparation, execution and registration of this Agreement.

**18.10 Notices**

18.10.1 Any communication or document given, made or sent by a Party to the other Party pursuant to this Agreement must be in writing and shall be deemed to have been duly given, made or sent to the Party to which it is addressed at the time of its delivery by mail, facsimile or delivery, at the following addresses:

<b>IBN</b>	
Designation	Chief Executive Officer
Address:	Investment Board Government of Nepal International Convention Centre Complex, New Baneshwor Kathmandu Nepal
Tel. No.:	977-1-4475276
Facsimile No.	977-1-4475281
Email:	info@ibn.gov.np
<b>The Company</b>	
Designation	Chief Executive Officer
Address:	Arun Sadan, Ward no. 9, Khandbari Municipality, Tumlingtar, Sankhuwasabha District, Nepal
Tel. No.:	977-21-463898
Facsimile No.:	977-1-6630378
Email:	ceo.lahep@gmail.com
<b>SJVN</b>	
Designation	Chairman and Managing Director
Address	SJVN Corporate Office Complex, Shanan, Shimla, Himachal Pradesh India – 171006.
Tel. No.:	91-177-2670804
Email:	sectt.cmd@sjvn.nic.in

18.10.2 For the avoidance of doubt, notices shall not be sent by electronic mail. However, the Parties may share copies of issued notices by email.

18.10.3 In the absence of evidence of earlier receipt, any notice shall take effect from the time that it is deemed to be received in accordance with Section 18.10.4 (Notices) below.

18.10.4 Subject to Section 18.10.5 (Notices) below, a notice is deemed to be received:

- (A) in the case of a notice left at the address of the addressee, upon delivery at that address;
- (B) in the case of a posted letter, on the third (3rd) day after posting or, if posted to or from a place outside Nepal, the seventh (7th) day after posting; and in the case of a facsimile, on production of a transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.

18.10.5 A notice received or deemed to be received in accordance with Section 18.10.4 (Notices) above on a day which is not a Business day or after 5 p.m. on any Business day, according to local time in the place of receipt, shall be deemed to be received on the next following Business day.

18.10.6 Either Party may change its address by prior notification to the other Party in accordance with this Section 18.10 (Notices).

#### 18.11 Amendments

No variation or amendment of this Agreement shall be valid or effective unless it is in writing (which, for this purpose, does not include email) and signed by the Parties. The expression "**variation**" includes any modification, supplement, deletion or replacement, howsoever effected.

#### 18.12 Waiver

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

#### 18.13 Further Assurances

At its own expense, each Party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement, including in relation to obtaining financing for the Project.

#### 18.14 No Third Parties

This Agreement is intended solely for the benefit of the Parties and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, or confer any right of suit or action on any person not a Party to this Agreement.

#### 18.15 Entire Agreement

18.15.1 Each of the Parties confirm that this Agreement (and the documents referred to in it) represents the entire written understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement and understandings between the Parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

18.15.2 Each Party confirms that:

- (A) in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out or referred to in this Agreement or the Transaction Documents; and
- (B) in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with this Agreement, are as set out in this Agreement.

**18.16 Severability**

If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal, unenforceable or against public policy, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable, and, to the greatest extent possible, achieves the Parties' original commercial intention.

**18.17 Inadequacy of damages**

Without prejudice to any other rights or remedies that the Parties may have, the Company and IBN acknowledges and agrees that damages alone shall not be an adequate remedy for any breach of this Agreement. Accordingly, the Parties shall be entitled, without proof of special damages, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of this Agreement.

**18.18 Language**

This Agreement is drafted in the English language. If this Agreement is translated into any other language, the English language text shall prevail.

**18.19 No partnership or agency**

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party.

**18.20 Default Interest**

18.20.1 If a Party fails to make any payment due to any other Party under this Agreement by the due date for payment, then, without limiting the other Party's rights under this Agreement, the defaulting Party shall pay default interest on the overdue amount at the rate of:

- (A) in respect of amounts payable in Dollars, four hundred (400) basis points above the weighted average of all prevailing interest rates charged by the Lenders for dollar denominated debt of the Company; and
- (B) in respect of amounts payable in NPR, four hundred (400) basis points above the weighted average of the lending rates for working capital loans availed by the Company.

18.20.2 Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount.

18.20.3 With respect to IBN's obligation to make payment for breach of Section 6.1.1 (*IBN rights and responsibilities*), such amounts shall be deemed to be due and owing, without prejudice to IBN's ability to make payment of such amount on a staggered basis as set out in the relevant provisions of this Agreement or to dispute such payments, from the expiry of thirty (30) days from when first written demand is made by the Company to the IBN requiring payments of relevant amounts.

18.20.4 In relation to disputed payments, interest under this Section is payable only after the dispute is resolved, on sums found or agreed to be due, from the due date after the dispute is resolved until payment.

#### 18.21 Severe Market Disruption

18.21.1 Without prejudice to the rights and remedies of the Company hereunder, if at any time after the Agreement Date, any Severe Market Disruption occurs, then:

- (A) the Company shall immediately provide a written notice to the IBN setting out the details of such Severe Market Disruption and its impact on the Company; and
- (B) upon receipt of such written notice from the Company, the Parties shall meet as soon as reasonably practicable to discuss and agree on the remedial measures that Parties may need to take to remedy the adverse consequences of the Severe Market Disruption.

18.21.2 IBN shall:

- (A) within the SMD Period, seek to agree with the Company amendments to this Agreement to the extent appropriate and reasonable; and
- (B) during the SMD Period, not exercise its right to terminate or claim compensation or damages under or in accordance with this Agreement and the Company's obligations under this Agreement shall be suspended during such period.

18.21.3 Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the Company shall only be entitled to give a notice for Severe Market Disruption pursuant to Section 18.21.1 (A) (*Severe Market Disruption*) as follows and in no other manner whatsoever:

- (A) for the period commencing from the Agreement Date and ending on the Final COD, not more than twice; and
- (B) for the period commencing on Final COD and up to the end of the Term, not more than thrice,

provided that the Company shall not issue more than four (4) notices for Severe Market Disruption in aggregate during the Term of this Agreement.

18.21.4 For the avoidance of any doubt, it is clarified that:

- (A) the aggregate period of standstill over the Term of this Agreement under Section 18.21.2 (B) (*Severe Market Disruption*) shall not be more than twenty (20) months; and
- (B) any claims for Severe Market Disruption shall not lead to extension of the Term, unless otherwise agreed between the Parties in writing.

#### 18.22 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute

the one agreement.

The Parties have entered into this Agreement on the date stated at the beginning of it acting through their duly authorised representatives.

**Signed for and on behalf of THE INVESTMENT BOARD, GOVERNMENT OF NEPAL:**

Signature:.....  
Name: Sushil Bhatta  
Designation: CEO, Investment Board  
Place: New Delhi, India  
Date: 1 June 2023

**Witnessed by:**

Signature:.....  
Name: Amrit Lamsal  
Designation: Joint Secretary, Investment Board  
Place: New Delhi, India  
Date: 1 June 2023

**Witnessed by:**

Signature:.....  
Name: Sagar Raj Goutam  
Designation: Senior Divisional Engineer,  
Investment Board  
Place: New Delhi, India  
Date: 1 June 2023

**Signed for and on behalf of S.J.V.N. Lower Arun Power Development Company**

Signature:.....  
Name: Nand Lal Sharma  
Designation: Chairman and Managing Director  
SJVN Limited/ Chairman,  
Company  
Place: New Delhi, India  
Date: 1 June 2023

**Witnessed by:**

Signature:.....  
Name: Arun Dhiman  
Designation: Chief General Manager, SJVN  
Limited  
Place: New Delhi, India  
Date: 1 June 2023

**Witnessed by:**

Signature:.....  
Name: Rakesh Sehgal  
Designation: Chief General Manager, SJVN  
Limited  
Place: New Delhi, India  
Date: 1 June 2023

**SCHEDULE 1  
RESTORATION**

1. If the Hydro Property: (A) suffers any damage as a result of a Force Majeure Event; (B) is required to be remedied as a result of a Force Majeure Event; or (C) requires any modification or capital addition as a result of a Force Majeure Event or Change in Law, necessary to return the Hydro Property to its performance capability or its physical state immediately preceding the occurrence of the relevant Force Majeure Event or in case of a Change in Law, necessary to ensure compliance with such Change in Law (in each case, a "**Restoration**"), the Company shall make an initial assessment to ascertain the feasibility and viability of undertaking Restoration and prepare a preliminary statement of its findings within a period of thirty (30) days of the occurrence of the Force Majeure Event or Change in Law or such extended period as the Company may reasonably require but not exceeding ninety (90) days ("**Preliminary Statement**").
2. Upon completion of its initial assessment within the period referred to in paragraph 1 above, the Company shall communicate the following to IBN in writing, together with a copy of the Preliminary Statement:
  - (a) description of the relevant Force Majeure Event or Change in Law and impact of the same on the Hydro Property;
  - (b) the Company's decision as to whether or not Restoration is technically and economically feasible and viable;
  - (c) where Restoration is technically and economically feasible and viable:
    - (i) indicative Restoration Schedule; and
    - (ii) indicative Restoration Cost Estimate.
3. The Parties shall meet, within fifteen (15) Business Days or such other period as may be mutually agreed, following the delivery of the Preliminary Statement to discuss the Preliminary Statement.
4. In case of IBN Force Majeure Event or Change in Law, if the Parties disagree as to whether Restoration is technically and economically feasible and viable, any Party shall be entitled to refer such Dispute in accordance with Section 16. If Arbitration Tribunal determines that Restoration is technically and economically feasible and viable, then the Company shall effect Restoration, subject to paragraph 7 of this Schedule 1 (*Restoration*).
5. If the Company has and where paragraph 4 of this Schedule 1 (*Restoration*) applies, the Arbitration Tribunal has, in the Preliminary Statement and after consultation with IBN, concluded that Restoration is technically and economically feasible and viable, then promptly and in any case within one hundred and twenty (120) days from the date of such determination by the Company, the Company shall: (i) in case of IBN Force Majeure Event or Change in Law, submit a restoration report ("**Restoration Report**") to the Lenders for consideration and approval with a copy to IBN; and (ii) in case of an Other Force Majeure Event, submit a Restoration Report to the Lenders for consideration and approval with a copy to IBN, which, in each case, shall consist of:
  - (a) extent of damage to and impact on the Hydro Property;
  - (b) a good faith statement as to Restoration Cost Estimate;
  - (c) Restoration Schedule;
  - (d) details of the insurance proceeds (including the details of the relevant Insurance Policies) that may be recovered including the dates(s) on which such proceeds are estimated to be received, and the particular purposes for which such proceeds are required to be applied;
  - (e) proposal for financing of the Restoration Cost Estimate and any special requirements of the Lenders for the Restoration;

- (f) In case of IBN Force Majeure Event or Change in Law, an estimate of the aggregate amounts required to be paid by IBN to the Company upfront, in order for the Company to commence and complete Restoration.
6. Each party shall provide to the other party, such information as such other party reasonably requires in connection with the restoration report or in making a decision as to restoration.
7. Once the Lenders have approved the Restoration Report, the Company shall provide the final Restoration Report so approved by the Lenders, including any modifications required by the Lenders, to IBN.
8. Once the Company and IBN have discussed the Restoration Report and made appropriate modifications, if any suggested by IBN and acceptable to the Company and Lenders, the Company shall effect the Restoration in accordance with such amended Restoration Schedule and Restoration Report, provided, however, that the Company shall not be obliged to proceed with the Restoration unless:
- (a) in case Restoration is required as a result of IBN Force Majeure Event or Change in Law, (i) IBN shall have agreed to the terms of the Restoration Report, (ii) IBN has made payments to the Company of all amounts required to be so paid upfront as required by the Restoration Report, and (iii) IBN has made bankable arrangements for the balance amount as required by the Restoration Report and (iv) IBN has agreed to provide financing for such Restoration;
- (b) in case Restoration is required as a result of an Other Force Majeure Event, the Company has secured financing in relation to such Restoration and has obtained prior written consent of the Lenders; and
- (c) all additional Government Approvals and all renewals of existing Government Approvals in relation to such Restoration have been granted by IBN,
9. In the event:
- (a) (i) the Company has, after consultations with IBN, concluded that Restoration is not technically and economically feasible and viable or (ii) where paragraph 4 of this Schedule 1 (*Restoration*) applies, Arbitration Tribunal has determined that Restoration is not technically and economically feasible and viable; or
- (b) any of the conditions set out in paragraph 7 of this Schedule 1 (*Restoration*) are not fulfilled,
- the Company shall be under no obligation to proceed with Restoration and in such case the Parties shall have their respective rights to terminate the Agreement: (i) pursuant to Section 12.9.1 (*Termination due to prolonged Force Majeure Event*) in case of IBN Force Majeure Event or Change in Law; and (ii) pursuant to Section 12.9.2 (*Termination due to prolonged Force Majeure Event*) in case of an Other Force Majeure Event.
10. The Company shall (A) proceed in good faith and diligently to hire the services of an appropriately qualified contractor, to carry out the Restoration; and (B) effect the Restoration in accordance with the Restoration Schedule and Restoration Report, provided that in case of IBN Force Majeure Event or Change in Law, such an obligation shall only apply after the conditions set out in paragraph 7 of this Schedule 1 (*Restoration*) have been satisfied.
11. Notwithstanding anything to the contrary contained in this Agreement, if Restoration is required due to:
- (a) an Other Force Majeure Event, the Company shall be responsible for the costs of effecting such Restoration;
- (b) IBN Force Majeure Event or Change in Law: (i) IBN shall be responsible for the actual costs incurred by the Company in effecting such Restoration ("**IBN Restoration Costs**"); (ii) the Company shall provide IBN with copies of invoices and supporting documentation supporting their claim for IBN Restoration Costs; and (iii)



if the Company needs to incur any costs and expenses beyond what has been agreed to by the Parties in the Restoration Report pursuant to paragraph 7 of this Schedule 1 (*Restoration*) which they require IBN to be responsible for ("**Additional IBN Restoration Costs**"), Company shall obtain IBN 's prior written consent, not to be unreasonably withheld, before incurring such Additional IBN Restoration Costs.

12. Notwithstanding anything to the contrary contained in this Agreement, if after the Lenders have been repaid in full and the Company's obligations under the Financing Documents are discharged:
  - (a) Restoration is required as a result of an Other Force Majeure Event, the Company' decision as to whether Restoration is technically and economically feasible and viable shall be final and not subject to that of an arbitral tribunal pursuant to Section 16 (*Law and Dispute Resolution*); and
  - (b) Restoration is required as a result of IBN Force Majeure Event or Change in Law, the Company's decision as to whether Restoration is technically and economically feasible and viable shall be subject to Arbitration Tribunal pursuant to Section 16 and paragraph 4 of this Schedule 1 (*Restoration*).

## SCHEDULE 2

### PROJECT HANDOVER UPON EXPIRY OF THE AGREEMENT

1. On or after the Expiry Date, all rights granted by IBN or any other Concerned Agency to the Company in relation to the Project and the Hydro Property pursuant to this Agreement shall be revoked by the IBN or any Concerned Agency. Simultaneously with the transfer of the Hydro Property to IBN, the Company shall also transfer the Project Assets tools, spares, inventory, machinery and all other movables required for the Project to IBN or its designee, in each case, in Good Operating Condition free and clear of all Encumbrances and liabilities (other than liabilities pursuant to Section 14.6.7(C) (*Payment of the Transfer Price*)).
  
2. The Handover process shall commence on the date falling two years prior to the Expiry Date and shall end on the Expiry Date (the "**Handover Period**"). This shall involve the following broad steps:
  - (a) IBN shall appoint a handover expert at its cost (the "**Handover Expert**") acceptable to the Company (acting reasonably), to conduct the Initial Inspection and Final Inspection. The Handover Expert shall be independent and should not have had any material pecuniary relationship with the Board, IBN or any IBN Instrumentality for the last one (1) year period. If the Parties fail to agree on the identity of the Handover Expert within ten (10) days following the Board's receipt of the Company's notice of objection, then any Party may apply to the International Centre for Expertise of the ICC to appoint a Handover Expert in accordance with the provisions for the appointment of experts under the Rules for Expertise of the ICC..
  - (b) The Handover Expert shall be entitled to have access to the Company's premises and its relevant Records and documents for the purposes of carrying out the Initial Inspection and Final Inspection. The IBN shall procure that the Handover Expert takes into account the Handover Requirements.
  - (c) The Parties shall use their best endeavours to procure that the Initial Inspection is completed by the Handover Expert within one hundred and twenty (120) days of the commencement of the Handover Period.
  - (d) The Handover Expert shall, within sixty (60) days of completing the Initial Inspection and within thirty (30) days of completing the Final Inspection, submit a report to IBN and the Company confirming whether or not the Project is in Good Operating Condition and in line with the Handover Requirements. In the event any party disagrees with the findings of the Handover Expert, such party shall be entitled to resolve such dispute through Section 16.5 (*Dispute Resolution By Arbitration*). The Parties acknowledge and agree that the Hydro Property running and operating at a capacity of 669 MW for a period of twenty-four (24) hours continuously during the wet season falling within the Handover Period, in order to confirm that Hydro Property is in Good operating Condition.
  - (e) The Handover Expert shall ensure that the normal operations of the Project are not disturbed in any manner during any inspection process.
  - (f) If the Handover Expert concludes that the Hydro Property is not in a Good Operating Condition pursuant to the Initial Inspection report of the Handover Expert, the Parties, along with the Handover Expert (if required by the Parties), shall discuss in good faith the remedial measures, prescribed by the Handover Expert in its reports ("**Remedial Measures**"), to ensure that the Hydro Property is transferred to IBN in Good Operating Condition on the Expiry Date. If the Company disagrees with the Remedial Measures prescribed by the Handover Expert, the Company shall be entitled to refer such dispute to arbitration in accordance with Section 16.5 (*Dispute Resolution By Arbitration*). Any decision rendered by the arbitration tribunal shall be final and binding to the Parties ("**Final Remedial Measures**"). The Company shall bear the expenses for implementing such Remedial Measures.

- (g) The Parties shall procure that the Handover Plan is updated by the Handover Expert on the basis of Remedial Measures suggested after the Initial Inspection and carried out as at the time of the Final Inspection or Final Remedial Measures.
  - (h) The Company shall, before commencing the implementation of such Remedial Measures or Final Remedial Measures, provide a Handover Guarantee to IBN, which shall be progressively reduced, in line with the progress in the implementation of such Remedial Measures or Final Remedial Measures, once the Handover Expert has verified that the relevant Remedial Measures or Final Remedial Measures have been implemented.
  - (i) The Handover Expert shall, three (3) months before the Expiry Date conduct the Final Inspection to verify whether the Remedial Measures have been implemented and submit a Final Inspection report to IBN and the Company.
  - (j) In the event that the Handover Expert concludes in the Final Inspection report that the Remedial Measures or Final Remedial Measures have not been implemented in accordance with the Initial Inspection Report, the Company at its option, either (A) make a cash payment to IBN on or before the Expiry Date of an amount sufficient for IBN to procure implementation of such outstanding Remedial Measures; or (B) implement such outstanding Remedial Measures. The IBN shall cause the Handover Guarantee to be released immediately after the fulfilment of (A) or (B) of this Sub-clause whichever is earlier.
  - (k) The Company shall, at the time of handover, execute and deliver (as appropriate) all such other Records, documents and information as may be reasonably requested by IBN or its designee and as defined in the Handover Plan.
3. During the Handover Period:
- (a) the Company shall continue to occupy the Project Area and operate the Hydro Property in accordance with Good Industry Practice; and
  - (b) the IBN shall minimise disruption to the operations performed by the Company in relation to handover of the Project.
4. The Parties shall use their best efforts and act in good faith to cooperate with each other in completing all formalities relating to the overall handover process.
5. For the purpose of this Schedule 2 (*Project Handover Upon Expiry of The Agreement*), the following terms shall have the following meanings:
- “Initial Inspection”** shall mean a condition survey of the Hydro Property by the Handover Expert to verify if the Hydro Property is in Good Operating Condition.
- “Final Inspection”** shall mean a condition survey of the Hydro Property by the Handover Expert to verify if the Remedial Measures or Final Remedial Measures have been implemented.
- “Handover Guarantee”** shall mean an on-demand irrevocable unconditional bank guarantee in a form acceptable to IBN to be provided by the Company for an amount commensurate to the reasonable expenses as determined by the Handover Expert required to be incurred to implement Remedial Measures or Final Remedial Measures agreed between the Parties to procure that the Hydro Property is in a Good Operating Condition.
- “Handover Period”** shall mean the period commencing from the two (2) years prior to the Expiry Date and expiring on the Expiry Date.

### SCHEDULE 3

#### HANDOVER REQUIREMENTS – EXPIRY OF THE AGREEMENT

1. Two (2) years after Final COD, the Company shall prepare a Handover Plan for the handover of the Hydro Property and submit to IBN for approval.
2. This schedule outlines the broad requirements, which shall be implemented to facilitate the handover of the Project to IBN, at the end of the Term. The Handover Plan shall be prepared by the company and shall be finalised two (2) years after Final COD of the Project in accordance with this Schedule 3 (*Handover Requirements-Expiry of the Agreement*).
3. **OPERATING AND MAINTENANCE MANUALS**  
The broad requirements of Handover which shall be incorporated into the Handover Plan shall be as follows:
  - 3.1 **Operating and Maintenance Manuals:** This shall include manuals for all mechanical/electrical and hydro/mechanical equipment throughout the Hydro Property together with maintenance data for all equipment.
  - 3.2 **Recommended Equipment Maintenance:** A schedule of recommended equipment maintenance, overhaul or replacement that is required to be carried out within subsequent three (3) years for maintenance items and up until next overhaul or replacement for major equipment items. This schedule shall be accompanied by estimated cost and comments on procurement for each item.
  - 3.3 **Maintenance Procedure for Civil Works:** As built drawings and existing maintenance procedures and likely need for maintenance, overhaul or replacement within periods mentioned in paragraph 3.2 above. Procedures for regular Head Pond Safety inspections, seepage determination, foreign materials in Head Pond should also be detailed.
  - 3.4 **Operating Procedures and Records:** Existing operations procedures including predictive maintenance practices, together with a soft copy of operating and predictive maintenance records extended to highlight performance of the equipment and likely need for repair or replacement within the periods mentioned in paragraph 3.2 above.
  - 3.5 **Instrumentation Procedures and Records:** Existing procedures in reading and analysis of instrumentation records and a soft copy of all records accompanied by a commentary on records highlighting potential problem areas or potential need for maintenance.
  - 3.6 **Operating and Maintenance Plan:** This should be mainly based on existing operation and maintenance of all works and equipment throughout the Hydro Property. It should include recommended staffing and required qualifications of staff.
  - 3.7 **Operator Training Plan:** As appearing in the Schedule 2 (*Project Handover upon Expiry of the Agreement*) of this Agreement, the employees of the Hydro Property shall be retained in the Project. If deemed necessary training to the fresh employee shall be carried out prior to handover.
  - 3.8 **Disaster Management Plan:** This should be an update of the plan prepared prior to completion of construction of the Hydro Property. It should specify the roles of responsible parties when dam failure of Arun-3 HPP is considered imminent, or when expected operational flow release threatens downstream life, property, or economic operations that depend on river flow levels. It includes the following items: clear statements on the responsibility for dam operations decision making and for the related emergency communications; maps outlining inundation levels for various emergency conditions; flood warning system characteristics; and procedures for evacuating threatened areas and mobilizing emergency forces and equipment.
  - 3.9 **Spare Part Replenishment:** The Company shall ensure that by the Expiry Date the spare parts for the Hydro Property have been replenished to the level of the initial stock supplied

for the Hydro Property at the Commercial Operation Date or stock required for one (1) year of operation of the Hydro Property as per Good Industry Practice.

4. **INSPECTION AND REMEDIAL MEASURES:** The Handover Expert's Initial Inspection and Final Inspection shall be carried out during maintenance period of the structures, equipment, accessories or as the case may be with prior notice to the Company to ensure that the Hydro Property's operations are not disrupted. However, if such time period is not convenient for the Handover Expert, the Company shall provide a suitable time period to the Handover Expert such that there is minimum disruption to the Project operations. The (A) Initial Inspection shall include the inspection of the major Project components comprising primarily of the following and (B) the Final Inspection shall include the inspection of the same components only to the extent required to verify if the Remedial Measures have been implemented:
  - 4.1 **Concrete structures:** All structural concrete structures shall be inspected: where possible both internally and externally, for evidence of any damage, deterioration or accumulation of foreign material which could impair the future performance or residual lifetime of those structures. For the avoidance of doubt, the requirements for concrete structures shall apply to all Hydro Property elements constructed from concrete including intake Head Pond, spillway structures, waterway linings, hydraulic structures and buildings.
  - 4.2 **Power waterways:** The power waterways shall be dewatered and inspected, during the maintenance of the waterways for evidence of any damage, deterioration or accumulation of foreign material which could impair the future performance or residual lifetime of those structures.
  - 4.3 **Steel structures:** Steel structures if any, shall be inspected for evidence of distress, corrosion or deterioration of the surface protection system. For the avoidance of doubt, the requirements for steel structures shall apply to all Hydro Property elements constructed from structural steel including waterway linings, penstocks, manifolds, transmission infrastructures, tanks and buildings.
  - 4.4 **Hydro mechanical equipment:** All built-in parts, sealing faces, guides gates, valves, screens and similar components shall be withdrawn from service in rotation and inspected during the maintenance of such equipment for evidence of any damage, deterioration or accumulation of foreign material which could impair the future performance or residual lifetime of those elements.
  - 4.5 **Mechanical and electrical plant:** The status or condition of all mechanical and electrical equipment shall be assessed based on past performance, current condition, the future availability of spare parts, and the assumption of continuing normal maintenance. All items of mechanical and electrical nature shall be withdrawn from service in rotation, dewatered, stripped down into component parts and inspected during maintenance period for evidence of any damage, deterioration or accumulation of foreign material which could impair the future performance or residual lifetime of those elements. All parts working under stress shall be closely inspected.
  - 4.6 **Transmission infrastructure:** The operation and maintenance records of the Transmission Line and the status of the condition of the accessible components (including switchyard, transmission towers, conductors, and communication lines) shall all be inspected.
  - 4.7 **Social and Environmental Audit:** The environmental and social conditions present at the Hydro Property shall be checked in accordance with the EIA, Performance Standards and Supplementary E&S Documents.
5. The Initial Inspection report as mentioned in Schedule 2 (*Project Handover Upon Expiry of the Agreement*) shall include:
  - 5.1 Any Remedial Measures in relation to the Hydro Property, if required, such as in relation to:

- 5.1.1 Accumulation of foreign material or indications of potential damage, deterioration or failure of any element of the Hydro Property, including a design or construction error or improper operation and maintenance; and
- 5.1.2 Such accumulation, damage, deterioration or failure has a material negative potential effect on the operability, maintainability or efficiency levels of the Hydro Property, or on the residual lifetime of the Hydro Property, including any potential safety issues; and
- 5.1.3 The extent of the contamination or impact in environmental and social condition needs in accordance with the EIA and the Performance Standards and Supplementary E&S Documents.

6. **Remedial Measures**

- 6.1 The Company shall implement all Remedial Measures or Final Remedial Measures prior to the Expiry Date and shall permit IBN to monitor and shall deliver final Handover Plan.

## SCHEDULE 4

### TERMINATION PLAN UPON EARLY TERMINATION OF THE AGREEMENT

#### 1. APPOINTMENT OF AUDITOR FOR VERIFICATION OF THE TRANSFER PRICE

1.1 In case of a transfer pursuant to Section 14.6 (*Payment of the transfer price*), one of the Big Four shall be appointed for the purpose of verification of the Transfer Price, as follows:

1.1.1 Where a Termination Notice has been issued by the Company, the Company shall be entitled to appoint one of the Big Four as the accountant for verification of calculation of the Transfer Price.

1.1.2 Where a Termination Notice has been issued by IBN, IBN shall be entitled to appoint one of the Big Four as the accountant for verification of calculation of the Transfer Price.

1.1.3 Where a termination notice has been issued by IBN pursuant to IBN Force Majeure Event or a land acquisition delay event, the company shall be entitled to appoint one of the big four as the accountant for verification of calculation of the transfer price termination completion

1.2 The Company shall, no later than the Transfer Date:

1.2.1 execute and deliver to the IBN or its designee all such agreements, deeds, and documents, including all novations, conveyances, transfers, assignments and other documents, as may be necessary for transfer of the Company's rights, title and interest in respect of such of the Project assets (including Records and insurance claims under the insurance policies of the Company in relation to the Project that are outstanding but remain unpaid and those for which the Company is entitled to make a claim but has not made such claim, as on the Transfer Date) as IBN acquires in accordance with Section 14.6 (*Payment of the Transfer Price*);

1.2.2 deliver (as appropriate) such Records and information as may be reasonably requested by the IBN or its designee.

#### 2. COOPERATION

2.1 In respect of handover of the Project, the Company shall use its best efforts and act in good faith to cooperate with IBN or any new proposed operator of the Hydro Property that IBN may notify to the Company in writing. Such cooperation required of the Company shall include the provision of all Records and other relevant documentation and information held or used by the Company relating to the Hydro Property.

2.2 Nothing contained in this Paragraph 2 shall be a pre-condition for payment of the Transfer Price by IBN and transfer of the Hydro Property and Project Assets by the Company to IBN in accordance with this Agreement

## SCHEDULE 5

### LAND USE PRINCIPLES

The broad principles for the Land Use Agreement(s) to be executed for making available for use of any land and GON ROWs by IBN or any Concerned Agencies (the “**Lessor**”) to the Company (the “**Lessee**”), shall be as follows:

- (i) **Term:** The Term of the Land Use Agreement(s) shall be co-terminus with this Agreement.
- (ii) **National importance:** The terms of the Land Use Agreement(s) shall take into account that the Project is of national importance.
- (iii) **Land use rates:** Land use rates or the formula for determination of such land use rates shall be fixed for the Term, shall be reasonable and shall reflect the principles and practices adopted by Concerned Agencies in determining land use rates for other projects in Nepal as of the Agreement Date.
- (iv) **Termination:** The Land Use Agreement(s) shall not be terminated except: (i) In the event of termination of this Agreement; (ii) for the default of the Lessee in payment of annual lease rental, where such default is not cured for a period of sixty (60) days from the date of receipt of notice from the Lessor; (iii) breach of the Land Use Agreement(s) by GON where such breach affects the development, construction or operation of the Project and is not remedied within sixty (60) days from the date of notice from the Lessee.
- (v) Upon early termination of the Agreement, the land made available to use shall be transferred back to GON.



## SCHEDULE 6

### INSURANCE

#### 1. INSURANCE

- 1.1 The Company shall at its own cost and expense obtain and maintain in effect for the Term of this Agreement appropriate levels of insurance in accordance with the Laws of Nepal, Good Industry Practice and this Schedule 6 (*Insurance*), with internationally reputable and financially sound insurers approved by the Lenders, (the "**Insurance Policies**").
- 1.2 Without prejudice to paragraph 1.1 above, once the Lenders have been repaid in full and the Financing Documents cease to remain in full force and effect, the Insurance Policies to be maintained by the Company, shall, as a minimum, cover the following:
- 1.2.1 the Company's general liability arising out of this Agreement;
  - 1.2.2 loss, damage or destruction to the Hydro Property and all associated facilities and infrastructure, property and/or assets owned by the GON and found within the Project Area, including all permanent structures, buildings, equipment, improvements and other fixtures; and
  - 1.2.3 such other covers as are specified in the Export Power Sales Agreement.
- 1.3 The Company shall not be in breach of its obligations hereunder if and to the extent that any Insurance Policy is unavailable to the Company under commercially reasonable terms for reasons other than any breach by the Company or Company Event of Default.
- 1.4 Not later than ten (10) days after the date any of the Insurance Policies are brought into effect, or renewed in accordance with their terms, the Company shall provide the IBN with evidence of such Insurance Policy in the form of cover notes from the relevant broker or certificates from the insurer, and shall submit copies of all such Insurance Policies to the IBN within ten (10) days of their issue by insurers.
- 1.5 The Company shall annually submit to the IBN certified copies of the certificates of insurance which it is required to obtain under this Schedule 6 (*Insurance*). Each certificate of insurance shall state that such Insurance Policy has been obtained and is in full force and effect that all premiums on such Insurance Policy are current.
- 1.6 For the purpose of this Schedule, the term 'insurance', 'insurer' and 'insurance policy' shall include 'reinsurance', 'reinsurer' and 'reinsurance policy' as may be relevant.

#### 2. MODIFICATIONS OF INSURANCE COVERAGE

- 2.1 The Company shall inform IBN of any material modifications or cancellation to the Insurance Policies within thirty (30) days of the date of such modification or cancellation.
- 2.2 If at any time the Company fails to purchase and maintain in full force and effect any Insurance Policy required under this Agreement, the IBN may purchase and maintain such Insurance Policy and all amounts incurred by the IBN in purchasing and maintaining such Insurance Policy shall be reimbursed to IBN by the Company.

#### 3. APPLICATION OF INSURANCE PROCEEDS

Subject to Lenders' rights or requirements under the Financing Documents, the Company shall: (A) in the first instance, apply the proceeds of any insurance claim in respect of physical loss or damage to the Hydro Property towards the remedy of such loss or damage provided that the Hydro Property can be Restored; and (B) in the second instance, towards repayment of Transfer Debt and Financing Charges to the Lenders.

**SCHEDULE 7**  
**PROJECT AREA**

**Generation:**

Lower Arun Hydro Electric Project is envisaged to be a run of the river type cascade development of Arun-3 HPP having the peaking facility to harness the hydel potential of river Arun with primary purpose of exporting to India. The intake structure of the Project is located in Pukhuwa and Power house near the confluence of Arun and Betini Khola of Sankhuwasabha District of Nepal. Access to the Project intake site is through Jogbani-Biratnagar- Hile-Leguwa-Tumlingtar-Khandbari- Chainkutti route. The power house area is accessible from Jogbani- Biratnagar- Hile-Leguwa- Tumlingtar-Betini route. The intake structure of the Project is proposed upstream of Tumlingtar at a distance of about 30Km and Power House site about 7 km upstream of Tumlingtar by proposed road connecting Intake and Power House sites. The Power House site of the Project is accessible from Tumlingtar by road. An airstrip exists at Tumlingtar which is connected to Kathmandu by half an hour journey by air. Tumlingtar is also connected by road with a distance of about 680 km from Kathmandu.

**Province: Koshi**  
**District: Sankhuwasabha and Bhojpur**

**List of Local Level in which various project appurtenances are located.**

<b>Project Appurtenances</b>	<b>Local Level</b>
Head Pond	Chichila Rural Municipality
Power House	Khandbari Municipality
Quarry site and Contractor's job facility area at Head Pond/intake	Chichila Rural Municipality, Khandbari Municipality
Construction office	Chichila Rural Municipality, Khandbari Municipality
Residential buildings	Chichila Rural Municipality, Khandbari Municipality
Project Colony and Contractor's job facilities at Power House site	Chichila Rural Municipality, Khandbari Municipality
Dewatered Area	Chichila Rural Municipality, Khandbari Municipality and Silichong Rural Municipality of Sankhuwasabha District; Salpasilichho Rural Municipality and Shadananda Municipality of Bhojpur District.

**Project Boundaries of the Project are as under:**

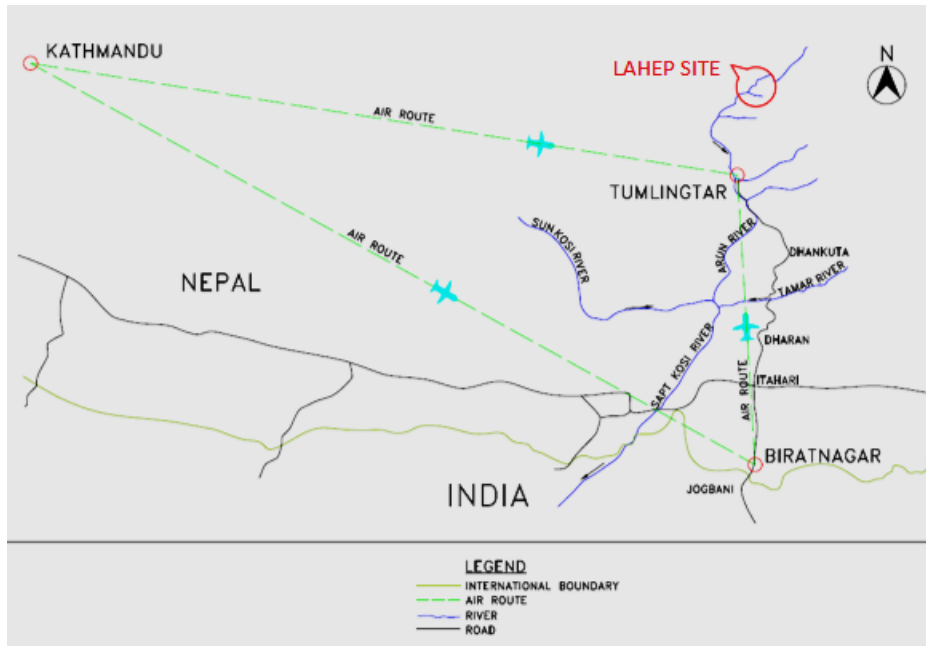
**Latitude** 27°30'36"N to 27°21'51"N

**Longitude** 87°12'30"E to 87°07'30"E

**Transmission Line:**

Power of Lower Arun Hydroelectric Project is envisaged to be evacuated via LILO 400 KV D/C line of Arun-3 HPP.

The figure below shows the Project area:



## SCHEDULE 8

### POWER STATION SPECIFICATIONS

Lower Arun Hydro Electric Project is envisaged to be a run of the river type cascade development of Arun-3 HPP having the peaking facility to harness the hydel potential of river Arun with primary purpose of exporting to India. The intake structure of the Project is located in Pukhuwa and Power house near the confluence of Arun and Betini Khola of Sankhuwasabha District of Nepal.

The salient features of the Project are as follows:

- Generation of about 2901.02 GWh per annum of power based on 90% dependable flows under rated discharge of 344.68 m<sup>3</sup>/s with the effective head of 212.68 m;
- Operate in Tandem with Arun-3 HPP having a Tail Race outfall pond of size 66.40m(L)x29.5m(B)x28m(H) to receive water directly from tailrace tunnel after generating electricity of Arun-3 HPP with null operating level of elevation level 537m and minimum operating level of elevation level 536 m; Top elevation of structure 545.00 m (corresponding to design flood of 15710 m<sup>3</sup> /s at TRT Outfall in Arun-3 and Maximum water level in pond during Tandem Operation), maximum water level 544.00 m
- the power house service bay level EL. 317 is above design flood discharge of 16964 m<sup>3</sup>/sec (10134 m<sup>3</sup>/sec PMF and 6830 m<sup>3</sup>/sec of GLOF).
- intake structure shall consist of 2 numbers intake gates of 6x7m with trash racks.
- a horse shoe, concrete lined spill tunnel of 10.5m dia and length of 327.m;
- a 17.4 km long, 10.5m dia horse shoe, concrete lined HRT has been designed to carry a discharge of 344.68 m<sup>3</sup>/s.
- a 134.75 m high, 33.84m diameter underground restricted orifice type surge;
- two steel lined underground pressure shafts, each of 5.85 m diameter with bifurcation into unit pressure shafts of 4.14 m diameter feed the four Francis turbine of 167.25 MW each;
- a surface powerhouse of size 150 m (l) x 24 m (w) x 53 (h) to house 4 units of 167.25 MW
- vertical shaft Francis Turbines and spherical type main inlet valves;
- A surface transformer bay to accommodate 13 Nos. 3x71 MVA single phase 13.8/420 kV/ $\sqrt{3}$  kV ODWF type;
- one 50 m wide (rectangular concrete lined and cast in-situ concrete blocks) 72.93 m long tail race channel (including transition) tailrace water directly into the river with minimum tail water level EL 305.50 m.

These data are as per DPR submitted to IBN. Notwithstanding anything written herein above, the specifications may undergo changes/ modifications/ improvements, before or during construction, based on actual ground conditions, pre-construction investigations and studies and/or acceptable suggestions of technical consultants and advisors to the Project.

## SCHEDULE 9

### TRANSMISSION LINE SPECIFICATIONS

The power from Lower Arun Hydroelectric Project shall be evacuated through 400KV D/C LILO arrangement with under-construction Arun-3 400kV D/C Transmission line. The salient feature of the scheme is:

- a. Line length approximately of 2 km. (D/C)
- b. Line shall be constructed on self-supporting latticed type steel towers with ACSR Moose conductor in bundle of four conductors per phase.

**Salient features of the construction:**

- a. Tower body extension of +3, +6, +9, +18, +25 M and unequal leg extensions with 1.5m and 3 m difference are envisaged
- b. The leg extensions shall result in reduced benching and excavation volumes.
- c. The detailed designing of the tower, its body and leg extension, foundation designs for normal, wet/SFR, DFR, and HR by considering ACSR Quad Moose conductor formation shall be started immediately after the submission of final report by the contractor.

The broad specifications of the Transmission line are as follows:

- d. Design Parameter:
  - I. Wind Zone - 4
  - II. Terrain Condition – Hilly
  - III. Maximum Conductor Temperature – 85<sup>0</sup> C
- e. Line Configuration
  - I. Name : ACSR MOOSE
  - II. Diameter (mm) : 31.77
  - III. Cross Sectional Area (sq. mm) : 597
  - IV. Weight of Conductor (kg/m) : 2.004
  - V. Ultimate Tensile Strength (kg): 16428
  - VI. Modulus of Elasticity , E (Kg/sq.mm) : 7034
  - VII. Coeff. Of Linear Expansion (deg C) : 0.00000193
- f. Towers
  - I. 'A' Type suspension towers from 0-2 degree angle of deviation with tension insulator string
  - II. 'B' Type suspension towers from 2-15 degree angle of deviation with tension insulator string
  - III. 'C' Type tension towers from 15-30 degree angle of deviation with tension insulator strings.
  - IV. 'D' Type tension towers from 30-60 degree angle of deviation with tension insulator strings.
  - V. Special Type of Towers are being provided in Hill areas depending upon loading

- g. Conductors
  - I. 'Moose' conductors of overall diameter 31.77 mm shall be used per phase
  - II. Horizontal and vertical sub-conductor spacing shall not be less than 200 mm
- h. Earth wire
  - I. Two earth wires, one 7/3.15 mm galvanized steel wire and the second OPGW shall be used on the line
  - II. Shielding angles of 20 deg is considered for transmission line
- i. Grounding
  - I. Tower footing resistance shall be kept below 10 ohms
- j. Insulator and Hardware Fittings
  - I. High strength polymer Anti fog insulators shall be used
  - II. Corona control rings or grading rings shall be used for improving corona and RIV performance as well as to improve the voltage distribution across the insulators discs
- k. Line Accessories
  - I. Mid Span compression joint for conductor/earth wire
  - II. Repair sleeve for conductor
  - III. Flexible copper bond for earth wire
  - IV. Vibration dampers for earth wire

Notwithstanding anything written here in above the specifications may undergo changes/ modifications/ improvements, before or during construction, based on actual ground conditions, additional studies and/or acceptable suggestions of technical consultants and advisors to the Project.

## SCHEDULE 10

### TECHNICAL STANDARDS

4. **FOR DESIGN AND CONSTRUCTION OF CIVIL WORKS (FOLLOWING MANUALS/ GUIDELINES/STANDARDS AS APPLICABLE)**
  - a. Manual of Standards and Criteria for Planning Water Resources Projects. Water Resources Series No. 26 - A United Nations Publication
  - b. Civil Engineering Guidelines for Planning and Designing Hydroelectric Development (in five volumes), American Society of Civil Engineers (ASCE), 1989.
  - c. Engineering and Design - Hydropower, Department of the Army Corps of Engineers, USA, 1985.
  - d. BIS – Bureau of Indian Standards
  - e. Any other internationally recognized standards
  - f. Powerhouse Design Guidelines for Hydropower Projects, 2018
  - g. Guideline for Power System Optimization of Hydropower Projects, 2015
  - h. Design Guidelines for Headworks of Hydropower Projects
  - i. Design Guidelines for Water Conveyance System of Hydropower Projects
  - j. Guidelines for Study of Hydropower Projects, 2018
  - k. Nepal Road Standard (NRS) 2070
  - l. Guidelines for flexible pavement design, 2021
  - m. Standard Specification for Road and Bridge Works 2073
  - n. Indian Road Congress:
    - a. IRC\_15-2011 Standard Specifications and Code of Practice for Construction of Concrete Roads (Fourth Revision)
    - b. IRC 37 Guidelines for the design of flexible pavements
    - c. IRC 21\_Standard Specification and code of practice for road bridges, section\_III Cement concrete (Plain and reinforced) Third Revision, 2000
    - d. And other relevant or revisions of the standards during the design of the roads and bridges.
  
5. **FOR GEOLOGICAL MAPPING, LABORATORY AND IN SITU TESTING OF ROCKS AND SOILS (FOLLOWING MANUALS/ GUIDELINES/STANDARDS AS APPLICABLE):**
  - a. International Society for Rock Mechanics. The complete ISRM recommends methods for rock characterization testing and monitoring: also 1976-2006. Ed Ulusay R, Hudson JA, ISRM 2007
  - b. Any subsequent ISRM suggested methods as published in International Journal of Rock Mechanics and Mining Engineering
  - c. Relevant ASTM Standard Test Methods
  - d. BIS – Bureau of Indian Standards
  - e. Any other internationally recognized standards
  
6. **FOR ROCK ENGINEERING DESIGN FOR SURFACE AND UNDERGROUND EXCAVATIONS (FOLLOWING MANUALS/ GUIDELINES/STANDARDS AS APPLICABLE):**

- a. Hoek E, Kaiser PK, Bawden WF. Support of underground excavations in hard rock. Balkema, Rotterdam 1995
- b. Hoek E. Practical rock engineering.
- c. BIS – Bureau of Indian Standards
- d. Any other internationally recognized standards
- e. Design Guidelines for Water Conveyance System of Hydropower Projects

**7. FOR TUNNEL LINING DESIGN (FOLLOWING MANUALS/ GUIDELINES/STANDARDS AS APPLICABLE):**

- a. Task Committee on Steel Penstock Design of Pipeline Planning and Design Committee of the Pipeline Division of ASCE. Steel penstocks (2nd Ed).Ed Bambei J, 2012
- b. The British Tunneling Society and the Institution of Civil Engineers. Tunnel lining design guide. Thomas Telford, London, 2004.
- c. BIS – Bureau of Indian Standards
- d. Any other internationally recognized standards

**8. FOR MECHANICAL AND ELECTRICAL ENGINEERING (FOLLOWING MANUALS/ GUIDELINES/STANDARDS AS APPLICABLE):**

- a. Mechanical and Electrical works shall be done to the relevant specification of:
  - i. ANSI (American National Standards Institute)
  - ii. ASME (American Society of Mechanical Engineers)
  - iii. ASTM (American Society of Mechanical Engineers)
  - iv. CCH-70 (Examination of Steel Casting)
  - v. CEA -Hydroelectric Turbine Generator Units, Guide for erection Tolerances and Shift System Alignment
  - vi. CSA (Canadian Standards Association)
  - vii. IEC (International Electro-technical Commission)
  - viii. IEEE (Institute of Electrical and Electronics Engineers)
  - ix. ISO (International Quality Standards)
  - x. NEMA (National Electrical Manufacturers Association)
  - xi. FCC (Federal Communications Commission)
  - xii. BIS – Bureau of Indian Standards
  - xiii. Any other internationally recognized standards

It should be noted that many of the organizations listed above do not provide standards as such but recommend design methods leaving the final decision to the designer; however if reference is made to such recommendations in any submission then the PMU shall regard this as authoritative.

**9. CODES AND STANDARDS**

Technical specifications of all materials and works used and provided under all design calculations and tests shall be in accordance with the latest edition of the appropriate standards published by the following master list of issuing authorities as applicable or other equivalent standards and codes.

Abbreviation	Designation
ACI	American Concrete Institute



<b>Abbreviation</b>	<b>Designation</b>
AES	Atmospheric and Environment Services, Environment Canada
AGMA	American Gear Manufacturers Association
AISC	American Institute of Steel Construction
AISE	Association of Iron and Steel Engineers
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
API	American Petroleum Institute
ASCE	American Society of Civil Engineers
ASTM	American Society for Testing and Materials
ASME	American Society of Mechanical Engineers
AWG	America Wire Gauge
AWS	American Welding Society
AWWA	American Water Works Association
BIS	Bureau of Indian Standards
BSI	British Standards Institution
CEA	Canadian Electrical Association
CGSB	Canadian General Standards Board
CDA	Canadian Dam Association
CSA	Canadian Standards Association
CEMA	Canadian Electrical Manufacturers Association
CMAA	Crane Manufacturers Association of America
CSA	Canadian Standards Association
DIN	Deutsches Institut fur Normung
EIA	Electronic Industries Association
EN	European Standards
FCC	Federal Communications Commission
IEC	International Electro-technical Commission
IEEE	Institute of Electrical and Electronics Engineers
IIW	International Institute of Welding

<b>Abbreviation</b>	<b>Designation</b>
IPCEA	Insulated Power Cable Engineers Association
ISA	Instrument Society of America (Now International Society for Automation)
ISO	International Organization for Standardization
JEC	Standards of the Japanese Electro-technical Committee
JEDEC	Joint Electric Device Engineering Council
JIS	Japan Industrial Standards
NEC	National Electrical Code of the U.S.A.
NEMA	National Electrical Manufacturers Association (U.S.A.)
NESC	National Electrical Safety Code of U.S.A.
NFPA	National Fire Protection Association
SAE	Society of Automotive Engineers
SSPC	Steel Structure Painting Council (Now Society for Protective Coating)
TEMA	Tubular Exchangers Manufacturers Association
UL	Underwriters Laboratories, Inc. (U.S.A.)
USBR	United States Bureau of Reclamation
VDE	Verband Deutscher Electroingenieure (German equivalent of IEEE)
VDI	Verein Deutscher Ingenieure (Society of German Engineers)
	Any other International authority as applicable

Within twelve (12) months from the Agreement Date, the Company shall provide to IBN a detailed list of standards for the relevant works as specified above. The Company may propose alternative standards in addition to those listed above with justification and reference inputs to PMU for review.

**SCHEDULE 11****SCOPE OF WORK FOR THE PROJECT REVIEW PANEL (PRP)****1. Scope of Reviews**

Specific subjects on which the PRP are expected to comment are listed below. The PRP should also comment on any other matter which it considers to be important to the successful design, construction and operation of the Hydro Property and to the long-term safety of structures.

- 1.1 **Engineering Geology:** Quality and sufficiency of geological investigations and interpretation thereof; correctness of geological and hydro-geological models of the regions, engineering implications with respect to foundation design, stability of natural and excavated slopes; and support of surface and underground excavations.
- 1.2 **Seismic Hazard Assessment:** The identification of sources of seismic activity, the assignment of earthquake magnitudes to each source, and the methodology for determining Peak Ground Acceleration (PGA) parameters at the site for maximum credible and design basis earthquakes.
- 1.3 **Hydrology:** Review of hydrological data pertaining to maximum flood conditions including floods generated by Glacial Lake Outflows (GLOFs) also in light of increasing hydrological variability associated with global warming.
- 1.4 **Construction and Concrete Technology:** the adequacy of the field and laboratory investigations and of their interpretation and application to the design appropriateness of aggregate and cementitious materials selected; concrete mix design; design details; adequacy of the foundations and the treatment proposed; construction procedures specified in relation to the foundations, instrumentation and proposed monitoring program.
- 1.5 **Rock Mechanics and Geotechnical Engineering:** Review of potential slides in areas; design of surface and underground excavations.
- 1.6 **Hydraulic and Structural Design and Layout:** design and specifications for the Project components. This shall include hydraulic steel structures such as gates and valves for the control of waterways. Special attention should be given to the layout of the powerhouses in conjunction with the selection of the generating equipment
- 1.7 **Construction of Underground Structures and Hydropower Facilities:** Construction planning, temporary facilities, access to the sites, the master schedule for implementation; construction quality assurance; review during actual construction with a view to making recommendations concerning improvements in construction procedures.
- 1.8 **Mechanical and Electrical Design of Hydro Mechanical Equipment:** Specifications and manufacturers proposals for turbines, motor-generators and mechanical and electrical equipment in the powerhouse and switchyard.
- 1.9 Provide independent advice on both environmental and social aspects of the Project. This includes advising on optimizing alternatives and synergies between engineering/economic and environment/social aspects of the Project.

- 1.10 Review environmental and social impact assessments, environmental management plans and resettlement action plans advise on any modifications required to comply with standards of international financiers.
- 1.11 Provide support and quality assurance services for the environmental and social studies, analyses, and management plans, including the public consultation and disclosure processes.
- 1.12 Review and comment on local benefit plan and proposed measures for implementation
- 1.13 Continue review and advice during implementation phase.
- 1.14 Such other matters as specified in this Agreement.

## SCHEDULE 12

### WORK UNDERTAKEN IN RELATION TO THE HYDRO PROPERTY

#### 1. MOU, Survey License and capacity optimization

- i. Memorandum of Understanding (MOU) executed between Investment Board of Nepal and SJVN Ltd, India on 11<sup>th</sup> July 2021.
- ii. Survey License (SA.AA.003/2077-78) dated 11.07.2021 issued for 679 MW capacity Project communicated vide letter dated 18.07.2021 for an initial validity period of 24 months, to the Company under PPPIA, 2019 and PPPIR,2020.

#### 2. Foreign Investment Approval

- i. Foreign Investment approval obtained from the Investment Board on 13<sup>th</sup> April 2023.
- ii. A company named "S.J.V.N. Lower Arun Power Development Company Pvt. Ltd." has been registered on. 26.05.2023

#### 3. Detailed Project Report DPR Level Studies

- i. The Board of SJVN on 26.06.2021 passed a resolution, authorizing SJVN Arun-3 Power Development Company Pvt. Ltd. (SAPDC) to take up survey and preconstruction activities of the Project on behalf of SJVN Ltd.
- ii. Inception Report submitted to IBN on 15.08.2021
- iii. IBN approved the Revised Inception Report on 08.02.2022 .
- iv. Detailed Project Report (DPR) (669MW) was submitted to IBN on 31.10.2021
- v. Updated Detailed Project Report (DPR) (669MW) was submitted to IBN on 31.05.2022 and IBN acknowledged it on 08.08.2022.
- vi. DPR approved by Central Electricity Authority, Govt. of India on 31.10.2022.
- vii. Pre-construction Investigations – i.e. additional drilling works at HRT completed during 2022.
- viii. Numerical Model studies for Tandem Operation System (TOS) of Arun-3 HEP and the Project conducted during 2022.
- ix. Hydraulic Model Studies are being carried out.
- x. Tender level engineering for major works completed and are in a state of readiness.

#### 4. Environmental Impact Assessment Studies

- i. The Terms of Reference (ToR) and Scoping Document (SD) for the preparation of Environmental Impact Assessment (EIA) study of Lower Arun Hydro electric Project for 679 MW was approved by Ministry of Forests and Environment (MoFE), GON on 06.08.2020 to Department of Electricity Development (DoED), GON as Project proponent. However, DoED submitted the EIA study report of Lower Arun Hydro Electric Project for installed capacity of 474.25 MW to MoFE, GON for approval process on 02.07.2021. Accordingly, the approval of EIA study (474.25MW) report has been obtained by DoED from MoFE on 07.01.2022.
- ii. Permission for conducting Supplementary Environmental Impact Assessment study for 669 MW scheme obtained from Ministry of Forests and Environment, GON on 26.04.2022 under Environment Protection Act, 2019 (A.D.) and Environment Protection Rule, 2020 (A.D.)
- iii. Draft Supplementary EIA Report was submitted on 22.03.2023 to Office of IBN
- iv. Public hearing conducted at three location of Project Area at Sankhuwasabha and Bhojpur Districts on 17th to 19th of April 2023

#### 5. Project Land

- i. The land identification process is complete and the details of same shall be finalized in the EIA/IEE.

## SCHEDULE 13

### DISASTER MANAGEMENT PLAN GUIDANCE NOTE

Disaster management is a systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improve coping capacities in order to lessen the adverse impacts of hazards and the possibility of disaster. The Disaster Management Plan should be holistic in approach, recognizing that environmental risks arise from the complex interaction of environmental hazards and socio-economic vulnerability.

#### 1. Objectives

The objectives of the Disaster Management Plan are listed below:

- Prevention, reduction, and mitigation of disaster risks in communities, infrastructure, and environment
- Building resilience of families and communities, infrastructure, and environment by reducing their vulnerability and increasing their ability to withstand and minimize the effects of disasters and complex emergencies by enhancing preparedness
- Providing fast, coordinated, effective and appropriate responses to disasters and complex emergencies
- Ensuring timely recovery from disasters and complex emergencies, and leaving families and communities in a better position to withstand future hazards.

#### 2. Key Hazards

The hazards for the Project are partly caused by nature and partly man-made, some are avoidable, others not. Some of the hazards outlined below for reference, could cause inundation and other risks to lives and properties. The different types of hazards may occur separately or in combination.

- Breaching of the Head Pond
- Glacial lake outburst flood, GLOF
- Extraordinary and untimely floods
- Emergencies resulting from sudden release of water from Head Pond and TRT outfall of the Project
- Erosion, landslides in the Project Area causing damage to Project components.
- Earthquakes, causing damages to the Project components

#### 3. Responsibilities

The Company shall prepare the Disaster Management plan within 12 months from the agreement date in consultation with the relevant authorities and local communities for communities likely to be affected by Project related emergencies. The Disaster Management Plan shall cover the construction phase of the Project, early operation period and routine operation and maintenance phase.

The Disaster Management Plan should incorporate all the elements of the disaster management cycle, section by section, as below:

- i. Disaster Prevention
- ii. Risk Reduction
- iii. Mitigation
- iv. Preparedness
- v. Response, Recovery and Reconstruction

The plan shall include, but shall not be limited to, the following:

- Identification of a complete list of possible hazards and risks to the Project.
- Risk assessment with vulnerability analysis of each hazard scenario, including combination of hazard scenarios that could occur together at the same time.

- Design of risk prevention, reduction and mitigation measures and development of associated plans for their implementation
- Integration of existing approved Disaster Management Plan of Arun-3 HPP with the Disaster Management Plan of the Project for implementation.
- Provision of warning signs in flood inundation zones previously identified by the Company, areas for sirens and other alarms when an emergency has occurred or is imminent, for operation of sudden release of water from Head Pond and TRT outfall of the Project in a safe manner for actions to be taken in the event of the occurrence of the key hazards referred to above, and for actions to be taken to mitigate adverse effects if an emergency occurs.
- Notification of previously identified key members of downstream communities with normal responsibility for dealing with civil emergencies. These personnel shall be responsible for liaising with potentially affected communities and for organizing evacuation.
- Education and periodic re-education of local communities by the Company in cooperation with the local government.

The Company shall work in coordination with the relevant government authority to implement the plan. The Company shall have the responsibility in case of an emergency or potential emergency that is primarily attributable to the Company and for carrying out remedial works after such an emergency in consultation with concerned government authority.

## SCHEDULE 14

### METERING

#### 1. TYPE OF METERS

All meters viz interface meters, accounting and audit meters shall be of Bi-directional digital type having facility for local and remote communication.

#### 2. STANDARDS

All meters viz. interface meters, accounting and audit meters shall comply with the relevant standards of BIS or equivalent BS or equivalent International Electro-technical commission (IEC) standards.

#### 2.1 For Interface meters:

2.1.1 The interface meters suitable for ABT shall be Bi-directional type, as self-contained devices for measurement of active and reactive energy, and other parameters as described in the following paragraphs. The meters shall be suitable for being connected directly to VTs having rated secondary line-to-line voltage of 110 V, and to CTs having a rated secondary current of 1A (Model-A: 3 element 4 wire or Model C: 2 element, 3 wire) or 5A (Model-B: 3 element 4 wire or Model D: 2 element, 3 wire). The reference frequency shall be 50 Hz. The meter shall have a non-volatile memory in which the following shall be automatically stored:

- (A) Average frequency for each successive 15-minutes block, as a two digit code (00 to 99 for frequency from 49.0 to 51.0 Hz).
- (B) Net Wh transmittal during each successive 15-minutes block, upto second decimal, with plus/minus sign.
- (C) Cumulative Wh transmittal at each midnight, in six digits including one decimal.
- (D) Cumulative VARh transmittal for voltage low condition, at each midnight, in six digits including one decimal.
- (E) Cumulative VARh transmittal for voltage high condition, at each midnight, in six digits including one decimal.
- (F) Date and time blocks of failure of VT supply on any phase, as a star (\*) mark

2.1.2 The meters shall store all the above listed data in their memory for a period of at least ten days. The data older than ten days shall get erased automatically. Each meter shall have an optical port on its front for tapping all data stored in its memory using a hand held data collective device. The meter shall be suitable for transmitting the data to remote location using appropriate communication medium.

2.1.3 The active energy (Wh) measured shall be carried out on 3-phase, 4-wire principle, with an accuracy in accordance with class 0.1 S. In model – A and C, the energy shall be computed directly in CT and VT secondary quantities, and indicated in Watt-hours. In model – B and D, the energy display and recording shall be one fifth of Wh computed in CT and VT secondary quantities.

2.1.4 The Var and reactive energy measured shall be carried out on 3-phase, 4-wire



principle, with an accuracy in accordance with class 0.1 S. In model – A and C, the Var and VARh computation shall be directly in CT and VT secondary quantities. In model – B and D, the above quantities shall be displayed and recorded as one fifth of those computed in CT and VT secondary quantities. There shall be two reactive energy registers, one for the period when average RMS voltage is above 103% and the other for the period the voltage is below 97%.

- 2.1.5 The 15-minute Wh shall have a +ve sign when there is a net Wh export from substation bus bars and a –ve sign when there is a net Wh import. The integrating (cumulative) registers for Wh and Varh shall move forward when there is Wh/Varh export from substation busbars and backward when there is an import.
- 2.1.6 The meter shall also display following parameters:
- (A) Unique identification number of the meter
  - (B) Date
  - (C) Time
  - (D) Cumulative Wh register reading
  - (E) Average frequency of the previous 15-minute block
  - (F) Net Wh transmittal in the previous 15-minute block with +/- sign
  - (G) Average percentage voltage
  - (H) Reactive power with +/- sign
  - (I) Voltage – high VARh register reading
  - (J) Voltage-low VARh register reading
- 2.1.7 The meter shall be totally sealed and temper-proof, with no possibility of any adjustment at site, except for restricted clock correction. The harmonics shall be filtered out while measuring Wh, Var and VARh and only fundamental frequency quantities shall be measured/computed.
- 2.1.8 The main meter and Check meters shall be connected to same core of CTs and VTs.
- 2.1.9 The three line-to-neutral voltages shall be continuously monitored and in case any of these falls below 70% the condition shall be suitably indicated and recorded, the meters shall operate with the power drawn from the VT secondary circuits, without the need for any auxiliary power supply. Each meter shall have a built in calendar and clock, having an accuracy of 30 seconds per month or better.
- 2.2 For energy accounting and audit meters:
- 2.2.1 The energy accounting and audit meter shall be suitable for measurement, recording and display of cumulative active energy with date and time.
- 2.2.2 The energy accounting and audit meters may also have the facility to measure, record and display one or more of the following parameters depending upon the energy accounting and audit requirement. All parameters excluding instantaneous electrical parameters shall also be stored in memory.
- (A) Apparent power

- (B) Phase wise KW at peak KVA
- (C) Phase wise KVA (Reactive) at peak KVA
- (D) Phase wise voltage at peak KVA
- (E) Power down time
- (F) Average PF
- (G) Line Currents
- (H) Phase voltage
- (I) Date and time
- (J) Tamper events

2.2.3 The energy accounting and audit meter shall have data storage capacity for at least 35 days in a non-volatile memory.

2.2.4 Energy accounting and audit meters shall have facility to download the parameters through meter reading instrument as well as remote transmission data over communication network.

### 3. LOCATION OF INSTALLATION

The Location of various meters shall be as follows:

#### 3.1 Interface Meter :

3.1.1 Generating Station:-

3.1.1.1 Main Meter: On all outgoing feeders

3.1.1.2 Check Meter: On all outgoing feeders

3.1.1.3 Stand by Meter: HV Side of GT and HV side of all Station Auxiliary Transformer

3.1.2 Transmission Line:-

3.1.2.1 Main Meter: On Substation at Dhalkebar end of lines

3.1.3 Interconnecting Transformer (ICT):-

3.1.3.1 Main Meter: On HV side of ICT

3.1.3.2 Standby Meter: On LV side of ICT

#### 3.2 Energy Accounting and Audit Meter:

3.2.1 At the point after the generator stator terminal and before tap-off to unit auxiliary transformer

3.2.2 On each incoming feeder of 3.3 kV and above

3.2.3 LV side of each incoming transformer feeder of LV Buses and

3.2.4 On HT motor feeders

### 4. ACCURACY CLASS:

4.1 Interface Meter 0.1 S

4.2 Energy Accounting

Audit Meter: Not inferior to that of 0.1 S (after Generator stator terminal)

4.3 **Other meters:** Not inferior to 1.0S

5. **INSTALLATION OF METER:**

5.1 The Company shall examine, test and regulate all meters before installation and only correct meters shall be installed.

5.2 The meters shall be installed at locations, which are easily accessible for installation, testing, commissioning, reading, recording and maintenance.

All meters shall be tested and recalibrated at least once every two (2) years.

## SCHEDULE 15

### LOCAL BENEFIT SHARING PLAN GUIDANCE NOTE

**"Benefit Sharing"** is the systematic effort of the Company, as well as GON and GON nominated agencies to equitably share benefits of Project with affected communities through benefit sharing mechanisms beyond mandatory mitigation and compensation measures, including but not limited to the enhancement measures detailed in the Environmental Impact Assessment (EIA), Initial Environmental Examination (IEE) and Supplementary E&S Documents during construction phase, and continued community development activities that benefit the affected communities throughout the concession term.

**"Local Benefit Sharing Plan"** refers to the plan through which the Company agrees to benefit sharing through local community development activities reflected in the EIA, IEE and supplementary E&S Documents, and that which the Company as a good corporate citizen shall continue throughout the concession period by channelling some of the benefits generated by the operation of the Project to the affected communities beyond mitigation and compensation measures.

Some of the benefit sharing mechanisms already agreed between the Company and IBN are:

- **Royalties:** Following Interim COD, the Company shall pay Capacity and Energy Royalty to GON, and such Royalties shall be distributed between the Concerned Agencies in accordance with the Intergovernmental Fiscal Arrangement Act, 2074.
- **Local Shares:** Local Shares have to be provided as per Section 10.17 of this Agreement.
- **Rural electrification and energy to local households:** Rural electrification in each Local Household shall be as per Section 11.9 of this Agreement.
- **Industrial and Employment Benefits:** With an objective to encourage full, free and fair access to Nepali individuals and firms to opportunities in employment and supply of quality goods and services, the Company shall develop these plans in accordance with the guidance notes in Schedule 17 and Schedule 16.

### LOCAL BENEFIT SHARING PLAN

Local Community Development is the systematic effort by the Company, as a part of benefit sharing, to support community development in the Project Area beyond obligatory mitigation and compensation measures in accordance with the enhancement measures detailed in the EIA, IEE and Supplementary E&S Documents during the phase of Project construction.

In addition to the budget committed in the EIA, IEE and Supplementary E&S Documents, post-COD, and throughout the concession term, the Company, as a good corporate citizen shall support community development of affected communities through benefit sharing activities.

Local community development activities aim to improve the standard of living of the affected communities through livelihood enhancements and support to physical infrastructure such as roads, trails, pedestrian bridges in each case construction and maintenance, water supply construction and management, communications: mobile phone towers, internet, community infrastructure development, such as schools, health posts, community centers, women's centers, small enterprise development funds etc. These initiatives should be developed in coordination with local governments to avoid duplication of interventions/support and ensure sustainability of efforts.

The Local Benefit Sharing Plan shall also include a component detailing local community development activities (as committed in the GON approved EIA, IEE and Supplementary E&S Documents), that includes a detailed breakdown of specific activities, timeline, budget and implementation modalities. This does not preclude the Company from committing additional resources for the above and other benefit sharing activities.

The Company shall prepare the Local Benefit Sharing Plan to be implemented during the construction phase within twelve (12) months from the date of this Agreement in accordance with this Schedule 15 (*Local Benefit Sharing Plan Guidance Note*).

The Local Benefit Sharing Plan for the operation phase shall be developed by the Company based on the needs of the communities and the procedures of this Schedule.

### **KEY STEPS TO GUIDE THE DESIGN OF A GOOD COMMUNITY DEVELOPMENT**

**A well-designed plan should include:**

- Updated information;
- clear objectives;
- carefully defined target population;
- responsible agencies, as well as implementation arrangements; and
- implementation activities along with an itemised budget.

### **Updating of Baseline Information**

The baseline data reflected in the EIA/IEE/Supplementary E&S Reports should guide the Local Community Development Plan. The baseline information should include:

- **Socio-economic indicators**

Socio-economic status, education level, poverty level, level of public services in the Project communities; and social differentiation within communities to identify, indigenous people, vulnerable groups, minority ethnic groups, classes, castes, religious groups and the role of women, for which special provision may have to be made;

- **Institutional capacity at the local level**

Key social institutions and customary systems for decision making, local governance structure, characteristics of social organisation and internal community relations, local institutions (including local government, and conflict resolution mechanisms); Assessment of the adequacy of institutional arrangements and capacity at the local level is critical for the design and implementation of any benefit sharing programme.

- **Natural resource management and land use**

- Mapping use of common resources, and reliance of vulnerable communities on use of natural resources.
- Geological features and geotechnical information of the area.
- Mapping of geological and geotechnical features of major component area and Project area

### **Engagement and consultation**

The Project communities and local governmental organisations have to be consulted during the design of all Plans, as part of the broader stakeholder engagement.

Engagement and consultation are necessary to ensure that the Plans are tailored to the needs of the local people. The Plans should be informed by stakeholder consultation, and should take into account local capacity and affected communities' needs.

The Company shall have to develop an overall advocacy and communications strategy with government and local communities.

### **Full Disclosure**

As part of the Company's obligations regarding Disclosure of Information and Consultation, the Company shall disclose all Plans in Nepali and English.

### **GRIEVANCE MECHANISMS**

The Company shall set up a grievance mechanism to resolve grievances at the community level.

**MONITORING AND REPORTING**

The Company shall submit reports, every six months up to Final COD and every 12 months thereafter, to the IBN describing in detail the activities undertaken under the Plan, the amounts spent on such activities and impact evaluation of such activities, where relevant.

## SCHEDULE 16

### NEPAL EMPLOYMENT AND SKILLS TRAINING PLAN GUIDANCE NOTE

The requirements set out in this Schedule are based on the principles of good corporate citizenship, as well as the objective of creating opportunities for employment, training and skills enhancement in Project related activities or vocational trainings and other trainings, details of which are set out in this Plan. In addition, this Plan shall encourage training and employment of local people in Project related activities, which employment shall be commensurate with educational qualifications, relevant skills and experience.

The Nepal Employment and Skills Training Plan is based on the objective of the Government of Nepal that hydro development shall act as a stimulus to bring long term sustainable benefits to Nepal and its people, and that one of the key benefits is improved skill development and employment of the Company affected people.

It is expected that the majority of job requirements can be met by Nepalese, and that the project cycle for hydro projects shall enable training to be proceeded sufficiently in advance to enhance employment opportunities for the locals.

The Company in accordance with Section 11.10 (*Use of Nepali resources; training and development*) shall develop a Nepal Employment and Skills Training Plan within twelve (12) months from the date of this Agreement that shall:

- Identify expected labour force (Nepali and Non-Nepali) requirements over the Project life cycle by Year and by skill, both directly by the Company and by each of its expected major Contractors set out the Company's and the major Contractors' planned measures to recruit and train workers over time;
- Identify the expected opportunities for employment and skill development at local levels;
- Contribute to the development of employable skills and human resources

This schedule outlines the principal requirements for the Nepal Employment and Skills Training Plan.

The employment and skills training plan shall not restrict itself only to the hydro power related training, but shall also comprehensively look into vocational training area e.g. the area- specific farm (agriculture, animal husbandry; small orchards and other farm based allied activities) and non-farm linked training; productivity improvement (knowledge transfer) and self-employment program to provide impetus to the improvement of living standards of locals.

As far as practicable, the Company shall attempt to transfer the skills of skilled and semi-skilled foreign personnel to Nepali counterparts during the course of Project implementation including workshop and training.

The Company shall submit yearly progress reports to the IBN on the implementation of this Plan.

**SCHEDULE 17****NEPAL INDUSTRIAL BENEFITS PLAN GUIDANCE NOTE****1. OVERVIEW**

The requirements set out in this Schedule are based on the principles of good corporate citizenship, an expectation that access to early information on Project opportunities shall enable Nepal-based firms to gear up to meet the needs for supply of goods and services at competitive prices in accordance with the timelines and quality standards required by the Company. This shall ensure that the Company and Nepali industry and service suppliers can mutually benefit from having a strong competitive supplier sector based in Nepal.

**2. REQUIREMENTS**

2.1 The Company prepare a Nepal Industrial Benefits Plan that shall:

2.1.1 ensure full and fair opportunity of access for Nepal-based suppliers of goods and services to meet the requirements of hydro-project developments;

2.1.2 help in promoting a vibrant, growing, competitive supplier base within Nepal that over the time shall meet higher value-added requirements for goods and services for the Project;

2.1.3 encourage initiatives for joint venture and quality improvement measures that shall enhance the ability of Nepal-based suppliers to compete domestically and internationally;

2.1.4 promote safe and healthy working conditions among suppliers of goods and services to the Company and the Project; and

2.1.5 ensure Contractors afford full and fair opportunity for Nepal-based suppliers to access Project requirements for goods and services;

2.2 The Company shall prepare the full Nepal Industrial Benefits Plan within twelve (12) months from the date of this Agreement in accordance with this Schedule, provided that such Plan shall be subject to approval from the IBN.

**3. APPLICABILITY**

3.1 The applicability of this Schedule is established during the early planning and engineering phases of the Project.

3.2 Since there are immediate service requirements and early construction, preliminary Nepal Industrial Benefits Plans should consider the availability of engineering, legal, planning, consulting and construction services, while the detailed design phase shall enable more precision on the specific requirements for goods and services and their timing that would enable Nepal-based suppliers to be accommodated.

3.3 Early interaction with Nepal-based suppliers, both existing and potential, is strongly encouraged by the GON. All Project phases, from planning, regulatory, feasibility, design, construction, operation and maintenance shall be addressed in procurement plans to afford opportunities for Nepal-based suppliers for goods and services.

**4. ELEMENTS**

4.1 Key elements of this Plan is to provide full and fair access to domestic suppliers of goods and services shall be the following:



- 4.1.1 itemisation and quantification of goods and services required over the Generation Project life cycle, and plans for sharing this information with potential suppliers well in advance to enable them to compete on a full and fair basis;
  - 4.1.2 key measures that shall be followed to help enhance local supplier prospects of business success;
  - 4.1.3 designate an Industrial benefits officer, who shall work with domestic suppliers on opportunities to meet mutual needs;
  - 4.1.4 interaction with key domestic suppliers to help them understand the timing, quantity and quality requirements for goods and services;
  - 4.1.5 support GON initiatives for domestic supplier development activities to enhance upgrading of capabilities and product and services quality and competitiveness;
  - 4.1.6 encouraging joint ventures between local and foreign suppliers to enhance knowhow transfer;
  - 4.1.7 excluding major construction contracts, proper structuring of procurement packages at a scale to encourage domestic supplier participation, where possible;
  - 4.1.8 providing appropriate feedback where established local suppliers were unsuccessful bidders;
  - 4.1.9 promote local business development and sourcing initiatives.
- 4.2 The Company shall submit yearly progress reports to the IBN on the implementation of this Plan.

## **SCHEDULE 18**

### **USE OF WATER - WATER REQUIREMENTS**

The Project utilizes the tailwater of Arun-3 HPP. The Project envisages generation of 669 MW of power based on 90% dependable flows under rated discharge of 344.68 m<sup>3</sup>/s and design head of 212.68 m. Project is being developed as a run of the river scheme in tandem with Arun-3 HPP. A Head Pond is envisaged to receive water directly from tailrace outfall of Arun-3 HPP with null operating level of EL 537m and minimum operating level of EL 536 m.

At all times an ecological release shall be as stipulated in the SEIA and released into the Arun River. This flow would be augmented downstream from the flow from the tributaries of Arun River. The Project's water requirement is commensurate to 3 to 4 hours peaking at full installed capacity in lean months i.e. for months of Jan to March, 6 to 8 Hours of peaking at full installed capacity in non-monsoon season i.e., from April to May and months of October to December, and generation of full installed capacity during monsoon season i.e., months of June to September, for a 90% dependable flow.

#### **Operation Protocol**

Following Safety devices and measures is planned to be adopted for the release of water from the Head Pond during generation and flood season.

#### **1. EDUCATION AND INFORMATION**

The Project authorities shall take the initiative to educate and inform the public of the specific hazards near its Project and of the general rules that should be followed to be safety conscious. This shall also be done with the help of eye-catching hoardings at conspicuous places and advertisements in the media.

#### **2. WARNING DEVICES**

Warning devices include such items as danger and warning signs, audible warning devices, lights and illumination, beacons and strobe lights.

##### **2.1 DANGER AND CAUTIONARY SIGNAGE**

(i) To put the danger and cautionary signs at the critical points which are more prominently dangerous for the common unsuspecting public. The signs shall be so located in such manner that persons entering an area from any direction can see one or more of the signs. Moreover, these signs shall be useful for warning the uneducated public.

(ii) A regular sign inspection program shall be developed and documented to ensure that all signs are maintained in good condition. Particularly importance shall be given to inspect signs after severe weather or flood conditions.

##### **2.2 AUDIBLE DEVICES**

Audible devices such as sirens, horns or buzzers shall be used to warn of sudden changes in the rate of flow of water in the spillways. There shall be an advance warning siren 10/15 minutes before the actual release of water from tail pool .

##### **2.3 LIGHTS**

Lights can be used, if required, to illuminate signs and other hazardous areas

##### **2.4 BEACONS**

Beacons and strobe lights shall be utilized near spillway gates at prominent places having a wide visibility range and they shall be activated to provide visual warning when water is being released from tail pool. Flashing strobe lights can also effectively compliment audible warning systems.

##### **2.5 VERBAL ANNOUNCEMENTS**

Recorded or direct verbal warnings can be used through the use of mobile vans specially along national highways and places frequented by tourists.

#### **3. RESTRAINING DEVICES**

##### **3.1 FENCES**

Fences and Guardrails shall be provided, wherever required, to prevent public access to hazardous areas.

### 3.2 GUARDS

Uniformed guards and watchmen can be deployed in heavily used public areas to enforce regulations and warning signs.

### 4. MINING

The Project authorities should inform district administration, Police and the mining officers in case of any illegal mining along the riverbed upstream as well as downstream of the Head Pond area coming to their notice. Keeping in view of safety of Project, they should ensure that no mining takes place near the intake pond area.

### 5. WATER RELEASE PROCEDURE DURING PEAKING GENERATION

While peaking the power station, the power station shall gradually be brought to full capacity (0 to 669 MW), within a span of 30 minutes or as per offtakers requirement with due consideration of safety and security of downstream area. Similar procedure shall be adopted in reverse manner while reducing generation from full load to no load.

6. Annual energy generation from the Power Station corresponding to 90% Dependability is 2901.02 MU.

**SCHEDULE 19  
LAND ACQUISITION PLAN (LAP)**

**LOWER ARUN HYDROELECTRIC PROJECT**

The total tentative Project Land requirement has been identified based on the communication with the Company:

**I. Project Land (including LILO arrangements)**

The land parcels required for the Project construction including LILO arrangement is subject to identification and verification from relevant Concerned Agencies. The details of land identified are as under:-

Description	Land Areas (Ha)
Private Land	107.97
Government Land including Forest Land	76.85
<b>Total Land</b>	<b>184.82</b>

**1. Land Acquisition Plan (Private Land):**

The land acquisition activities shall be carried out jointly by the Company and IBN or Concerned Agency to meet the timelines. In case the process is not concluded within the stipulated 12 months period from the Agreement Date, IBN or Concerned Agency shall thereafter take the responsibility for acquisition and transfer such land to the Company.

The list of key activities, along with tentative timelines, estimated based on discussions with various stakeholders, is elaborated below:

**Time-Based Land Acquisition Activities Schedule**

S.N	Activities	Responsibility	Timeline (Tentative)	Remarks
A	<b>Detail information on the areas of private land needed to be acquired - compilation, verification and finalization of land parcels</b>		<b>10days</b>	
B	<b>Notification of Land</b>		<b>140 days</b>	
B.1	Preparation of final list with all land parcels details required for the notification of land acquisition and submission to CDO.	Company	20 days	
B.2	Officer responsible for preliminary action submit a report (land detail) to CDO	CDO	30 days	Recommended by Concerned Agency
B.3	Notification of Land Acquisition, Formation of CDC and to inform affected	CDO		

	people on cutoff date (Roka) for non-transfer of land of 15 days		45 + 15 days	
B.4	Right of landowner to file complain if any, why his/her land should not be acquired	Landowner		
B.5	Negotiations with Landowners regarding compensation	CDC	30 days	
<b>C.</b>	<b>Compensation Finalization, distribution and registration of land in the name of Company</b>		<b>150 days</b>	
C.1	Determination of compensation and publication of notice.	Compensation Determination Committee (CDC)	60 days	Chair by CDO (IBN facilitation)
C.2	Landowner who are not satisfied with the list may file a complaint with the MoHA or in the Court of Appeal	Landowner		Within 15 days to MoHA after publication of notice.
C.3	Affected landowners will submit an application along with compensation	Landowners	---	Company will provide necessary facilitations
C.4	Distribution of compensation and Transfer of Land	CDO, DLRO, Survey Office (Napi) and Company	45 days	
C.5	Takeover possession of purchased property	Company	45 days	Facilitated by GON/ Concerned Agencies
	<b>Total Timelines (in days)</b>		<b>300 days</b>	

## 2. **GON Land Lease (including Forest Land)**

GON Land (including Forest Land) shall be made available to the Company within 12 months from submission of land lease request by the Company after the approval of EIA/IEE.

## II. **LILO (Rights of Ways– includes Land required for the Tower Foundations - both GON Land, Forest Land and Private Land)**

The GON Land, Forest Land and Private Land is required for the construction of tower foundations as well as Rights of Ways (ROWS) for the LILO portion of the Project. The landowners of the Private Land below the LILO shall have restricted use of land (restriction on building houses, plantation of trees, etc.), as such, the determination of adequate compensation package is a key in overall completion of the land acquisition process for LILO portion of the Project.

## SCHEDULE 20

## APPROVALS SCHEDULE

The description includes a description of the approval and its terms, conditions, and justification. Each approval is given a reference title to accompany its description and final approval date.

GON Agency	Description	Date	Reference No.	Applicable GON Law and Regulation
<b>(1) Generation Project ( Lower Arun)</b>				
Investment Board Nepal (IBN), Government of Nepal (GON)	Memorandum of Understanding signed between IBN and SJVN Limited	11/07/2021		PPPIA, 2019 / PPPIR, 2020
IBN, GON	Survey License (SA.AA.003/2077-78) (2 Years)	11/07/2021 communicated vide letter no. 07 dt. 18/07/2021	SA.AA.003/2077-78	Electricity Act, 2049 Electricity Rules, 2050
IBN	Submitted: Detailed Project Report of the Project	31/06/2022		PPPIA, 2019 / PPPIR, 2020
Ministry of Forest and Environment	Approval of EIA for 474.25 MW Lower Arun Hydroelectric Project (Study carried by DoED)	02/07/2021		Environment Protection Act/Rules
Ministry of Forest and Environment, GON	Consent for conducting SEIA	26/04/2022	MoFE/986/2078-79	Environment Protection Act/Rules
IBN	Submitted Draft SEIA Report	22/03/2023		Environment Protection Act/Rules
Ministry of Forest and Environment, GON	Submitted revised version of SEIA Report	-		Environmental Act/Rule
<b>(2) Company Registration</b>				
IBN	Submitted: Application for the Investment approval of the Project	04/12/2022	SAPDC/CEO/LAHEP/2022-244	PPPIA, 2019 /PPPIR, 2020
IBN	Submitted: Application for approval/recommendation to OCR for company	11/04/2023	SJVN/CEO/LAHEP/2023-12	PPPIA, 2019/PPPIR, 2020

	incorporation			
IBN	Approval/recommendation to OCR for company incorporation	20/04/2023	079/80- 804	PPPIA 2019/PPPIR 2020
IBN	Approval of Investment for SJVN limited	13/04/2023	079/80-817	PPPIA 2019/PPPIR 2020
Office of Company Registrar	Company Registered: S.J.V.N. Lower Arun Power Development Company Pvt. Ltd.	26/05/2023	313219/79/80	Company Act, 2063
IBN, Department of Industries	Approval for permission to convert expenditure incurred for Lower Arun HEP Company by SJVN Ltd.	6 months-		IBN, Department of Industry

#### TENTATIVE LIST AND PERIOD OF APPROVAL TO BE GRANTED

S.No.	Description of Activity Required Approval	Estimated Period from the date of agreement in which approval is required	Concerned Instrumentally	GON
1	Submission of Final SEIA	1 month	IBN	
2	Approval of SEIA	3 months	MoFE	
3	Land Acquisition a) Land Acquisition Private land b) Lease agreement of GON Land	12+10 months (additional 10 months for IBN)  15 months (12 months after approval of SEIA)	IBN, Ministry of Land Management Cooperatives and Poverty Alleviation, Ministry of Forests and Environment	
4	Application submitted for Explosive license	3 months	IBN, Ministry of Home Affairs	
5	Application submitted for Project License	22 months	IBN	
6	Submission of RAP report	9 months	IBN	
7	Submission of <i>Local Benefit Sharing Plan</i>	12 months	IBN	
8	Submission of <i>Nepal Employment and Skills Training Plan</i>	12 months	IBN	
9	Submission of <i>Nepal Industrial Benefits Plan</i>	12 months	IBN	
10	Submission of <i>Disaster Management Plan</i>	12 months	IBN	
11	Submission of Occupational Health and Safety plan	6 months	IBN	

12	Security at sites	3 months	IBN, Ministry of Home Affairs
13	Permission of quarries at different locations	9 months	IBN, MoFE
14	Permission/NOCs from 6 Palikas for different activities	6 months	Palikas
15	Permission for the improvement of Road from Tumlingtar to Heluwa Besi or any other	6 months	IBN, Department of Roads, Palikas
16	Import/Use of fuel, cement and steel etc	6 months	IBN, Department of Electricity Development, Department of Commerce
17	Operation of Public health centre	6 months	IBN, Ministry of Health and Population
18	Operation of Schools etc.	12 months	IBN, Ministry of Education, Science and Technology, CTEVT
19	Permission for construction of explosive magazine and bunkers .	6 months	IBN, Ministry of Home Affairs. Ministry of Defence
20	Communication System in the Project Area	6 months	IBN, Ministry of Communication and Information Technology
	<b>Transmission Line</b>		
1	Application for the Transmission Survey License	6 months	IBN, DoED
2	Issuance of Transmission Survey License	6 months	DoED
3	Submission of DPR for TL	18 months	IBN, DoED
4	Submission of IEE Report for TL	18 months	IBN, MoEWRI
5	Approval of IEE Report for TL	22 months	MoEWRI
6	Application for Transmission License	18 months	IBN, DoED
7	Transmission License	24 months	DoED
	Land Acquisition a) Land Acquisition Private land b) Land Use Agreement of GON Land	36+10 months (additional 10 months for IBN)  34 months (12 months from approval of IEE)	IBN, Ministry of Land Management, Cooperatives and Poverty Alleviation, Ministry of Forest and Environment



## SCHEDULE 21

### PERMITTED ACTIVITIES

1. Correspondence, discussions, liaison, interaction with various departments, GON agencies, local bodies, Ministries, GON and other associated consultant and other agencies and stakeholders including Banks etc. at district and centre level.
2. All approvals and Clearances from Local Levels, Districts and Centre level.
3. Operation and running of the offices within and outside Nepal.
4. All activities related to the Opening of Liaison office in India.
5. Conduction of company's Board meetings as per the requirements and making any amendments in AOA and MOA of the Company as per the Board Approval.
6. Access to the Hydro Property site.
7. Manpower recruitment.
8. Continuation of CSR related activities.
9. Interactions and discussion with the Project Affected Families.
10. Continuation of Rain fall data collection, sediment and discharge data collection at the Project sites.
11. Use of water for the Project construction activities and Project colony/offices.
12. Continuation of preconstruction investigational works including survey drilling, geophysical, and geotechnical exploratory drifts tunnel works within the Project Area.
13. Collection of samples for construction materials.
14. Setting up of lab and testing of the samples.
15. Preconstruction works including that for infrastructural development at the Project sites i.e. roads, bridges, culverts, causeways, labour camps, colonies, stores, magazine and bunkers for explosives, workshops, townships, office complex ,workers/ staff training centres, officer/staff/worker messes hospitals, schools, conference halls, Guest houses, officer/staff/workers clubs, auditorium, market complex, Helipad, library, water supply, installation of crusher plant and sanitary schemes etc. within the Project Area.
16. Tendering for the preconstruction works.
17. Construction of required infrastructure works, i.e. access tunnel, adits, portal, river diversion, up gradation in the existing Roads, highway and bridges, etc.
18. Arrangement of construction power and electrification of camps.
19. Capacity building of manpower.
20. Forest land identification and verification and further taking up the case for the final handover of the land within the GON board approval/Cabinet approval etc.
21. Land acquisition of private/Government land required for the Company.
22. Forest clearance for the preconstruction works of roads, tunnels and bridges within the Project Area and for all other main Project components.
23. Obtaining licenses related to explosives, procurement, transport, storage and use of explosives for construction activities of the companies.
24. Construction of explosive magazines, bunkers and security personnel as per GON law.
25. Power evacuation arrangement.
26. Tendering includes pre bid discussion, bid opening, evaluation, negotiation and award of contract for main civil works / hydro mechanical works / Electro mechanical works and procurement works.

27. Procurement of office facilities, contractor/electrical mechanical equipment, POL, cement, steel etc.
28. Import of requisite construction/erection machinery, tool, tackles, explosive, POL, cement, steel etc.
29. All works required for the Financing of the Hydro Property.
30. Discussion, negotiations and other related activities with GON and / or Concerned Agencies to complete Post PDA obligations by the Company.
31. Required co-ordination and signing of PSA's.
32. Opening and operation of Bank A/C in Nepal and India.
33. Selection and appointment of consultants for various Project related activities.
34. Hiring of various services, vehicles, buildings, office facilities, machineries and equipments as required time to time.
35. Establishment of various plants for pre-construction activities and main construction activities including but not limited to Crusher, Batching, Generator, lathes, etc.
36. All activities related to the CDM registration with GON audit.
37. All other miscellaneous activities required for the Development of 669 MW Lower Arun Hydro Electric Project.
38. Providing security in the Project area and declaration of prohibited area at :-
  - Headworks and Power House site
  - Explosive magazine area and bunkers
  - Project area including adits, quarry sites, offices and colony area, labour camps etc.

**SCHEDULE 22**

**OTHER PROJECTS**

1. Koshi Irrigation Project (Koshi Barrage) – 85° 55'36" East, 26°31'35" North
2. Sunsari Morang Irrigation Project (SMIP) New Intake - 87° 09'05" East, 26°50'50" North
3. West Koshi Irrigation Project (Pipeline) - 87° 09'03" East, 26°51'19" North
4. Irrigation projects in dewatered stretch.

**SCHEDULE 23**  
**FORM OF PERFORMANCE SECURITY**

Date:

Investment Board, Government of Nepal,  
International Convention Centre Complex,  
New Baneshwor,  
Kathmandu, Nepal

**Re: Bank Guarantee (Performance Security) No. [●]**

We have been informed that [insert name of the Company] (the "**Company**"), having its registered office at [●] will enter into a Project Development Agreement ("**PDA**") with you for the development, design, engineering, financing, procurement, insurance, construction, completion, testing, commissioning, ownership, operation, maintenance, repair and transfer of the Lower Arun Hydroelectric Project and associated Transmission Line (as more particularly described in the PDA).

In accordance with the terms of the PDA, the Company is required to submit an unconditional and irrevocable, payable on-demand bank guarantee of NPR [●] (Nepalese Rupees [●] only), (the "**Security Amount**") to IBN for the due and faithful performance of the Company's obligations under the PDA (the "**Performance Security**") and we [●], Kathmandu, Nepal (the "**Guarantor**") have at the request of the Company agreed to provide such Performance Security, being this Bank Guarantee (Performance Security) No. [●].

On your first written demand, stating that (a) the Company is in default of its obligations under the PDA, or (b) the Company has not replaced this Performance Security with another performance security issued on the same terms at least fourteen (14) days prior to the Expiry Date (as hereinafter defined), we, the Guarantor as primary obligor hereby expressly, unconditionally and irrevocably undertake to pay to IBN, without demur, reservation, protest and any reference to the Company or the PDA the amount specified in such demand, provided that the total of all demands shall not exceed the sum of the Security Amount. You shall not be required to prove or show grounds for your demand or the sum specified therein. It is clarified further that your demand shall be conclusive evidence to us that such payment is due under the terms of the PDA. It shall not be necessary, and the Guarantor hereby waives any necessity, for IBN to proceed against the Company before presenting to the Guarantor its demand under the Performance Security.

The term of this Performance Security shall commence on the date of its issuance and shall expire on the expiry of the Term of the PDA. (the "**Expiry Date**").

All claims, if any, in respect of this Performance Security must be received by the Guarantor on or before the Expiry Date.

This guarantee is subject to Uniform Rules for Demand Guarantees ICC Publication No. 758, except that the provisions of Article 26 are hereby excluded and shall be governed by and construed in accordance with the Laws of Nepal and will be subject to the jurisdiction of the courts of Nepal.

The Performance Security shall not be affected by any change in the constitution of the Guarantor or of the Company.

Notwithstanding anything contained hereinabove:

- (1) Our liability under this Guarantee shall not exceed the Security Amount

- (2) Any demand may be brought by IBN under this Guarantee up to close of business on the Expiry Date.
- (3) We shall be liable to pay any amount under this Guarantee or part thereof only if we receive a claim or demand in writing within banking hours at our [●] Kathmandu, Nepal or if such branch is not operating, at another branch in Kathmandu, Nepal, on or before the Expiry Date and if no such demand has been received by us by that time and date, all rights to bring any demand under this guarantee will cease.

Notwithstanding sub-section (2) and (3) above, all claims made by IBN on or before the Expiry Date shall, subject to sub-section (1) above, be honoured by the Guarantor where payment in respect of such demands have not been made by the Expiry Date.

This guarantee (or any of its proceeds) is not assignable and is not transferable in whole or in part.

Upon payment by the Guarantor in respect of all claims or demands made by IBN under this Bank Guarantee on or before the Expiry Date, this guarantee automatically becomes null and void whether or not the original has been returned to us.

Signed for and on behalf of: .....

Name: .....

Designation:.....

Seal of the Bank:.....

Signed for and on behalf of: .....

**[Note: delete the following signature block if not applicable]**

***[Signed for and on behalf of confirming bank in Nepal:.....]***

***Name:.....***

***Designation:.....***

***Seal of the Bank:.....***

***Signed for and on behalf of:.....]***

## SCHEDULE 24 ACCESS ROAD

The access road to the powerhouse and intake site of Lower Arun Hydroelectric Project are through the Koshi Highway via. Mugling (Koshi Highway) to Heluwabesi to Diding Road and Chankutty-Diding Road respectively.

The roads required for the Project are as follows:

### Access to Powerhouse:

The Company shall use the road with access from the Koshi Highway starting at Mugling (near ward 9 office of Khandbari Municipality). The Powerhouse is nearly 5.6 Km from the Koshi Highway.

### Access to Intake Site:

The Company shall use the road with access from Koshi Highway starting at Chankutty. The 28.7 Km Chankutty – Diding road is being upgraded under Arun III HPP and the access to the intake structure will be constructed as a part of the Arun III HPP.

Alternatively, the Company may also use the Project road constructed by the Company (Mugling-Heluwabesi-Diding) to access the intake site.

### Access to Adits

The Company shall construct the road from Chewabesi-Heluwabesi-Diding Road through/along which the adits will be accessed.

The proposed roads are summarized as follows:

S.N.	Road Section	Road Length approx. (Km)	Status
<b>I</b>	<b>Principle access road</b>		
1	Mugling (Koshi Highway) to Powerhouse	5.6	Existing Road
2	Powerhouse to Chewabesi (Bhadrakali School)	2.2	Existing Road
3	Chewabesi (Bhadrakali School) – Chewa Khola	1.3	New construction required
4	Chewa Khola (Arun River route)	0.5	Existing Road
5	Chewa Khola – Chapabote	3.5	New construction required
6	Chapabote – Heluwabesi (Adit 4)	2.4	Existing Road
7	Heluwabesi – Diding	13.4	New construction required
	<b>Total Principle access road</b>	<b>28.9</b>	
<b>II</b>	<b>Other Roads</b>		
8	Heluwabesi to Adit - 4	0.24	New construction required
9	Chewa to Adit – 5	2.90	New construction required
10	Beteni to Surge Shaft	3.22	New construction required
11	SS road (CH 1+760) to Adit 6	0.65	New construction required
12	SS road (CH 1+200) to DS9	0.25	New construction required
13	Baral gau to SS (CH 0+220)	0.40	New construction required
	<b>Total Other Roads</b>	<b>7.66</b>	
	<b>Total</b>	<b>36.56</b>	

## **Schedule 25**

### **OCCUPATIONAL HEALTH & SAFETY PLAN – GUIDANCE NOTE**

#### **Overview**

The Occupational Health & Safety Plan (OHSP) aims to avoid and reduce accidents and fatality rates among the Project workers. The OHSP is applicable to the pre-construction, construction and operational phase of the Project and should cover the OHS aspects of all workers, including those of the Company, contractors, and subcontractors. Additionally, the health and safety of the communities adjacent to the Project Area should be considered as well, in relation to the possible impact on them caused by the Project activities.

#### **Objectives**

The OHSP shall

1. Identify all types of occupational hazards applicable to the Project and analyze based on likelihood and severity of the consequence of exposure to the identified hazards.
2. Identify precautions to be taken and mitigation activities for occupational hazards.
3. Maintain a system to record and report any occupational accidents and diseases.
4. Ensure that adequate and regular OHS orientations are carried out for management, supervisors, workers, and occasional visitors to areas of risks and hazards.

#### **Key Hazards**

The different occupational hazards to the Project could be in the form of

- a) Physical Hazards – related to rotating and moving equipment; noise; vibration; electrical devices; eye hazards; welding/hot work; industrial vehicle driving and site traffic; working environment temperature; ergonomics, repetitive motion, manual handling; working at heights, etc.
- b) Chemical Hazards – related to air quality; fire and explosions; corrosive, oxidizing, and reactive chemicals; asbestos containing materials, etc.
- c) Biological Hazards –related to the use of biological agents, etc.
- d) Special hazard environment- related to confined space; lone and isolated workers, etc.

The preventive and protective measures in the OHSP should be based on the following order of priority

1. Eliminating the hazard by removing the activity from the work process
2. Controlling the hazard at its source through use of engineering control
3. Minimizing the hazard through design of safe work systems
4. Providing appropriate Personal Protective Equipment (PPE) with training, use and maintenance of PPE.

#### **Responsibilities**

The Company shall have the responsibility for preparing the OHSP within 6 months after the agreement date in consultation with the local authorities. The Company shall work in coordination with the relevant government authority to implement the plan in case of any OHS issues that is primary attributable to the Company. The Company shall be responsible for carrying out remedial works after such OHS issues in consultation with concerned government authority.

#### **Reporting**

The Company shall provide periodic progress reports to the IBN on implementation of this Plan. The reporting and monitoring mechanisms shall be defined in the OHSP.

**SCHEDULE 26  
ESTIMATED ENERGY TABLE**

90 % Dependable Year		2006-07	Installed Capacity (MW)	669	<b>Project Name: Lower Arun HEP</b>			
Design Discharge		344.68						
Gross Head (m)		229.96	Gen Eff.	94.30%				
Head Loss (m)		19.5	Tur Eff.	98.65%				
Net Head (m)		210.46	Com Eff.	93.03%				
Free energy to GON (%)		21%						
Month		No of days	Design Discharge (m <sup>3</sup> /s)	Power	Energy	Outage	Design Energy	Free Energy to GON
				MW	GWh	GWh	GWh	GWh
<b>Jun</b>	I	10	344.68	663.00	158.88	6.35	152.53	32.03
	II	10	232.91	447.36	107.36	-	107.36	22.55
	III	10	344.68	663.00	158.88	6.35	152.53	32.03
<b>Jul</b>	I	10	344.68	663.00	158.88	6.35	152.53	32.03
	II	10	344.68	663.00	158.88	6.35	152.53	32.03
	III	11	344.68	663.00	174.77	6.98	167.79	35.24
<b>Aug</b>	I	10	344.68	663.00	158.88	6.35	152.53	32.03
	II	10	323.01	620.42	148.89	-	148.89	31.27
	III	11	344.68	663.00	174.77	6.98	167.79	35.24
<b>Sep</b>	I	10	263.25	505.62	121.35	-	121.35	25.48
	II	10	337.48	648.20	155.56	3.03	152.53	32.03
	III	10	344.68	663.00	158.88	6.35	152.53	32.03
<b>Oct</b>	I	10	216.64	416.10	99.86	-	99.86	20.97
	II	10	172.34	331.02	79.44	-	79.44	16.68
	III	11	157.85	303.19	80.04	-	80.04	16.81
<b>Nov</b>	I	10	139.20	267.35	64.16	-	64.16	13.47
	II	10	122.02	234.36	56.25	-	56.25	11.81
	III	10	88.23	169.46	40.67	-	40.67	8.54
<b>Dec</b>	I	10	79.13	151.98	36.47	-	36.47	7.66



Month		No of days	Design Discharge (m <sup>3</sup> /s)	Power	Energy	Outage	Design Energy	Free Energy to GON
				MW	GWh	GWh	GWh	GWh
	II	10	70.81	136.01	32.64	-	32.64	6.85
	III	11	66.55	127.83	33.75	-	33.75	7.09
<b>Jan</b>	I	10	61.10	117.35	28.16	-	28.16	5.91
	II	10	58.28	111.93	26.86	-	26.86	5.64
	III	11	59.35	113.99	30.09	-	30.09	6.32
<b>Feb</b>	I	10	60.28	115.79	27.79	-	27.79	5.84
	II	10	61.87	118.84	28.52	-	28.52	5.99
	III	8	65.74	126.28	24.24	-	24.24	5.09
<b>Mar</b>	I	10	64.94	124.72	29.93	-	29.93	6.29
	II	10	67.77	130.16	31.24	-	31.24	6.56
	III	11	86.60	166.33	43.91	-	43.91	9.22
<b>Apr</b>	I	10	99.55	191.21	45.89	-	45.89	9.64
	II	10	104.74	201.18	48.28	-	48.28	10.14
	III	10	102.73	197.32	47.36	-	47.36	9.95
<b>May</b>	I	10	127.34	244.59	58.70	-	58.70	12.33
	II	10	114.18	219.32	52.63	-	52.63	11.05
	III	11	144.43	277.40	73.23	-	73.23	15.38
<b>Total</b>					<b>2956.09</b>	<b>55.09</b>	<b>2901.02</b>	<b>609.21</b>
<b>Plant Factor for Hydro year (June I to May III)</b>			<b>50.44</b>					

## SCHEDULE 27 TANDEM OPERATION OF THE PROJECT AND ARUN-3 HPP

### 1. Requirement for Tandem Operation

- The Power Station of Arun-3 HPP and the Project are to be operated in Tandem as Tail Race Pond has practically a very little storage for operation. It is expected to have storage of 60-70 seconds only between maximum and minimum operating levels in the pond.
- The discharges released from Arun-3 HPP are to be utilized by the Project in steady state running conditions avoiding any spilling of water at Tail Race Pond or/and reservoir.
- Limiting the down surge in the Tail Race Pond at Arun-3 HPP to a safe limit to prevent the depressurization and the entry of air in the head race tunnel of the Project.
- Minimising the upsurge in the collection gallery avoiding any spilling into the river at Arun-3 HPP. Even if load acceptance and rejection at Arun-3 HPP and at the Project are simultaneous and equal in terms of the discharge, the upsurge and down surge in the Arun-3 HPP Tail Race Pond cannot be ruled out due to heavy inertia of water mass in the long water conductor involved.
- Transients resulting from load changes/sudden tripping of Arun-3 HPP and /or the Project units followed by load acceptance would be studied by mathematical computations from international reputed consultants and the same shall be verified by physical model studies.

### 2. TANDEM OPERATION

#### i. Normal tandem operation

Under normal circumstances (i.e. all units of both the plants are available, healthiness of tail race tunnel regulating gates, availability of water and scheduling instruction from the grid), N:N operation of unit(s) shall be operated under Tandem Operation with the Hydraulic system settled to steady state (negligible oscillation). N represents number of units.

#### ii. Tandem operation in differential mode

If the available machine at the Project is less than number of machines available at Arun-3 HPP, Tandem Operation in differential mode will be active with the adjustment of flow in following priorities:

- a. Overload operation of running units of the Project corresponding to the differential flow.
- b. Opening operation of tail race tunnel regulating gates in case of differential discharge corresponding to the Project machine's overload capacity provided cushion of the Arun-3 HPP reservoir is exhausted.

### 3. Operating Philosophy of TANDEM OPERATION

The Project will be operated in tandem with Arun-3 HPP and simultaneously provide the peaking power of 669 MW. The Project shall have two distinct operating patterns as stated above i.e., "Normal Operation" and "Differential Operation".

Normal operation represents N: N operation (*one to one*) of Unit (s) between the Project and Arun-3 HPP (*where N – no of units*). In Differential Operation there will be unequal running of unit (s) of Arun-3 HPP than the Project i.e., N: N-1, N-2 ... so on (*where N – no of units*) based on the availability of machine. Differential discharge of unequal running of unit (s) will be released to Arun River through regulating gate at Tail Race Pond/tail race tunnel.

The detailed tandem operation procedure shall be formulated and agreed upon with the Arun-3 HPP in consultation with the IBN or any relevant Concerned Agencies. The procedure once finalized, shall remain enforced even after change in ownership/ handing over of Arun-3 HPP to GON.

Owners of Arun-3 HPP and the Project, Grid operator and Project beneficiaries (entities with which PPAs of respective projects have been signed) shall formulate a common protocol for operation of Projects, detailing the Commercial and Legal aspects of change(s) in revenue due to each other's technical/ operational or any other event of fault.

**SCHEDULE 28**  
**PROJECT IMPLEMENTATION SCHEDULE**

**(Note: Continued from Next Page Onwards)**

ID	Task Mod	Task Name	Duration	Start	Finish	2023		2026		2029		2032
						H1	H2	H1	H2	H1	H2	H1
0		<b>LOWER ARUN HYDROELECTRIC PROJECT</b>	<b>3289 days</b>	<b>Thu 6/1/23</b>	<b>Tue 6/1/32</b>							
1		PROJECT DEVELOPMENT AGREEMENT - PE	0 days	Thu 6/1/23	Thu 6/1/23							
2		AGREEMENT BETWEEN ARUN-3 HPP and the COMPANY	90 days	Fri 6/2/23	Wed 8/30/23							
3		<b>GENERATION COMPONENT PRE-CONSTRUCTION ACTIVITIES</b>	<b>732 days</b>	<b>Thu 6/1/23</b>	<b>Sun 6/1/25</b>							
4		<b>Approval of SEIA</b>	<b>90 days</b>	<b>Thu 6/1/23</b>	<b>Tue 8/29/23</b>							
5		Submission of Final SEIA to IBN	1 mon	Thu 6/1/23	Fri 6/30/23							
6		Approval of SEIA by MoFE, GoN	2 mons	Sat 7/1/23	Tue 8/29/23							
7		<b>Land Acquisition/ Lease</b>	<b>660 days</b>	<b>Thu 6/1/23</b>	<b>Fri 3/21/25</b>							
8		<b>Private Land Acquisition</b>	<b>660 days</b>	<b>Thu 6/1/23</b>	<b>Fri 3/21/25</b>							
9		By the Company	12 mons	Thu 6/1/23	Sat 5/25/24							
10		By GoN (if Company fails in designated timeline)	10 mons	Sun 5/26/24	Fri 3/21/25							
11		<b>GON Land Lease i/c Forest Land</b>	<b>360 days</b>	<b>Wed 8/30/23</b>	<b>Fri 8/23/24</b>							
12		Lease Agreement of GoN Land	12 mons	Wed 8/30/23	Fri 8/23/24							
13		<b>Construction of Access Roads</b>	<b>18 mons</b>	<b>Mon 7/31/23</b>	<b>Mon 1/20/25</b>							
14		<b>RAP and Other Plans</b>	<b>360 days</b>	<b>Thu 6/1/23</b>	<b>Sat 5/25/24</b>							
15		Submission of RAP Report to IBN	9 mons	Thu 6/1/23	Sun 2/25/24							
16		Submission of Local Benefit Sharing Plan, Nepal Employment And Skill Training Plan, Nepal Industrial Benefits Plan, Disaster Management Plan to IBN	12 mons	Thu 6/1/23	Sat 5/25/24							
17		Submission Of Occupational Health And Safety Plan to IBN	6 mons	Thu 6/1/23	Mon 11/27/23							
18		<b>Explosive License</b>	<b>120 days</b>	<b>Thu 6/1/23</b>	<b>Thu 9/28/23</b>							
19		Submission of Application for Explosive license to IBN	3 mons	Thu 6/1/23	Tue 8/29/23							
20		Approval of Explosive license by IBN, Ministry of Home Affairs	1 mon	Wed 8/30/23	Thu 9/28/23							
21		<b>Submission of Baseline Survey of Project Area</b>	<b>24 mons</b>	<b>Thu 6/1/23</b>	<b>Tue 5/20/25</b>							
22		<b>Project License Process</b>	<b>731 days</b>	<b>Thu 6/1/23</b>	<b>Sat 5/31/25</b>							
23		Submission of Application for Project License to IBN	670 days	Thu 6/1/23	Mon 3/31/25							
24		Issuance of Project license by IBN	61 days	Tue 4/1/25	Sat 5/31/25							
25		<b>Award of Project License</b>	<b>0 days</b>	<b>Sun 6/1/25</b>	<b>Sun 6/1/25</b>							
26		<b>FINANCIAL CLOSURE</b>	<b>731 days</b>	<b>Thu 6/1/23</b>	<b>Sat 5/31/25</b>							

ID	Task Mod.	Task Name	Duration	Start	Finish	2023		2026		2029		2032
						H1	H2	H1	H2	H1	H2	H1
27		Term sheet finalization	183 days	Thu 6/1/23	Thu 11/30/23							
28		Financial agreement	365 days	Fri 12/1/23	Fri 11/29/24							
29		Security creation and CP fulfillment (subject to completion of Land Acquisition)	152 days	Sat 11/30/24	Wed 4/30/25							
30		Financial closure/disbursement	31 days	Thu 5/1/25	Sat 5/31/25							
31		<b>FINANCIAL CLOSE</b>	<b>0 days</b>	<b>Sat 5/31/25</b>	<b>Sat 5/31/25</b>							
32		<b>WRITTEN CONFIRMATION OF FC TO IBN</b>	<b>1 mon</b>	<b>Sun 6/1/25</b>	<b>Mon 6/30/25</b>							
33		<b>OTHER PERMISSIONS, ACTIVITIES</b>	<b>360 days</b>	<b>Thu 6/1/23</b>	<b>Sat 5/25/24</b>							
34		Security at Sites (IBN, Ministry of Home Affairs, GON)	3 mons	Thu 6/1/23	Tue 8/29/23							
35		Permission of Quarries at different locations (IBN, MoFE)	9 mons	Thu 6/1/23	Sun 2/25/24							
36		Permission/ NoCs from 6 Palikas for different activities	6 mons	Thu 6/1/23	Mon 11/27/23							
37		Permission for the improvement of road from Tumlingtar to Heluwa Besi or any other (IBN, Deptt. of Roads, Palikas)	6 mons	Thu 6/1/23	Mon 11/27/23							
38		Operation of Public Health Centre (IBN, Ministry of Health and Population)	6 mons	Thu 6/1/23	Mon 11/27/23							
39		Operation of Schools etc. (IBN, Ministry of Education, Science and Technology,	12 mons	Thu 6/1/23	Sat 5/25/24							
40		Permission for construction of explosive magazine and bunkers (IBN, Ministry of Home Affairs, Ministry of Defence)	6 mons	Thu 6/1/23	Mon 11/27/23							
41		Communication System in the Project Area (IBN, MoCIT)	6 mons	Thu 6/1/23	Mon 11/27/23							
42		<b>TRANSMISSION LINE PRE-CONSTRUCTION ACTIVITIES</b>	<b>1380 days</b>	<b>Thu 6/1/23</b>	<b>Thu 3/11/27</b>							
43		Application for the Transmission Survey License to IBN, DoED	6 mons	Thu 6/1/23	Mon 11/27/23							
44		Issuance of Transmission Survey License By IBN, DoED	0 days	Mon 11/27/23	Mon 11/27/23							
45		Submission of Transmission Line DPR to IBN, DoED	12 mons	Tue 11/28/23	Thu 11/21/24							
46		Submission of Transmission Line IEE Report to IBN, MoEWRI	12 mons	Tue 11/28/23	Thu 11/21/24							
47		Approval of TL IEE Report By MoEWRI	4 mons	Fri 11/22/24	Fri 3/21/25							
48		Application for Transmission License to IBN, DoED	12 mons	Tue 11/28/23	Thu 11/21/24							
49		Issuance of Transmission License	6 mons	Fri 11/22/24	Tue 5/20/25							
50		<b>Land Acquisition/ Leasing of TL</b>	<b>660 days</b>	<b>Wed 5/21/25</b>	<b>Thu 3/11/27</b>							

ID	Task Mod	Task Name	Duration	Start	Finish	2023		2026		2029		2032
						H1	H2	H1	H2	H1	H2	H1
51		<b>Private Land Acquisition</b>	<b>660 days</b>	<b>Wed 5/21/25</b>	<b>Thu 3/11/27</b>							
52		By Company	12 mons	Wed 5/21/25	Fri 5/15/26							
53		By GoN	10 mons	Sat 5/16/26	Thu 3/11/27							
54		<b>GoN Land Lease i/c Forest Land</b>	<b>300 days</b>	<b>Wed 5/21/25</b>	<b>Mon 3/16/26</b>							
55		Lease Agreement of GoN Land	10 mons	Wed 5/21/25	Mon 3/16/26							
56		<b>TAIL RACE POND STRUCTURE</b>	<b>300 days</b>	<b>Thu 8/31/23</b>	<b>Tue 6/25/24</b>							
57		OPEN EXCAVATION	8 mons	Thu 8/31/23	Fri 4/26/24							
58		CONCRETING	6 mons	Fri 12/29/23	Tue 6/25/24							
59		ERECTION OF GATES	6 mons	Fri 12/29/23	Tue 6/25/24							
60		<b>GENERATION PROJECT CONSTRUCTION</b>	<b>1857 days</b>	<b>Mon 3/3/25</b>	<b>Tue 4/2/30</b>							
61		Award of Main Works	3 mons	Mon 3/3/25	Sat 5/31/25							
62		Mobilization of Contractor	3 mons	Sun 6/1/25	Fri 8/29/25							
63		<b>CONSTRUCTION ACTIVITIES</b>	<b>1737 days</b>	<b>Sun 6/1/25</b>	<b>Sun 3/3/30</b>							
242		WATER FILLING OF WATER CONDUCTOR SYSTEM	1 mon	Mon 3/4/30	Tue 4/2/30							
243		<b>TRANSMISSION LINE CONSTRUCTION</b>	<b>510 days</b>	<b>Thu 11/9/28</b>	<b>Wed 4/3/30</b>							
244		Award of Works	3 mons	Thu 11/9/28	Wed 2/7/29							
245		Mobilization of Contractor	2 mons	Wed 2/7/29	Sun 4/8/29							
246		Construction of Transmission Line	12 mons	Sun 4/8/29	Wed 4/3/30							
247		<b>Long-term open access approvals for the use of transmission line of Arun-3 HPP &amp; Indian Segment of the extension of TL of Arun-3 HPP</b>	<b>6 mons</b>	<b>Mon 12/3/29</b>	<b>Fri 5/31/30</b>							
248		<b>POWER PURCHASE AGREEMENTS</b>	<b>0 mons</b>	<b>Sun 3/3/30</b>	<b>Sun 3/3/30</b>							
249		<b>COMMISSIONING AND TESTING OF UNITS</b>	<b>60 days</b>	<b>Wed 4/3/30</b>	<b>Sat 6/1/30</b>							
250		UNIT 1	0.5 mons	Wed 4/3/30	Wed 4/17/30							
251		UNIT 2	0.5 mons	Thu 4/18/30	Thu 5/2/30							
252		UNIT 3	0.5 mons	Fri 5/3/30	Fri 5/17/30							
253		UNIT 4	0.5 mons	Sat 5/18/30	Sat 6/1/30							
254		<b>SCHEDULED COD</b>	<b>0 days</b>	<b>Sat 6/1/30</b>	<b>Sat 6/1/30</b>							
255		<b>PREPARATION OF HANDOVER PLAN</b>	<b>731 days</b>	<b>Sun 6/2/30</b>	<b>Tue 6/1/32</b>							

