

DATED:

POWER PURCHASE AGREEMENT

By and between

MINISTRY OF MINES & ENERGY

and

NATIONAL INVESTMENT COMMISSION

and

LIBERIA ELECTRICITY CORPORATION

and

KARPOWER INTERNATIONAL DMCC

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This Power Purchase Agreement ("**Contract**") is made on [REDACTED] by and between:

1. MINISTRY of MINES AND ENERGY having its principal place of business at [REDACTED], Monrovia, Republic of Liberia ("MOE");and
2. NATIONAL INVESTMENT COMMISSION having its principal place of business at [REDACTED], Monrovia, Republic of Liberia ("NIC"); and
3. LIBERIA ELECTRICITY CORPORATION having its principal place of business at [REDACTED], Monrovia, Republic of Liberia (LEC or "**BUYER**"); and
4. KARPOWER INTERNATIONAL DMCC having its principal place of business at Unit No: A1-V3-19-19A-A1, Almas Tower, Plot No: JLT-PH1-A0, Jumeirah Lakes Towers, P.O. Box: 488013, Dubai, United Arab Emirates (**KPS** or "**SELLER**"),

each a **Party** and collectively as the **Parties**.

RECITALS:

- A. KPS wishes to provide electricity supply through a Powership to be located at Free Port of Monrovia, Liberia including the provision of operation, maintenance and technical services and construction of Electricity Connection Facilities (as defined below), as well as the provision of fuel for the operation of Powership, and the BUYER wishes to be provided with the aforementioned services by paying the Monthly ESS Fee (as defined below) as well as providing the financial security set out in this Contract ("**Project**");
- B. The Parties desire to enter into this Contract that will govern the supply of such ESS (as defined below) between the Parties;
- C. The Project site location at anchorage within the Free Port of Monrovia, Liberia.

NOW, THEREFORE, and in consideration of the foregoing and mutual promises and all subject to the terms set forth herein, the Parties agree as follows:

1. Definitions, Interpretation and Priority of Documents

1.1. Definitions:

Additional Delivered Output has the meaning ascribed to it in clause **Error! Reference source not found.**

Additional Supply Fee has the meaning ascribed to it in clause 8.1.

Affiliate means, with respect to any Party hereto any entity that is a direct or indirect parent or subsidiary of such Party or that directly or indirectly (i) owns a majority interest or controls such Party, (ii) is owned or controlled by such Party, or (iii) is under common ownership or control with such Party. For the purposes of this definition, "control" shall

mean the power to direct the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

Authorized Representative means the person named or appointed from time to time by a Party and who acts on behalf of that Party and who shall have authority to settle any Dispute.

Commercial Operation shall mean when the Powership has commenced providing electricity to the BUYER on commercial terms and in accordance with this Contract.

Commercial Operation Date has the meaning set forth in clause 7.1(a).

Contract means this Power Purchase Agreement.

Contract Term means the term of this Contract commencing from the Signing Date and ending on the date upon which the Equipment has been exported from Liberia.

Day means a period of twenty-four hours, commencing at 00:00 midnight of each week Day, and "Daily" shall be construed accordingly.

"Deemed Delivered kWh" shall mean the quantity of energy expressed in kWh that would have been generated by the Project and delivered to the Electricity Delivery Point as delivered energy and sold to the BUYER in accordance with the terms of the Contract during such period, but not generated for reasons not solely attributable to KPS during an applicable period of time.

Delay Fee has the meaning ascribed to it in clause 7.1(d).

Dispute means any and all disputes or disagreements of any kind whatsoever between KPS and the BUYER in connection with or arising out of this Contract including but not limited to a dispute, controversy or claim regarding its existence, termination or validity or any non-contractual obligations arising and/or in connection with it.

Electricity Connection Facilities means all equipment and devices connecting the Powership to the Site's substation (including the power line drawn from the Powership), details as set out in Annex 5.

Electricity Delivery Point means the delivery locations at the outgoing feeder on board of the Powership where the generated electricity has been measured.

Electricity Metering System means any meters and metering devices (including any back-up meters and metering devices) installed by KPS, maintained in accordance with LEC's regulations, and sealed by the BUYER, on board the Powership for measurement of the electricity flows and described in Annex 3a.

Electricity Supply Services or **ESS** means the making available of electricity generation capacity through the Powership as per the terms and conditions of this Contract including the operation, maintenance, technical services, mobilization and demobilization of the Equipment.

Electricity Supply Services Months or **ESS Month** means the full Month of ESS starting

from the 1st Day of each Month and ending at the last Day of that Month at 24:00. However, the first month of ESS shall begin on the Commercial Operation Date and end on the last Day of the Month at 24:00 in which the Commercial Operation Date occurred.

Equipment means the Powership, generation set, balance of plant, and any and all transformer, parts, equipment, consumables and/or supplies to be deployed and/or utilized on or off Site by KPS in connection with any part of the Project, but excludes Electricity Connection Facilities.

ESS Term means, with respect to the Contract, the initial 120 Electricity Supply Services Months commencing from Commercial Operations Date, and any extension of such initial period pursuant to the terms of this Contract.

Financial Close means the date on which the latter to occur of:

- (a) Submission of Letter of Credit in form and substance satisfactory to KPS; and
- (b) Submission of Letter of Acknowledgement by Ministry of Finance or authorized issuing body.
- (c) Fulfilment of the BUYER's responsibilities related to Electricity Connection Facilities under clause 5 and 6,

Fixed Fee has the meaning ascribed to it in clause 8.1(b)

Force Majeure Events means any event or circumstance or combination of events or circumstances (including the effects thereof) that:

- (a) is beyond the reasonable control of a Party; and that
- (b) materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Contract (including a Party's ability to deliver or receive energy), where such effect could not have been prevented, overcome or remedied in whole or in part by the affected Party through the exercise of diligence and reasonable care, (it being understood and agreed that reasonable care includes acts and activities to protect the Equipment and the Powership from a casualty or other event; that are reasonable in light of the probability of the occurrence of such event, the probable effect of such event if it should occur, and the likely efficacy of the protection measures.)

including Governmental Force Majeure and Non-Governmental Force Majeure.

Fuel means Heavy Fuel Oil No. 6 (**HFO**), the details and specifications of which are stated in Annex 4.

Government means the government of Liberia.

Governmental Entity means the Government, any subdivision of the Government, any local governmental authority or any part thereof, and any department, authority, instrumentality or agency of the Government or any such local governmental authority and their respective successors and permitted assigns.

Governmental Force Majeure means occurrence of any of the following which, in respect of each Party affected by it, is beyond the reasonable control of that Party and which it could not by the exercise of reasonable diligence avoid or mitigate:

- (i) any change in Laws of including but not limited to Liberia, Turkey or any other affecting country that prevents KPS from performing its obligations under this Contract;
- (ii) any failure or unreasonable delay by any Governmental Entity to issue, amend, or renew, any licence, permit or authorization; and
- (iii) that prevents or delays performance by a PARTY of its obligations under this Agreement;

Guaranteed Availability has the meaning ascribed to it in clause 3.2(g).

Guaranteed Powership Capacity has the meaning ascribed to it in clause 3(a).

Guaranteed SFOC has the meaning ascribed to it in clause 3.2(h)

Invoice Payment Account mean an US Dollar account in the name of KPS held outside the territory of Liberia for the payment of all invoices issued by KPS to the BUYER, the details of such account to be nominated by KPS to the BUYER from time to time.

Laws means all national (or state) legislation, statutes, ordinances and other laws, and regulations, codes or standards and by-laws of any legally constituted public authority that the BUYER and KPS are required to comply with in accordance with the Contract.

Letter of Acknowledgement means a letter to be provided by the Ministry of Finance of Liberia, in the form attached as Annex 8, addressed to KPS acknowledging the entry by the BUYER into this Contract and its obligations hereunder, including in relation to:

- (a) the BUYER's obligations pursuant to clause 8, including the obligations related to the Letter of Credit, and
- (b) the BUYER's responsibility pursuant to clause 5 in relation to custom duties, import duties, export duties and all types of taxes, levies and duties that KPS may be subjected to in Liberia.

Letter of Credit has the meaning ascribed to it in clause 8.2

Mean Site Conditions means the operating conditions of the Powership, and the Electricity Connection Facilities as described in Annex 2.

Meter Reading Protocol means the protocol mentioned in Annex 3b.

Month means calendar month according to the Gregorian calendar, beginning at 00:00 midnight on the last Day of the preceding month and ending at 24:00 midnight on the last Day of that month.

Monthly ESS Payment means the amount invoiced at the end of each ESS Month, in accordance with clause 8.1.

Non-Governmental Force Majeure means occurrence of any of the following, without limitation, which, in respect of each Party affected by it, prevents performance by that Party of its obligations under this Contract, is beyond the reasonable control of that Party, which it could not by the exercise of reasonable diligence avoid or mitigate:

- (i) acts of a public enemy, terrorist strike, war or threat of war (declared or undeclared) occurring in or involving, including but not limited to Liberia, Turkey, or any affecting countries, revolution, riot, rebellion, insurrection, state of siege, declaration of a state of emergency (or any of the events or circumstances that will or may result in the declaration of a state of emergency), civil commotion, act of terrorism or sabotage (in each case occurring in or involving, including but not limited to Liberia), embargo or blockade, declaration of public calamity (or any of the events or circumstances that will or may result in the declaration of public calamity);
- (ii) strikes and general labor disruptions;
- (iii) fire, explosion, collision, shipwreck, navigational and maritime perils;
- (iv) epidemics, meteorites, fire, lightning and other related atmospheric electric discharge, earthquake, tsunami, cyclone, whirlwind, hurricane, tempest, storm, drought, a flood or other unusual or extreme adverse weather or environmental condition or action of the elements;
- (v) chemical or radioactive contamination or ionising radiation; or
- (vi) delays in the mobilization or operations of the Powership caused by force majeure or acts of God under the respective engineering, procurement, and/or construction agreements to be executed by KPS that may affect the performance of KPS's obligations under this Contract.

Operational Test(s) means the tests conducted by KPS prior to the Commercial Operation Date to demonstrate the performance of the Equipment installed by KPS.

Performance Liquidated Damages has the meaning ascribed to it in clause 8.6.

Powership® means a marine vessel/barge on which a power generation unit is installed in order to be used as a barge/ship mounted power plant, as described in Annex 1. Powership is a registered trademark of Karadeniz Holding A.S.

Project has the meaning ascribed to it in the Recitals.

Rules has the meaning ascribed to it in clause 19.2.

Signing Date means the date of signature of this Contract

Site shall mean the location where the Powership shall anchor within the Free Port of Monrovia, as more particularly described in Annex 2.

Target Commercial Operation Date has the meaning given to that term in clause 7.1(a).

Tax means any tax, VAT, fund, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Tested Capacity means the capacity verified by the result of each Operational Tests adjusted to Mean Site Conditions.

Termination Charge has the meaning assigned to it in clause 16.516.5.

Unit Price has the meaning ascribed to it in clause 8.1.

Variable Fee has the meaning ascribed to it in clause 8.1 **Error! Reference source not found.**

1.2. Interpretation

In the Contract, unless otherwise specified:

- (a) Except as otherwise expressly provided, capitalized terms used herein are defined in clause 1.1.
- (b) The singular includes the plural and vice versa.
- (c) The words “herein,” “hereof” and “hereunder” shall refer to this Contract as a whole and not to any particular section or subsection of this Contract; the words “include,” “includes” or including” shall mean “including, but not limited to”; and words denoting natural persons shall be interpreted as referring to corporations and any other legal entities.
- (d) References to clauses and annexes are, unless the context otherwise requires, references to clauses and annexes to this Contract.
- (e) Reference to any legal person includes its successors and permitted assigns.
- (f) In the event of a conflict between the terms of the main body of this Contract and the Annexes, Schedules, the terms of the main body of this Contract shall prevail.
- (g) References to an agreement or instrument are to the same as amended, waived, changed, novated, supplemented or replaced in writing from time to time.
- (h) Where a word or expression is defined or construed, other grammatical forms of that word or expression shall be defined or construed accordingly.
- (i) Provisions including the word “agree”, “agreed”, “agreement”, “notification” or “notified” require the agreement and/or the notification to be recorded in writing.
- (j) “Written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

1.3. Priority of Documents

The documents contained in the Annexes of the Contract are an integral part of the Contract and are to be taken as mutually explanatory of one another; however, in the event of any inconsistency between the terms of an Annex and the ones of the Contract, the terms of the Contract shall prevail. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- 1 Powership Technical Information
- 2 Site Location & Mean Site Conditions
- 3 Testing & Metering
 - a Electricity Meter Standards and Specifications
 - b Meter Reading Protocol
 - c Operational Test Procedure
 - d Operational Test Certificate
- 4 Fuel Supply Specifications and Conditions
- 5 Electricity Connection Facilities
- 6 Sample Letter of Credit
- 7 Insurances
- 8 Draft Letter of Acknowledgement
- 9 Annual Settlement Protocol

2. Representations and Warranties

2.1. Each Party makes the following representations and warranties to other Party:

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.
- (c) The obligations expressed to be assumed by it under this Contract are legal, valid, binding and enforceable obligations.
- (d) The transactions contemplated by this Contract do not will not conflict with:
 - (i) any Law applicable to it;
 - (i) its constitutional documents or corporate actions; or
 - (iii) any agreement or instrument binding upon it or constitute a default or termination event (however described) under any such agreement or instrument.
- (e) It has and will continue to have the capacity to contract its obligations under this Contract and which obligations are valid under the laws of Liberia.
- (f) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Contract and the transactions contemplated by the Contract.
- (g) No limit on its powers will be exceeded as a result of the obligations contemplated by the Contract.

2.2. The BUYER further warrants that it has followed due procurement process in relation to this Project and Contract.

2.3. Except for the warranties set forth in this clause, KPS makes no representations or

warranties to the BUYER or any other person of any kind, to any matter whatsoever, including, without limitation, with respect to the size, design, capacity, condition, quality, durability, suitability, manufacture or performance of the ESS. No warranty of merchantability or fitness for a particular purpose, express or implied, shall apply.

3. Term and Scope of ESS

3.1. Term

The initial ESS Term shall be 120 ESS Months starting from the Commercial Operation Date. The Parties may no later than three (3) Months before the end of the ESS Term (as extended) agree in writing to extend the ESS Term for such period as the Parties may agree. The Parties can agree to such extension prior the expiry of each successive ESS Term.

3.2. Scope

KPS shall provide the ESS to the BUYER in accordance with the terms and conditions of this Contract.

The provision of ESS shall be measured in kWh.

The General Specifications for the ESS are as follows;

- (a) Powership Installed capacity: (ISO) minimum 36 MW
- (b) Guaranteed Powership Capacity: 34 MW
- (c) Frequency/Voltage: 50Hz/66kV or as otherwise may be agreed by the Parties
- (d) Site: Free Port of Monrovia, with connection to Bushrod Substation
- (e) Fuel: HFO as stated in details and specifications in Annex 4.
- (f) Dispatch Guidelines: According to the authorized dispatch centre's directions
- (g) Guaranteed Availability: Ninety-Five per cent (95%) of the lesser of (i) Guaranteed Powership Capacity and (ii) Tested Capacity, to be made readily available annually by KPS for dispatch to the BUYER during the ESS Term, adjusted to Mean Site Conditions and excluding unavailability due to reasons not solely attributable to KPS.
- (h) Guaranteed Specific Fuel Oil Consumption (**Guaranteed SFOC**) is 220 gr/kWh fuel based on ISO 8217 (2012) for every kWh generated as stated in details and specifications in Annex 4.

4. KPS's Responsibilities

KPS shall be responsible for and undertakes to provide the following, subject to the BUYER complying with all its obligations under this Contract, including but not limited to its obligations in relation to the route and site, to obtain and maintain all permits and licenses, to provide the Letter of Acknowledgement pursuant to clause 5 (BUYER's Responsibilities), and its obligations pursuant to clause 8.2 (Letter of Credit).

Authorized Representative:

- (a) KPS shall appoint an Authorized Representative(s) within three Days from the Signing Date. The Authorized Representative(s) so appointed will be responsible for coordinating activities with the BUYER and resolving procedural questions that may occur during the Contract Term. The Authorized Representative(s) shall be fluent in English. KPS shall be entitled to replace an Authorized Representative(s) by providing three Days advance notice to the BUYER of such replacement.

Transportation, Mobilization and Demobilization:

- (b) KPS shall be responsible for the transportation of the Equipment to the Site provided the BUYER ensures the suitability of the related routes and permission for the berthing and anchor of the Powership within the territorial waters of Liberia, and at the expiry of the ESS Term, the return of the Equipment. KPS will provide such services as may be required to install and dismantle the Equipment. The BUYER agrees that it shall not take any action to hinder or delay the dismantling and removal of the Equipment by KPS. The Equipment shall always be in the possession and the ownership of KPS.
- (c) Transportation of the Equipment to and from the Site excluding surveys, routing (including but not limited to piloting, safely berthing), escorts and transport permits which shall be the responsibility of the BUYER within Liberian territorial waters.
- (d) Mobilization and demobilization of the Equipment,
- (e) The development of any required Site preparation work and marine infrastructure works at the Site. The cost for the Site preparation works up to 2 million US Dollars will be borne by KPS. Any cost incurred by KPS over such amount shall be reimbursed by the BUYER.
- (f) At the end of the ESS Term or termination of the Contract - KPS shall demobilize the Equipment and will conduct the actions required for clearance of the Equipment for export.
- (g) Providing all relevant information required by the applicable authorities to import and export the Equipment, any Fuel, any Fuel supply and storage vessels, and any spare parts and consumables required from time to time for the Project.

Replacement and/or Adding Equipment/Vessels

- (h) KPS may, in its sole discretion, replace the Powership and/or supply additional equipment and/or vessels to the BUYER.

Testing, Commissioning, Operations & Maintenance

- (i) Commissioning and decommissioning of the Equipment.
- (j) Operation and maintenance of the Equipment and associated technical services. The Equipment shall be made available by KPS for the duration of the ESS Term.
- (k) KPS shall (in its sole discretion) notify BUYER in writing when the Equipment is available for Commercial Operation.

- (l) Provision of an accurate and secured Electricity Metering System on board the Powership reasonably acceptable to the BUYER. The Electricity Metering System shall measure electrical output during testing, commissioning and thereafter and shall have an hourly energy recording capability of at least fourteen (14) Days. The Electricity Metering System shall operate within an acceptable tolerance of + [0.005] %. KPS will arrange for testing of the Electricity Metering System where the acceptable tolerance has been breached.
- (m) KPS shall properly operate and maintain the Equipment in accordance with the standards of care and prudence and in accordance with the instructions of the manufacturer. KPS will be responsible for all scheduled overhauls of the Equipment recommended by the manufacturer to operate the Equipment.
- (n) The transfer of ownership and risk in the Electricity from KPS to the BUYER shall take place upon delivery by KPS of the Electricity to the BUYER at the Electricity Delivery Point. KPS shall not be responsible for any cost or losses that arise to any person once the Electricity is delivered to the Electricity Delivery Point. The BUYER shall indemnify and hold harmless KPS from any claims that are commenced against KPS for any such costs or losses.

Connections:

- (o) KPS shall undertake the erection and commissioning of Electricity Connection Facilities.

Fuel

- (p) Import, supply, delivery and storage of Fuel.
- (q) Maintaining the SFOC efficiency level (as set out in clause 3.2(h))

5. BUYER's Responsibilities

BUYER shall be responsible for and undertake the following:

Authorized Representative

- (a) BUYER shall appoint an Authorized Representative(s) within three Days from the Signing Date. The Authorized Representative(s) so appointed will be responsible for coordinating activities with KPS and resolving procedural questions that may occur during the Contract Term. The Authorized Representative(s) shall be fluent in English. The BUYER shall be entitled to replace an Authorized Representative(s) by providing three Days advance notice to KPS of such replacement.

Approvals, Permits, Licenses, Consents, Taxes, Duties, etc.

- (b) The BUYER shall be responsible to comply with (and ensure compliance with) all Laws to which it may be subject and shall obtain and maintain all required permits and licenses for mobilization, demobilization, site allocation, sitting, possession, use, operation, customs and port operation, maintenance, storage, transportation,

installation, dismantling and servicing of the Equipment and Electricity Connection Facilities, any Fuel, any Fuel supply and storage vessels, and any spare parts and consumables required from time to time (including but not limited to environmental, construction and operation permits) for the Project.

- (c) The BUYER shall obtain and maintain all industrial, commercial, environmental and other permits, and official documentation to import, transport, store, operate and export the Powership together with power generation equipment, spare parts and accessories and Fuel for and on behalf of KPS. Upon written request from the BUYER, KPS shall provide all reasonable information necessary to assist BUYER in obtaining these permits.
- (d) KPS shall be the temporary importer of the Equipment on record, however, the BUYER shall bear all importation and exportation duties, taxes and levies (including VAT) imposed on Equipment, on spares and consumables related to the Equipment and Fuel in the name of KPS. The BUYER shall also be responsible for obtaining all required import and export licenses necessary in respect of KPS's Equipment and Fuel at the sole expense of the BUYER.
- (e) The BUYER shall be responsible to obtain all environmental approvals and permits that may be required for the Project. For the avoidance of doubt, compliance with all environmental laws, regulations and standards (applicable at the present or as may be amended from time to time) relating to the mobilization, operation and demobilization of the Powership, including handling of emissions and disposal of by products (including but not limited to any effluents and/or waste) is the sole responsibility of and shall be performed at the sole expense of the BUYER. Any penalty that may accrue in connection therewith shall be the sole liability and responsibility of the BUYER. Any costs associated with environmental compliance, including but not limited to licensing and monitoring, arising from environmental regulation shall be the sole responsibility of the BUYER.
- (f) The BUYER shall be responsible for all custom duties, import duties, export duties, (including for any delays and fees associated with customs clearance), and all types of taxes, levies and duties that KPS may be subjected to in Liberia (including but not limited to, withholding taxes, VAT (general sales tax), income tax, stamp tax and any other type of taxes and/or duties relating to the charges and/or fees, permits from local authorities, any other permits relating to this Contract including but not limited to the supply of the Fuel).
- (g) The Equipment of KPS subject to import shall be released from customs in Liberia without the requirement to post, including but not limited to, any bonds, guarantees, charges, fees and levies etc. The BUYER shall be responsible for any delays and fees associated with customs clearance.
- (h) Following the completion of all importation procedures by the BUYER, the BUYER shall provide KPS with a copy of all importation and exportation paperwork. At the end of the ESS Term, or termination of the Contract (for whatever reason), the KPS shall be entitled to effect the exportation of the Equipment from Liberia. The BUYER hereby agrees and warrants that it will not take any action to hinder, delay and/or suspend the dismantling and removal of the Equipment and any other property of KPS from the Site, notwithstanding any Dispute between the Parties. The BUYER

warrants and undertakes to give to KPS all assistance KPS may request from BUYER to complete the exportation of the Equipment from Liberia.

- (i) In the event that KPS is required to pay any Tax of any kind KPS shall invoice the BUYER and the BUYER shall pay the duly invoiced amount in respect of Tax to KPS within seven (7) Days after the issuance of the invoice. The BUYER shall immediately reimburse KPS for any additional taxes, charges and/or duties, other than those mentioned in this Contract, should they be imposed on KPS by any Governmental Entity as a result of this Contract and/or any actions of KPS in accordance with this Contract.
- (j) The BUYER shall be liable for any claims of KPS and shall indemnify KPS, within five Days of demand, against any cost, claim or liability (including direct or indirect costs and or consequential damages) incurred by KPS (or asserted against KPS) and arising under or related to the breach by the BUYER and/or any Governmental Entity of its obligations under (f), (g) and (h) above. KPS shall have the right to reclaim and demobilize the Equipment (at the cost of the BUYER) if the BUYER and/or any Governmental Entity fails to meet its obligations as set out in (i) above.

Route & Site, etc.:

- (k) The BUYER shall be responsible for vessel routing, escorts and transport permits, etc. within the Liberia territorial waters.
- (l) The BUYER shall allocate an acceptable Site within the Free Port of Monrovia to KPS within fifteen (15) Days of the Signing Date.
- (m) The BUYER shall be solely responsible at its cost, for the allocation of the Site. The Site including but not limited to an anchoring location and shore access shall be handed over by the BUYER to KPS within maximum thirty (30) Days of the Signing Date.
- (n) The BUYER shall allow KPS unlimited access and use of the BUYER's waste disposal and storage facilities/arrangements free of charge at the Site for Project waste including sludge, waste oil and sewage. Particularly, sludge shall be delivered to the BUYER at the Powership without being segregated. All costs and expenses arising from the delivery of the sludge, waste oil and sewage will be the responsibility of the BUYER.
- (o) The BUYER agrees and undertakes not to employ any third party at the Site without the prior approval of KPS. If such approval is granted to the BUYER, then the BUYER shall ensure that such third party uses its best efforts to ensure that it does not damage, hinder the progress of, or endanger KPS's activities or its works at the Sites in any way;

Technical & Connections:

- (p) The BUYER shall provide all technical information requested by KPS, including Equipment manuals and drawings related to grid substation equipment for the use by KPS's personnel.

- (q) The BUYER shall provide such services as may be required to implement all physical connections of the Electricity Connection Facilities to the BUYER's interfaces.
- (r) The BUYER shall, up to the Commercial Operation Date, and when KPS's Equipment is not operational, or has been shut down at any time during the entire Contract Term for whatever reason and until the export of Equipment, maintain electrical connection such that KPS may draw auxiliary power from the main 66 kV transmission line and such power consumption shall be at the BUYER's cost.
- (s) The BUYER shall ensure there is a 66 kV busbar at the Free Port of Monrovia which has sufficient capacity for the safe connection of the Equipment.

Operations:

- (t) The BUYER shall issue dispatch instructions and de-energize its electrical apparatuses involved with this Project when required for the Project and/or as requested by KPS. The appropriate dispatch and operational procedure shall be agreed by the Parties.
- (u) The BUYER shall operate, maintain and protect the Electricity Connection Facilities and any other connection and transmission lines and provide adequate and appropriate security to ensure the Electricity Connection Facilities and other transmission lines are at all times fully protected.

Demobilization:

- (v) The BUYER shall not take any action to hinder or delay the demobilization of the Powership and/or any fuel supply vessel by KPS in the case that the Contract is terminated for any reason. If the BUYER hinders or delays the demobilization of the Powership and/or any fuel supply vessel by any means beyond fourteen (14) Days after the Contract is terminated, the BUYER shall pay the Fixed Fee (pro-rated per Day) to KPS calculated on the lesser of (i) Tested Capacity and (ii) Guaranteed Capacity regardless of any dispatch by KPS.

Information & Stakeholders:

- (w) KPS shall provide the BUYER access at any time to all operation and maintenance records maintained by KPS related to the Equipment.
- (x) The BUYER shall be responsible for dealing with the BUYER's customers and suppliers and all regulatory agencies relating to the Project with reasonable support from KPS in connection with such activities.

6. Electricity Connection Facilities

6.1 Construction of the Electricity Connection Facilities

- (a) Provided that the BUYER complies with all its obligations under this Contract,

including but not limited to its obligations in relation to the route and site, to obtain and maintain all permits and licenses, to provide the Letter of Acknowledgement pursuant to clause 5 (BUYER's Responsibilities), and its obligations pursuant to clauses 8.2 (Letter of Credit), KPS shall be responsible for the erection and commissioning of Electricity Connection Facilities, on and offshore up to 2 kilometers including material supply connected directly to Bushrod Substation at the Site;

- (b) BUYER shall be responsible for
- (i) its equipment beyond the transmission line being in a good operational condition;
 - (ii) allocating the site along the route of the transmission line, and obtaining all necessary permits, including rights of way, easements, consents, environmental permits and any other licenses and permits from the relevant authorities and third parties for the construction of the transmission line and the Electricity Connection Facilities on behalf of KPS;
 - (iii) obtaining all work permits that are required for the employees and/or subcontractor's employees of KPS during the construction, on behalf of KPS;
 - (iv) timely importation of all equipment and materials that may be needed by KPS for the construction and commissioning of the Electricity Connection Facilities;
 - (v) constructing any part of the Electricity Connection Facility that is above and beyond KPS's scope of 2 kilometers, as stated in 6.1(a);
 - (vi) operation, maintenance and security of the Electricity Connection Facilities during the entire ESS Term.

6.2 Ownership transfer of the Electricity Connection Facilities

- (a) the ownership of the Electricity Connection Facilities shall automatically transfer from KPS to the BUYER once the Commercial Operations Date is achieved; and
- (b) upon such transfer, the BUYER shall be responsible for the operation and maintenance of the Electricity Connection Facilities;
- (c) However, any transformer(s) and auxiliaries that have been supplied and installed by KPS shall be dismantled and re-exported by KPS at the end of the ESS Term or termination of the Contract;

7. Testing and Commercial Operations

7.1 The following terms shall apply:

Testing and Commercial Operations:

- (a) KPS shall achieve the Commercial Operation Date within 60 Days (**Target Commercial Operation Date**) after the latter of (i) Financial Close, and (ii) handing over of the Site to KPS, provided that BUYER fulfils its relevant responsibilities in a timely manner.

- (b) Within two (2) Days from KPS's written notice to the BUYER with respect to its readiness for Commercial Operation, KPS shall conduct the Operational Test(s) for a two (2) hour period in accordance with procedures set out in Annex 3c. The Commercial Operation Date shall be deemed to have been achieved and the Commercial Operation is deemed to have commenced upon completion of the aforementioned Operational Test.
- (c) Upon the successful completion of the Operational Test(s), the BUYER shall issue a certificate in the form set out in Annex 3d confirming the results. The ESS Term shall commence at 00:01 AM on the Day following the Commercial Operation Date.

BUYER Failure:

- (d) In the event that (i) the BUYER does not respond to KPS's aforementioned written notice relating to its readiness for Commercial Operation and/or (ii) the BUYER is not ready to take delivery and/or KPS is not able to conduct the Operational Test(s) for any reason not solely attributable to KPS within two (2) Days following KPS's written notice, and/or (iii) there is partial or incomplete results of the Operational Tests for reasons not solely attributable to KPS, then the ESS Term shall commence and the Commercial Operation Date shall be deemed to have achieved an output equal to Guaranteed Powership Capacity at 00:01 AM on the third (3rd) Day following KPS's written notice and the invoice shall be issued from such date for the Guaranteed Powership Capacity.

KPS Failure:

- (e) In the event that KPS cannot achieve the Commercial Operation in whole or in part due to reasons solely attributable to KPS within a period of thirty (30) Days following the Target Commercial Operation Date due to reasons including suppliers/subcontractors delivery time, then KPS shall pay to the BUYER five hundred United States Dollars (USD 500) each Day per MW calculated on the Guaranteed Powership Capacity until the Commercial Operation Date (the **Delay Fee**). This Delay Fee shall be payable to the BUYER only once in a single payment, and shall be invoiced and KPS shall pay the Delay Fee at the end of the ESS Term. On the payment of this Delay Fee, all other penalties of KPS shall be remedied and KPS shall have no further liability for any such penalty. No Delay Fee shall be payable if the BUYER is in breach of any provision of this Contract and/or is not ready for the Target Commercial Operation Date to occur and/or the delay is attributable in whole or in part (indirectly or directly) to the BUYER or to a third party.
- (f) If as a result of the Operational Test(s) it is found that KPS's Equipment provides less than the Guaranteed Powership Capacity due to reasons solely attributable to KPS, the Commercial Operation Date shall start according to the Tested Capacity. KPS shall conduct such further Operational Tests as it determines (in its sole discretion) necessary in order to achieve the Guaranteed Powership Capacity.
- (g) KPS shall test the capacity of the Powership in accordance with the Operational Test Procedure included in Annex 3 annually in order to evidence that the Guaranteed Powership Capacity is being met.
- (h) In case KPS fails to deliver (including Deemed Delivered) the Guaranteed Availability due to reasons solely attributable to KPS, there shall be a penalty of 4 US cents/kWh to be credited to the BUYER for each kWh less delivered and to be reconciled at

each Annual Settlement.

8. Monthly ESS Payment, Letter of Credit and Payment Terms

8.1 Monthly ESS Payment

- (a) The BUYER shall pay to KPS the Monthly ESS Payment which shall be calculated as follows:

Monthly ESS Payment (US\$) = Fixed Fee + Variable Fee + Additional Supply Fee (if any)

- (b) The **Fixed Fee** (Take Or Pay) shall be a fixed amount and shall be payable on 95% of the lesser of (i) Guaranteed Powership Capacity and (ii) Tested Capacity as evidenced by the latest Operational Tests:

Fixed Fee (US\$) = Unit Price (US Cent/kWh) x Guaranteed Off Take Amount (kWh)/100

Guaranteed Off Take Amount (kWh) = 8760 (hours/year) x the lesser of (i) Guaranteed Powership Capacity or Tested Capacity (MW) x 1000 x 95% (Take or Pay) /12 (months in a year)

For the avoidance of doubt, such Fixed Fee shall be payable irrespective of whether the BUYER dispatches the Powership

- (c) The **Additional Supply Fee** (Take And Pay) shall be in respect of electricity, if any instructed by BUYER and dispatched by KPS, supplied per ESS Month in addition to that accounted for as part of the Fixed Fee as recorded on the Meter Reading Protocol and shall be calculated as follows:

Additional Supply Fee (US\$) = Additional Delivered Output (kWh) X Unit Price (US Cents / kWh)/100

- (d) The **Variable Fee** is the monthly fee payable by the BUYER to KPS for Fuel component, as determined in accordance with the Electricity Metering System and prevailing market prices. The fee shall be calculated as follows:

Variable Fee (US\$) = Variable Price (US Cents/kWh) x Monthly Actual Generated Electricity (kwh) /100

Variable Price in HFO (US Cents/kWh) = SFOC rate (gr/kWh) x (Fuel Price) (US\$/MT) / 10,000

For the purpose of this clause 8.1, the following definitions shall have the following meanings:

Additional Delivered Output means the difference between the actual kWh measured and recorded on the Meter Reading Protocol during the relevant ESS Month and Guaranteed Off Take Amount

Fuel Price means the average HFO reference price for the relevant Month as per PLATTS North West Europe CIF High 3.5% plus a US\$ 70 per ton all-inclusive handling charge. Eighteen (18) months prior to the provision of natural gas by KPS, BUYER and KPS shall agree on the reference index price of the natural gas and of the cost of natural gas. Prices are exclusive of any taxes/VAT.

Unit Price shall be 6.27 US Cents per kWh for HFO.

The Parties agree that they shall endeavour to reduce the Unit Price to 6.17 US Cents per kWh if they switch to operation with Natural Gas as per clause 9. However, this price is only indicative and subject to mutual agreement of the Parties based on prevailing market conditions.

The Unit Price subject to price escalation annually based on US CPI or three percent (3%) whichever is higher. There shall be no escalation for the first 3 years of operation; the escalation shall apply as of the 4th year of operations starting on the 37th month.

- (e) For the avoidance of doubt, the Unit Price includes all Powership costs of KPS including capex, insurances, depreciation, financing and variable operation and maintenance expenses (such as spare parts, lubricating oil, personnel and other variable costs), but excluding Fuel.

8.2 Letter of Credit

- (a) Within twenty-one (21) Days from the Signing Date of the Contract, the BUYER shall provide a single confirmed, revolving, renewable irrevocable, assignable letter of credit (**Letter of Credit**):
 - (i) issued in favour of KPS as the beneficiary;
 - (ii) issued by "A" ranked European Bank (qualified financial institution) acceptable to KPS and capable of conducting any and all banking related business required by the terms and conditions of this Contract with KPS's financial institution;
 - (iii) having an expiration date of twelve (12) months after the expiry date of the initial ESS Term, and where the ESS term is extended in accordance with this Contract, the Letter of Credit shall be renewed or replaced at least two (2) months before its expiry and such renewal or replacement Letter of Credit shall have an expiration date of six (6) months after the expiry date of the extended ESS Term.
 - (iv) available for drawing down by KPS in whole or in part thereof at any time and from time to time before its expiration by presentation to the issuing in

accordance with the delivery instructions of such Letter of Credit; and

- (iv) otherwise in a form and substance similar to the one attached as Annex 7 and containing terms and provisions acceptable to KPS, the banking institution issuing the Letter of Credit, and their respective legal counsel. KPS shall be free to assign the Letter of Credit to its creditors.

- (b) The Buyer shall issue a confirmed irrevocable Letter of Credit for an amount of USD 15,000,000 (fifteen million United States Dollars) in favor of Karpowership as security for the project from "A" or higher rated international bank in a form acceptable to Karpowership. If Buyer has three consecutive incomplete and/or delayed invoice payments, then the Letter of Credit amount shall be increased to USD 20,000,000 (twenty million United States Dollars) by the Buyer. If the Parties agree to increase the Guaranteed Powership Capacity, then the amount of Letter of Credit shall be increased pro rata.

- (c) KPS shall be entitled to drawdown/collect all Monthly ESS Payment not paid when due, invoices, late payment fees, Termination Charges and all other charges and amounts receivable by KPS from the BUYER under this Contract or any other sum in default, or for the payment of any other amount which KPS may spend or become obligated to spend by reason of the BUYER's default, by making a claim under the Letter of Credit.

- (d) If any portion of the Letter of Credit is so used or applied by KPS, then the BUYER shall, within five (5) Days after KPS's written demand, amend the Letter of Credit in an amount sufficient to restore the Letter of Credit to its required amount, and the BUYER's failure to do so shall be an immediate breach of this Contract and such breach shall not benefit from any applicable grace periods under this Contract.

- (e) If the BUYER fails to renew and/or replenish the Letter of Credit as required, KPS shall have the right to draw any remaining funds available under the Letter of Credit and shall hold such funds in escrow in a separate bank account until such time as the BUYER has renewed and/or and/or replenished the Letter of Credit, at which time KPS shall return such funds (together with any interest on such amounts that may have accrued and been paid by the account bank until the date on which such amounts are returned, less any amounts that KPS would have been able to claim under the Letter of Credit and instead withdrew such amounts from the account) to the BUYER.

- (f) All fees and costs related to the issuing, renewing and/or replenishing the Letter of Credit shall be borne by the BUYER. All fees and costs related to confirming the Letter of Credit shall be borne by KPS.

8.3 Letter of Acknowledgement

LEC shall ensure that the Ministry of Finance provides KPS with a Letter of Acknowledgement, in form and substance included in Annex 8, indicating the Government's full support and commitment for the Project and the performance of the Contract as well as acknowledgement, agreement and approval of the terms and

conditions agreed upon in this Contract together with its annexes. The Letter of Acknowledgement shall be provided within 15 days after the Signing Date.

8.4 Payment

- (a) BUYER shall pay each invoice issued by KPS within fifteen (15) business days after its issuance to KPS's Invoice Payment Account. Payment in a timely manner is of the essence. If the BUYER has an objection to the invoice, the BUYER should notify its objection to KPS within seven (7) Days from the date of the issuance of the invoice. Where the BUYER fails to do so, the invoice shall be deemed to have been accepted by the BUYER.
- (b) KPS shall have the right to immediately suspend ESS and compliance with any dispatch instructions in the event (i) of a seven days delay in receipt of the invoice amount from the Letter of Credit or payment by the BUYER, or (ii) the amount of the Letter of Credit is not increased as required to its terms or pursuant to this Contract. During this suspension, payments shall be invoiced based on the Fixed Fee (prorated per Day) to be calculated based on the lesser of (i) Powership Guaranteed Capacity and (ii) Tested Capacity.
- (c) Any disputed amounts on which the Parties have not reached an agreement within three days after notification by BUYER as per Clause 8.4(a) shall be paid as invoiced and shall be settled following dispute resolution in accordance with clause 17 and 18.
- (d) Any and all payments to be made to the Invoice Payment Account and shall be free of any Taxes, charges, deductions, withholdings and any other similar levies.

8.5 No prohibition, restriction, set off, etc:

The BUYER hereby covenants and agrees that throughout the duration of this Contract that no limitations, prohibitions, restriction or set-off shall be applied to the payments made by the BUYER to KPS under this Contract, including but not limited to the Monthly ESS Payment and the Termination Charges, for any reason whatsoever including where arising from any delay, limitation, or cessation of generation of electricity which occurs due to any reason that cannot be attributable to KPS.

8.6 Annual Settlement

- (a) At the end of each operational year starting from the Commercial Operation Date, the BUYER or KPS shall issue a notice to the Authorized Representatives to complete the annual settlement. After the receipt of such notification, the Authorized Representatives shall immediately convene and reconcile the following in accordance with the Contract and Annual Settlement protocol (Annex 9):
 - (i) computation of annual Guaranteed Availability adjusted Mean Site Conditions as per the Guaranteed Powership Capacity declared within the relevant year in the Monthly Availability Declarations;
 - (iii) calculation of any Performance Liquidated Damages, to be determined as follows; where the annual generation of electricity falls below the Guaranteed Availability at the end of each operational year starting from the Commercial Operation Date for any reason solely attributable to KPS, KPS will pay to the LEC 4 US cents/kWh as **Performance Liquidated Damages** in respect of

each kWh comprised in such shortfall.

- (b) The Authorized Representatives shall be required to complete all calculations and reach a determination with regards to the amounts to be credited or debited to KPS within a period of seven (7) days after receipt of the notice provided as per above.
- (c) Any determined amount to be credited or debited shall be paid within thirty (30) days following the determination of the Authorized Representatives.
- (e) In the event that the Authorized Representatives are unable to reach a determination within the above stated time period, and/or any of the Parties disagrees with the determination of the Authorized Representatives in whole or in part, the disputed part shall be settled in accordance with clause 17 and **Error! Reference source not found..**

9. Capacity Increase

- 9.1 The Parties agree that if the technical feasibility studies to be carried out by KPS for any other agreed locations within Liberia confirm that there are adequate electricity connection points on national transmission and distribution lines, then the Parties may increase the capacity to be provided under this Contract up to 450MW. In the event of such increase in capacity, the Parties shall amend the relevant terms of the Contract accordingly, including but not limited to term, fuel and replacement of the Powership.
- 9.2 In the event that the BUYER would like to use Natural Gas for more cost effective electricity generation, capacity shall be increased to a minimum of 100MW and KPS shall make available the necessary LNG infrastructure for the supply of Natural Gas to the Powership at KPS's cost within maximum of 18 months starting from the BUYER's request in writing. The Parties hereby acknowledge that Tthe Powership shall operate with Natural Gas at least 5 years from the Commercial Operation Date of the Powership generating electricity by means of using Natural Gas as primary fuel.

10. Damage

- 10.1 The BUYER will be responsible for all loss or damage to the Equipment, including the Powership, during the Contract Term to the extent such loss or damage is not caused by an act or omission of KPS, including but not limited to, network and grid conditions such as voltage level fluctuations, security and third party actions and outside effects.
- 10.2 KPS will be responsible for all loss or damage to the BUYER's equipment during the Contract Term to the extent such loss or damage is caused by an act or omission of KPS.
- 10.3 The aforementioned claims and damages shall be settled between the Parties on cash payment basis and the cost arising from such claims and damages, which shall be borne by the responsible Party as stated above, shall cover the replacement of the Equipment or the BUYER's equipment.

11. Health and Safety Matters

- 11.1 The BUYER will take all necessary precautions, at all times, to ensure the full safety and security of KPS's personnel, the Equipment and the Powership. This includes, but is not limited to, instruction of the BUYER's safety practices, proper and safe handling of hazardous substances and protection of KPS's personnel from exposure thereto, energization/de-energization of all power systems (electrical, mechanical and hydraulic) using a safe and effective lock-out tag procedure, and conducting periodic safety meetings during construction and start up. The BUYER shall indemnify and defend KPS in respect of any and all claims, damages, and losses, causes of action, demands, judgments and expenses in connection therewith.
- 11.2 KPS may, from time to time, conduct safety audits/inspections to ensure safe conditions exist and make recommendations to the BUYER concerning the same. Neither the conduct or non-conduct of safety audits/ inspections nor the making of any recommendation by KPS shall relieve the BUYER of the responsibility to provide a safe place to work. If KPS personnel require medical attention, local competent/well equipped hospital facilities and/or medical personnel, those requirements will be made available to the KPS's personnel for the duration of such needs.
- 11.3 If, in KPS's opinion, the safe execution of electricity generation services at the Site is, or is apt to be, imperilled by local conditions, KPS may remove some or all of its personnel from the Site and/or supervise performance of all or any part of its electricity generation services and/or evacuate its personnel and the BUYER shall assist in said evacuation.
- 11.4 The Operation, Maintenance and Technical Services of the Equipment and the Powership is the sole responsibility of KPS. Since the BUYER requires KPS's personnel to operate Equipment and the Powership at the Site, the BUYER shall indemnify and save KPS, its employees agents and subcontractors, harmless from all expense and liability (including reasonable attorneys' fees) incurred by or imposed upon KPS, its employees agents and subcontractors, based upon injury to persons (including death) or damage to property resulting from operation of Equipment or the Powership at the Site by KPS personnel (or its agents or subcontractors' personnel), save and except any such injury to persons (including death) or damage to property resulting exclusively from the negligent acts or omissions of KPS or its agents, representatives, employees or subcontractors.
- 11.5 If, at the Site, the KPS encounters toxic substances, hazardous substances or hazardous wastes including but not limited to asbestos (collectively, Hazardous Materials in the control of hazardous substances to health) which required special handling, correct storage, transport and/or disposal, the BUYER shall immediately take whatever precautions are required to legally eliminate such hazardous conditions so that the work under this Contract may safely proceed and or the time required for performance of any part of the work, an equitable adjustment shall be made in the price and schedule. KPS agrees to properly handle, store, transport, and dispose of all Hazardous Materials produced or generated in the course of KPS's work at the Site. The BUYER shall indemnify and defend KPS for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to:
- (a) the presence of any Hazardous Materials which are present on the Site prior to the commencement of KPS's work;

- (b) improperly handled or disposed of by the BUYER; or
- (c) brought on to the Site or produced thereon at any time by parties other than KPS or its subcontractors.

12. Insurances

12.1 The BUYER Insurances:

The BUYER shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, those insurances specified in Part 1 of Annex 8.

12.2 KPS Insurances:

KPS shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, those insurances specified in Part 2 of Annex 8. Specifically, KPS shall provide the confirmation of the renewal of the P&I Insurance, prior to the expiry of the previous P&I Insurance.

12.3 Insurance for KPS's Personnel:

- (a) KPS shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by KPS or any other of KPS's personnel, as required by the applicable laws.
- (b) The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the works. For a subcontractor's employees, the insurance may be affected by the subcontractor, but KPS shall be responsible for compliance with this clause 121.

12.4 Claims Assistance:

KPS shall give all such assistance to the BUYER as may be appropriate in connection with any claims that may be made under the policies of insurance effected pursuant to this clause 121, and the BUYER shall give to KPS all such reasonable assistance as may be appropriate in connection with claims under such insurances made by KPS reasonably requested by KPS. Neither KPS nor the BUYER shall give any release or make any compromise with any insurer without the prior written consent of the other.

12.5 Continuance of underlying responsibilities:

Nothing in this clause 121 limits the obligations, liabilities or responsibilities of the Parties under the other terms of this Contract or otherwise. Any amounts not insured (including by reason of limitation, exclusion, deductible or excess) shall be borne by the BUYER and KPS in accordance with their liabilities under the Contract.

12.6 Language:

All policies of insurance required by this clause 121 shall be issued in English, except for the workmen's compensation (employer's liability) insurance which shall be issued in the

relevant language required by applicable local law and translated into English if necessary.

13. Force Majeure

13.1 Effect of Force Majeure:

If, due to the occurrence of any Force Majeure Event, KPS is wholly or partially unable to perform its obligations under this Contract, then it shall not be responsible or liable for, or in breach of this Contract, solely because of any such failure. However, in no event shall the BUYER be excused from its obligations to make payments then due or becoming due with respect to performance prior to any Force Majeure Event.

13.2 Excuse from Force Majeure:

KPS shall only be excused from any performance or other obligations under this Contract to the extent that:

- (a) the suspension of performance is of no greater scope and of no longer duration than is caused by Force Majeure Event; and
- (b) KPS uses due diligence to remedy its inability to perform; provided, however, that this does not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of KPS, are contrary to its interest, it being understood and agreed that the settlement of strikes, walkouts, lockouts, or other labor disputes are entirely within the discretion of KPS.

13.3 Notice of Force Majeure Event:

KPS shall give written notice of the occurrence of a Force Majeure Event to the BUYER as soon as reasonably possible, but in no event later than Seven (7) days after such occurrence.

13.4 Optional Termination, Payment and Release

- (a) If the execution of substantially all the ESS in progress is prevented for a period of thirty (30) consecutive Days by reason of Force Majeure of which notice has been given under clause 13.2 for multiple periods which aggregate sixty (60) Days or more due to any notified Force Majeure Event, then KPS may give the BUYER a notice of termination of the Contract. In this event, the termination shall take effect immediately upon the notice is given.
- (b) Upon such termination, the BUYER shall pay to KPS:
 - (i) the Termination Charge, net of any indemnities the KPS receives from relevant insurance in respect of any loss of Monthly ESS Payment; and
 - (ii) Any other cost or liability which in the circumstances was reasonably incurred and duly documented by KPS in the expectation of completing the Contract.

14. No expropriation, Change of Law, and Waiver of Immunity

14.1 The BUYER hereby covenants and agrees that throughout the duration of this Contract that:

- (a) no direct or indirect expropriation, confiscation, compulsory acquisition, or seizure shall be done or performed of all or any part of KPS's assets (including the Equipment and the Powership), business or operations by a Governmental Entity and/or state entity or private person or entity, any act, action, delay or omission of Governmental Entity; and
 - (b) no approvals, permits, licences, consents, required granted or required by any Governmental Entity or other type of authority in relation to the proper execution or operation of this Contract shall be revoked or terminated.
- 14.2 Should there be any changes in Laws after the Signing Date which in the opinion of KPS has an adverse effect on KPS, KPS shall be protected from and indemnified against the impact of such change in Laws by the BUYER. If any additional costs arise hereunder, if mutually agreed by the Parties the Contract shall be amended to take into account this additional cost and this will not affect KPS's right to collect the Monthly ESS Payment. If such amendment is not executed within seven (7) Days after the change in Law, KPS shall have the right to claim all its costs and losses arising directly or indirectly from such change in the Law and/or terminate the Contract for the life of the Contract.
- 14.3 The BUYER waives generally all immunity or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
- (a) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (b) the issue of any process against its assets or revenues for the enforcement of a judgement or award or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.

15. Liability

15.1 Limitations of Liability:

- (a) the total aggregate liability of KPS, its, employees, officers, and agents, its affiliates, subcontractors and suppliers, and their respective directors, and authorised representatives on all claims of any kind under this Contract or under any cause of action related to the subject matter of this Contract, including but without limitation, claims of indemnity, whether in Contract, warranty, contribution, tort (including negligence), strict liability, professional liability, products liability or other contractual or extra contractual liability of any nature, strict liability, or otherwise, and under any system, theory or principle of law shall in no event exceed three percent (3%) of the aggregate of the Fixed Fee in respect of each period of twelve (12) ESS Months commencing from Commercial Operations Date, if any, actually received from the BUYER by KPS under this Contract.
- (b) KPS shall not be liable to the BUYER whether pursuant to any provision of the Contract (including any indemnity), by way of damages for breach of contract, in tort, for breach of statutory duty, equity, or under any other legal theory, for any loss of profit or revenue, loss of services or replacement power or down time costs, loss of capital, consequential or special damages except for Delay Fee.

- (c) no claim shall be asserted against KPS, its agents, employees, officers, affiliates, subcontractors or suppliers, unless the breach, injury, loss or damage giving rise to the claim occurs or is sustained during the Contract Term hereof and no suit or action or arbitration proceeding thereon shall be instituted or maintained unless it is initiated within six (6) month after the date the cause of action occurs.
- (d) this clause shall prevail over any conflicting or inconsistent provisions contained in any of the documents comprising this Contract except to the extent such conflicting or inconsistent provisions contain lower limits and/or greater restrictions.

15.2 Liability and Indemnification:

- (a) KPS and the BUYER, subject to clause 15.1, shall indemnify and hold harmless the other, its successors and permitted assigns and their respective officers and employees from and against any and all suits, actions, legal or administrative proceedings, claims (including claims by other contractors), demands, costs and expenses (including attorneys' fees) of any nature for bodily injury or death, physical damage to property (including environmental claims or liability), or damages of any kind asserted by any third parties and arising from the negligent performance of any work carried out under this Contract by KPS or the BUYER or from any other acts or omissions by KPS or the BUYER, as applicable. In the event that such damage or injury is caused by the joint or concurrent negligence of one or more entities, the loss shall be borne by such entities in accordance with applicable law. The representations, warranties and other terms and provisions of this Contract are for the exclusive benefit of the Parties hereto, and no other person shall have any right or claim against any Party by reason of any of those terms and provisions or be entitled to enforce any of those terms and provisions against any Party.
- (b) The BUYER shall be responsible for any delay, limitation, cancellation or stoppage of the generation of the electricity which occurs as a result of any action or inaction that is not attributable to KPS and the BUYER shall remain responsible for its obligations under this Contract and shall indemnify KPS and hold it harmless from any loss or liability it incurs as a result of such action or inaction.

16. **Default and Termination**

16.1 The BUYER's Event of Default:

In the event that the BUYER shall be in default under this Contract, KPS shall give the BUYER seven (7) days written notice following such default (**Default Notice**) prior to taking any action against the BUYER as a result of such default. The BUYER shall be in default under this Contract if:

- (a) The BUYER fails to provide and/or maintain the Letter of Credit in form, substance and in the amounts required by clause 8.2;
- (b) LEC fails to submit the Letter of Acknowledgement in form, and substance required by Clause 8.3;
- (c) The BUYER does not comply with any provision of this Contract and such failure is

not remedied within a period of ten (10) Days after a written notice from KPS;

- (d) any representation or warranty made by the BUYER herein or in any document or certificate furnished by the BUYER in connection herewith or pursuant hereto shall prove to be incorrect or misleading at any time;
- (e) The BUYER becomes bankrupt or insolvent or makes an assignment for the benefit of its creditors;
- (f) The BUYER fails to obtain and/or maintain during the Contract Term all the necessary licenses and permits in accordance with the provisions of this Contract and the Laws;
- (g) The BUYER and/or Liberia is the subject of any sanctions or trade embargo;
- (h) The BUYER does not fulfil any of its payment obligations arising from or related to this Contract, including but not limited to the Monthly ESS Payment, within seven (7) Days after its due date; or
- (i) the BUYER shall not comply with clause 17.2 (Compliance with Laws, Codes and Standards); or
- (j) the BUYER shall not have satisfied in a timely manner all of the obligations set forth in clauses 5 (BUYER's Responsibilities) and 9 (Damage).

16.2 Effects of the BUYER's Events of Default:

Upon the occurrence of any BUYER's Event of Default, the KPS may, at its option:

- (a) terminate this Contract in whole;
- (b) demobilize the Equipment and the Powership;
- (c) require the BUYER (at the BUYER's expense) to return promptly all or any portion of the Equipment and the Powership to KPS, and take immediate physical possession of and remove all or some of the Equipment and the Powership, without liability to the BUYER;
- (d) suspend the operation of the Powership(s), during which time the BUYER shall be obliged to fulfil all its obligations arising from this Contract. In case KPS suffers delay and/or incurs reasonable cost (including but not limited to any demobilization and remobilization costs) as a result of suspending work in accordance with this clause, KPS shall be entitled to:
 - (i) an extension of time for any such delay, if completion is or will be delayed; and
 - (ii) payment of any such reasonable cost during the suspension period, and/or
- (e) stop providing ESS; and/or
- (f) apply to any other right or remedy stated under this Contract, including drawdown of the Letter of Credit pursuant to clause 8.28.2 (Letter of Credit) and/or make a claim

under the Letter of Comfort..

No right or remedy of KPS referred to in this Contract is intended to be exclusive, but each shall be cumulative and in addition to any other right or remedy under this Contract or otherwise available to KPS at law or in equity. Furthermore, if KPS terminates this Contract due to the BUYER's Event of Default pursuant to clause 1 and 16.2, then the BUYER shall be obliged to:

- (i) pay the amounts and any Termination Charges stated in clause 16.5 (Termination Charges).
- (ii) complete export procedures in relation to the Powership and any fuel vessel within seven (7) Days from the notice of termination, for which time shall be of the essence.

16.3 KPS's Event of Default:

In the event that KPS shall be in default under this Contract, the BUYER shall give the KPS seven (7) days written notice following such default (**Default Notice**) prior to taking any action against KPS as a result of such default. KPS shall be in default under this Contract if:

- (a) KPS fails to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue un-remedied for a period of ninety (90) days after a written notice of the BUYER;
- (b) any representation or warranty made by KPS herein or in any document or certificate furnished by KPS in connection herewith or pursuant hereto shall prove to be incorrect at any time that may negatively affect the contractual obligations; or
- (c) KPS becomes bankrupt or insolvent or makes an assignment for the benefit of its creditors.

16.4 Effects of the KPS's Events of Default:

Upon the occurrence of any KPS Event of Default as set out in clause 16.2, the BUYER may, at its option:

- (a) terminate this Contract in whole;
- (b) require KPS to return promptly the Letter of Credit to the BUYER except the amounts that have been actually received by KPS up to the date of termination of this Contract;
- (c) require KPS to remove all of the Equipment and the Powership at KPS's expense; and/or
- (d) apply to any other right or remedy stated under this Contract. No right or remedy of the BUYER referred to in this Contract is intended to be exclusive, but each shall be cumulative and in addition to any other right or remedy under this Contract or

otherwise available to the BUYER at law or in equity.

16.5 Termination Charges:

In the event this Contract is terminated upon the BUYER's default pursuant to clause 16.2, the BUYER shall pay, within thirty (30) Days after issuing the termination notice by KPS, the aggregate of the Fixed Fees for the remainder of the ESS Term calculated on 95% of the lesser of (i) Guaranteed Powership Capacity and (ii) Tested Capacity (**Termination Charges**).

17. General

17.1 Nature of Contract:

- (a) This transaction is an electricity generation services contract and not a sale of, or other transfer of title of, the Powership. The BUYER shall not acquire through this Contract or by any payment under this Contract any right, title or interest in or to the Equipment.
- (b) The Equipment is, and shall at all times be and remain, solely and exclusively the property of KPS or its affiliated companies, and no right, title or interest in the Equipment shall pass to the BUYER, notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to any other personal or real property.

17.2 Compliance with Laws, Codes and Standards:

Should there be any changes in the applicable laws, codes and standards which have an adverse effect to KPS, KPS shall be protected of such changes and the remedy of such situations shall be guaranteed or borne by the BUYER on his account. If any additional costs arise hereunder, mutually agreed by the Parties, this Contract shall be amended accordingly and this will not affect KPS to receive the Monthly ESS Payment.

17.3 KPS's Proprietary Information:

- (a) Information provided by KPS to the BUYER is confidential and may be proprietary and the BUYER agrees:
 - (i) to treat such information as confidential;
 - (ii) to restrict the use of such information to matters relating to KPS's performance of this Contract; and
 - (iii) to restrict access to such information to employees of the BUYER and its agents whose access is necessary in the implementation of this Contract. Confidential information will not be reproduced without the KPS's prior written consent, and all copies of written information will be returned to KPS upon request or the termination of this Contract.
- (b) The foregoing restrictions do not apply to information which is:
 - (i) contained in a printed publication which was released to the public by KPS prior to the date of this Contract;

- (ii) or becomes, publicly known otherwise than through a wrongful act of the BUYER, its employees, or agents;
- (iii) in the possession of the BUYER, its employees, or agents prior to receipt from KPS, provided that the person or persons providing the same have not had access to the information from KPS; or
- (iv) approved in writing by KPS for disclosure by the BUYER, its agents or employees to a third party.

17.4 Assignment, Subletting, etc.:

- (a) The BUYER shall not assign, sell, pledge or hypothecate this Contract or any of its rights hereunder, in whole or in part, or sublease the Equipment or the Powership without the prior written consent of KPS in its sole discretion, whether directly, indirectly or by operation of law. The BUYER shall not place or cause to be placed an attachment on the Equipment or the Powership. The BUYER may, however, assign this Contract to any other affiliated companies which are also under the common control of the Ministry of Electricity of Liberia without prior written consent of KPS. No permitted assignment shall relieve the BUYER of any of its obligations under this Contract.
- (b) KPS may assign any receivable due pursuant to this Contract to banks or financial institutions without prior written consent of the BUYER. If any such consent and/or acknowledgement is requested by such banks or financial institutions, BUYER agrees and undertakes to provide such consent and/or acknowledgement within seven days after it is requested. KPS may assign this Contract to any of its affiliates, group or sister companies without prior written consent of the BUYER.

17.5 Modification & Waiver:

Modifications, waivers, additions or amendments to this Contract shall be binding on the Parties only if they are in writing and signed by a representative of each Party. The failure of KPS or the BUYER to enforce, at any time or for any period of time, any of the provisions of this Contract shall not constitute a waiver of such provisions or of the right of KPS or the BUYER to enforce each and every provision.

17.6 Invalidity:

Any provision of this Contract which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition of unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in other jurisdiction.

17.7 Consent to be in writing:

In any case where the consent or approval of KPS or the BUYER is required, no such consent or approval shall be valid unless the same shall be in writing and signed by a representative of KPS or the BUYER.

17.8 Entire contract:

This Contract, including any document attached hereto constitute the entire Contract

between KPS and the BUYER and supersede any representations, warranties, course of dealing or agreements (written or oral) heretofore made or entered into between the Parties relating to the Equipment or the Powership.

17.9 Notices:

- (a) Any notices desired or required to be given pursuant to this Contract shall be given by the Authorized Representative of the Party in writing and addressed to the Party at its address as set forth on the front side of this Contract and shall be served in accordance with the following:
 - (i) by personal delivery, in which case notice is deemed given when delivered to the addressee; or
 - (ii) by certified or registered mail, return receipt requested, postage prepaid, in which case notice is deemed given on the date of receipt (or rejection of the mailing) shown on the return receipt, or
 - (iii) sent prepaid by recognized overnight delivery service (such as courier service) in which case notice is deemed given on the date of delivery.
- (b) Either Party may modify its address for delivery of notices by written notice to the other party sent in accordance with the provisions of this clause 17.9 (Notices).

17.10 Counterparts:

This Contract may be executed in multiple counterparts, each of which shall constitute an original and which taken together shall constitute one and the same contract.

17.11 Third Party Rights

A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 (the "Third Parties Act") to enforce or to enjoy the benefit of any term of this Contract.

18. Governing Law and Dispute Resolution

18.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation and all non-contractual obligations arising out of or connected with it shall be governed by and construed in accordance with English laws.

18.2 In the event of a Dispute, the aggrieved party shall promptly provide Notice of the Dispute to the other Party. The respective Authorized Representatives shall undertake in good faith to resolve the Dispute. If they cannot resolve the Dispute within fourteen (14) days after delivery of such Notice, each Party shall cause representatives, senior to the Authorized Representatives, to attempt to resolve the dispute. In the event the dispute cannot be resolved within thirty (30) days after the Notice of the Dispute was first given, the Parties may utilize a mutually agreeable independent third party as an expert, with expertise in the area of dispute, to assist in resolving the dispute. If the Parties are unable to resolve the dispute within fifty (50) days after Notice of dispute was first given, each Party may then pursue all rights and remedies available under this Contract, in equity, or at law. Where the Parties resolve the Dispute pursuant to this clause 18.2, any payments

arising from such resolution shall be made within thirty (30) days after the date of the resolution of the Dispute.

19. Arbitration

- 19.1 In case a Dispute is not resolved among the Parties pursuant to clause 18.218.2, then it shall be exclusively and finally resolved by arbitration pursuant to this clause **Error! Reference source not found.**
- 19.2 All Disputes shall be referred to and finally resolved by arbitration in London before three arbitrators under the London Court of International Arbitration's Arbitration Rules from time to time in force (Rules). This clause incorporates the Rules except where they conflict with its express terms.
- 19.3 Each party shall appoint an arbitrator not later than 14 days after service of a written request by any party to do so. The two party-appointed arbitrators shall appoint a third arbitrator to act as chairman within fourteen (14) days after the second arbitrator's appointment. If any of the parties fail to appoint an arbitrator or the two arbitrators already appointed fail to appoint the chairman, either party may apply to the President for the time being of the Institute of Chartered Accountants of England and Wales to make the appointment.
- 19.4 The proceedings shall be conducted in the English language. All documents submitted in the arbitration shall be in the English language or, if in another language, be accompanied by a certified English translation.
- 19.5 None of the parties may appeal to any court on a question of law arising out of an award made in the arbitration. The parties irrevocably waive any rights of appeal they might otherwise have had.
- 19.6 The award shall be final and binding on the parties and judgment rendered on the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be.
- 19.7 The Parties reserve the right to refer to a court of competent jurisdiction all preliminary injunction suits, if necessary to obtain legal measures intended to protect their rights prior to or during the arbitration, and such measures shall not be considered as a waiver or violation of the arbitration, provided that such judicial relief is limited to that which is required to prevent imminent damage to a Party and does not resolve the merits or substance of such Dispute.
- 19.8 Any of the Parties may request the arbitral tribunal to, and upon such request the arbitral tribunal, to the extent not otherwise prohibited by applicable rules, shall, consolidate the arbitration with any other arbitration involving any Dispute, claim or controversy arising out of or relating to this Contract or the breach, termination or invalidity hereof or thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed and delivered as of the Day and date first set forth above.

DRAFT

SIGNATURES

| | |
|--|--|
| <p>For and on behalf of LIBERIA ELECTRICITY CORPORATION</p> <p>By: _____</p> <p>Name:</p> <p>Designation:</p> | <p>For and on behalf of KARPOWER INTERNATIONAL DMCC</p> <p>By: _____</p> <p>Name:</p> <p>Designation:</p> |
|--|--|

ACKNOWLEDGED & APPROVED BY

| | |
|---|--|
| <p>For and on behalf of MINISTRY OF MINES & ENERGY</p> <p>By: _____</p> <p>Name:</p> <p>Designation:</p> | <p>For and on behalf of MINISTRY OF FINANCE</p> <p>By: _____</p> <p>Name:</p> <p>Designation:</p> |
| <p>For and on behalf of NATIONAL INVESTMENT COMMISSION</p> <p>By: _____</p> <p>Name:</p> <p>Designation:</p> | |