TERMS OF REFERENCE (TOR)

of

Purchasing 4 Pickup
for operation in Hongsa Power Co., Ltd.

TOR Purchasing Pickup for operation in Hongsa Power Co., Ltd.

1.BACKGROUND

Hongsa Power Co., Ltd. would like to purchase pickup trucks and SUV vehicles to support operational works in Hongsa Power Co., Ltd.

2.OBJECTIVE

Hongsa Power Company Limited (the "HPC") intends to procure a total of 4 vehicles under this procurement process, consisting of **4 (four) pickup trucks**.

All vehicles shall be procured under the Master List procurement system, and the applicable import duty rate shall be 1%, in accordance with relevant regulations and approvals.

3.SCOPE OF WORK

The Vendor has obligations to procure, supply, test, and deliver the Vehicles having the specification and requirements as agreed to HPC at the Delivery Address on or before the Delivery Date. No conflicting, contrary, or additional term shall be deemed to be accepted by HPC unless HPC expressly agrees in writing.

The details of specifications and requirements are set forth in Annex 1. The vendor shall be responsible for import tax, customs clearance cost, and all fees and duties for vehicle registration for the first year.

The Vendor shall supply the Vehicles with at least complimentary as follows.

Requirement accessories for Pickup 4 units

- UV Film 3M Protection
- MT Tire for 4 units with 1 spare tire per unit
- Roll Bar
- Steel Bumper
- Sidestep
- Max Liner
- Leather seat
- Safety Lamp
- Flag with Pole support
- Reflective 3M Sticker Line around the vehicle body
- Glass Breaking Hammer
- Fire Extinguisher Class ABC
- Water Guard
- White Color

4.DELIVERY AND SHIPMENT

4.1 The vendor shall deliver all vehicles to Hongsa Power Co., Ltd., Phonchan Office, Hongsa District, Xayaburi Province, Lao PDR, within 90 days after the contract signing date.

4.2 The vendor shall complete all vehicle registration within 30 days after the complete delivery and inspection date of each vehicle

4.3 Goods to the Delivery Address no later than the Delivery Date in accordance with the conditions and period hereunder as evidenced by the Acceptance Letter.

5. BIDDER'S QUALIFICATION

The vendor must have the qualifications as follows:

5.1 The vendor shall be a company with register in Lao PDR and be duly and legally incorporated.

5.2 The vendor shall be the authorized dealer of such brand that is offered in this bidding.

5.3 The vendor shall be authorized by the Bank of the Lao PDR or a licensed commercial bank to receive foreign currency payments. (If any)

5.4 Not being bankrupt or liquidated

5.5 Never breach of contract or work with HPC or HPC's Vendor

5.6 Not having mutual benefits with other Vendors submitting proposals to the HPC or not being an offender of fair competition in this tender.

5.7 The Vendor and its assigned Experts shall have no business, financial, personal, or other interest in HPC activities, the project, or any activities related thereto.

5.8 The vendor shall be the authorized to import goods to Lao PDR. (if any)

6. SECURITY AND WARRANTY

All Security shall be issued from a reliable and reputable bank or financial situation acceptable to HPC in its respective standard form to ensure and secure the due execution, proper performance, and fulfillment of obligations under each contract with the minimum conditions and requirements as follows:

6.1 Bid Bond – not applied

6.2 Unless stated otherwise in the Contract, Vendor warrants to HPC, notwithstanding such Goods manufactured by Vendor or not, that the Goods shall be free from defects in materials and workmanship for at least 3 years or 100,000 km whichever comes first from the date of delivery as stated in the Acceptance Letter. The vendor has an obligation to provide HPC with the warranty certificate and claim policy of the vehicles, or the Vendor's document clearly stated the warranty condition and claim policy of the vehicles.

7. PRICE AND PAYMENT

7.1 All payments which shall be made or to be made under this TOR shall be in USD currency or Lao Kips currency
In the event that the vendors shall not the official approval document issued by the Department of Foreign Exchange Protection, Bank of the Lao PDR, HPC. shall utilize the average foreign exchange rate for payment date, based on the counter **rate (EFT)** quoted by the Banque Pour Le Commerce Exterieur Lao Public (BCEL).
7.2 The vendor shall offer a price with import tax of 1% due to HPC granted Master List 2026 for import permanent vehicles under Concession Agreement (CA).
7.3 The vendor shall offer price of all fees and duty for vehicle registration for the first year. separate from price of vehicle
7.4 The terms of payment will be credited 30 days after the issue of the Acceptance Letter from HPC
7.5 Payment condition

a) <u>If an invoice is submitted to the Employer during the date of 1 – 15 in any month, the payment of such invoice will be paid on the date of 10 of the following months.</u>

In this regard, when there is the case that such submitted invoice is incorrect or the work performed or goods procured is not in compliance with the requirements provided under the Agreement, the Vendor could be entitled to receive the payment on the same due date only on the conditions that such invoice is revised to the Employer's satisfaction or the work has been performed or the goods has been procured in compliance with the requirements thereof; and that the revised invoice is re-submitted to the Employer within the date of 15 of such month.

b) <u>If an invoice is submitted to the Employer during the date of 16 – 31 in any month, the payment of such invoice will be paid on the date of 25 of the following months.</u>

In this regard, when there is the case that such submitted invoice is incorrect or the work performed or goods procured is not in compliance with the requirements provided under the Agreement, the Vendor could be entitled to receive the payment on the same due date only on the conditions that such invoice is revised to the Employer's satisfaction or the work has been performed or the goods has been procured in compliance with the requirements thereof; and that the revised invoice is re-submitted to the Employer within the end of such month.

8. **REQUIRED SUBMITTAL DOCUMENTS**

Bidder's proposal shall be submitted to HPC in 2 sealed envelopes, each envelope shall contain separate proposals specified as below.

a) Sealed Envelope No. 1 shall contain the completed Part I: General and Technical Proposal.
b) Sealed Envelope No. 2 shall contain the completed Part II: Commercial Proposal.

The proposal shall be submitted to HPC's office at the address specified in this TOR no later than 05.00 p.m. local time on the submission date to be confirmed by HPC.

VALIDITY OF PROPOSAL

The proposal shall remain valid for a period of 120 days from the date of the submission of the proposal.

ACCEPTANCE AND REJECTION OF PROPOSAL

The HPC reserves the right, at its sole discretion, to accept the Proposal, which in its judgment is the most responsive and best Proposal, to reject any and all Proposals, and to waive minor irregularities and informalities in any Proposal submitted.

The HPC will reject any Proposal which, in his judgment, is non-responsive. The HPC will not be bound to award a contract to the Supplier who has submitted a Proposal indicating the lowest price but will take into account all evaluating factors and other factors such as compliance with the TOR Documents, technical and financial qualification, and capability of the Supplier to execute the Works promptly and vigorously in such manner as to secure delivery and/or completion within the time specified.

9. TITLE OF THE GOODS

The Goods shall be delivered free of any third party's rights and passed to HPC upon the actual delivery at the Delivery Address and accepted by HPC in accordance with clause Acceptance of the Goods.

10. **LIQUIDATED DAMAGES:**
DELAY LIQUIDATED DAMAGES:

a) If the Goods are not delivered to the Delivery Address on the Delivery Date as evidenced by the Acceptance Letter, Vendor agrees to pay to HPC the delay liquidated damages in daily rate of zero-point one (0.1%) percent of the total price of the undelivered Goods for each day of delay. However, the total delay liquidated damages payable by Vendor under the Contract shall not exceed a maximum amount of ten (10%) percent of the contract price.
b) Nonetheless, if the Vendor fails to deliver the Goods within the agreed Delivery Date, HPC allows a grace period of fifteen (15) days free of the liquidated damages, provided that the Vendor must oblige to inform HPC of such failure in advance prior the Delivery Date at least seven (7) days. Notwithstanding, after such period, the Vendor will be charged with a liquidated damage of fifteen (15) days instantly.

11. **FORCE MAJEURE**

Neither Party shall be liable for any failure to perform its obligations under the Contract to the extent that such failure is caused by Force Majeure; provided that such affected Party must inform other Party in writing within seven (7) days from the date that the affected Party becomes aware or should become aware of such Force Majeure. If the affected Party fails to do so, no extension of time in connection with such Force Majeure shall be allowed.

If the Force Majeure continues for a period of thirty (30) consecutive days or more, then either Party may terminate the Contract upon giving the other Party written notice of termination. The termination shall be without prejudice to the accrued rights of the Parties

ANNEX 1

Technical Specifications
TOYOTA HILUX TRAVO 4TREX, 4WD, DOUBLE CAB, 6-SPEED M/T, LHD

1.1 General Requirements

- Model: Toyota Hilux Travo 4TREX, 4WD, Double Cab, 6-Speed M/T, LHD
- Vehicle type: Pickup truck, double cab, 4 doors, 4WD
- Condition: Brand new; Steering: Left-hand drive (LHD)

1.2 Engine and Performance

- Engine type: Diesel, 4-cylinder, 16-valve DOHC, variable nozzle turbo intercooler
- Engine capacity: 2,755 cc
- Maximum output: 150 kW (201 HP) at 3,400 rpm
- Maximum torque: 500 Nm at 1,400–2,800 rpm
- Transmission and drivetrain: 6-speed manual transmission, 4WD with Active Traction Control, differential lock, and enhanced suspension
    - Dimensions: Overall size approximately 5,320 x 1,855 x 1,815 mm; wheelbase approximately 3,085 mm; gross vehicle weight approximately 2,950 kg
    - Brake and tire: Ventilated disc front brake, rear drum brake, and tire size 265/60R20 or equivalent
    - Fuel system: Direct injection common rail

1.3 Capacity

- Seating capacity: Minimum 5 persons

1.4 Safety Features

- Safety systems: ABS, EBD, BA, VSC, LDA, PCS, DAC, multi-terrain select, blind spot monitor, emergency stop signal, parking sensors, rear camera, anti-lock brake system, cruise control, and airbags
- Exterior features: LED headlights, daytime running lights, LED tail lamps, fog lamps, UV protection windshield glass, privacy rear glass, rear window defogger, automatic folding side mirrors, and power-adjustable side mirrors with turn indicators
- Interior features: Push start, multi-information display, automatic air conditioning, smart entry, wireless smartphone charger, USB Type-C ports, center console box, 7 airbags, and user manual
- Fuel tank capacity: 80 liters

1.5 Equipment and Accessories

- Air conditioning system
- Power windows and central locking
- Audio/infotainment system

- Side steps and bed liner (if required)

1.6 Usage Purpose

- Suitable for operational use, fieldwork, and mining areas

1.7. Warranty

- Manufacturer's warranty:
- 3 years or 100,000 kilometers, whichever comes first

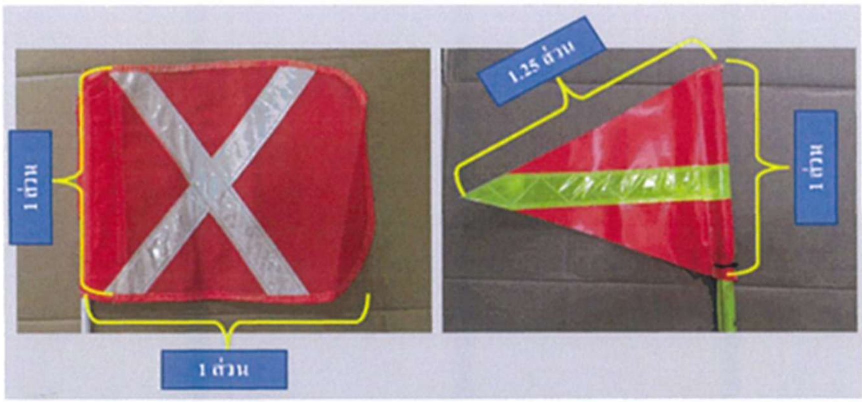
Annex 3

Flag and Pole support

1.Install an orange flag with a height from the ground of at least 320 cm but not exceeding 450 cm.
2.Flag installation position: at the rear right side of the vehicle.
3.Flag color must be orange or red, with reflective strips that are clearly visible.
4.Flag size:
  4.1. Square flag:
- Aspect ratio: Width : Length = 1:1
- Minimum area: 121 square inches
- Reflective strips: at least 1.5 inches wide, two strips on each side of the flag

  4.2. Triangular flag:
- Aspect ratio: Width : Length = 1:1.25
- Minimum area: 78 square inches
- Reflective strip: at least 2 inches wide, one strip on each side of the flag

5.Flagpole must be made of black flexible fiberglass tubing, safe for the vehicle, and preferably foldable.
6.The tip of the pole should have an LED light for nighttime visibility.
7.Flag base should be made of aluminum with a spring mechanism, flexible, installed in a position that does not interfere with the rider while driving, and the flag should be easily removable.



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Annex 4
General Conditions of Contract for Procurement of Goods

Clause 1: Definitions

"**Acceptance Letter**" means a written document of HPC signed by its consent person or approval person as an evidence that the Goods have been delivered, duly received, and met the specifications in all respect as set forth in the Contract.

"**Applicable Incoterms**" unless otherwise stated in the PO, means the Incoterms® 2020 which shall be applied to this procurement of the Goods as stated in 'Delivery Term' field of the PO.

"**Contract**" means the contract of the Parties relating to this procurement of the Goods consisting this present General Conditions of Contract for Procurement of the Goods, PO, Quotation, TOR (if any), amendment (if any), and all attachments incorporated by referenced, which shall form an integral part of the Contract.

In any event of any discrepancy, the documents shall prevail in the following order: (i) the PO; (ii) the General Condition of Contract for Procurement of Goods and its Appendix, if any; (iii) Attachment 1 (Conditions of the Performance Security), if any; (iv) other attachment of this Contract agreed by the Parties; (v) the TOR; and (vi) the Quotation.

"**Delivery Address**" means the location(s) or place(s) where the Goods must be delivered to, according to Applicable Incoterms, and as specified in the 'Delivery Address' field of the PO.

"**Delivery Date**" means the latest possible date on which the Goods or each partial Goods shall be delivered by the Vendor to the Delivery Address as specified in the 'Delivery Date' field of the PO.

"**Force Majeure**" means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party as might be expected from it in its situation, including but not limited to fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; epidemic or pandemic; or any other similar disasters.

"**Goods**" means all of the goods to be supplied to HPC under the Contract;

"**HPC**" means Hongsa Power Company Limited.

"**Incoterms® 2020**" means the International Commercial Terms published by International Chamber of Commerce (ICC) in the year 2020.

"**Parties**" means HPC and the Vendor.

"**Party**" means HPC or the Vendor, as it is applicable.

"**PO**" means Purchase Order, an official document issued by HPC when placing an order with the Vendor to confirm a specific purchase of Goods.

"**Performance Security**" means advance payment bond, performance bond, warranty bond, bank guarantee and any other letter of guaranty or bond provided by the Vendor to HPC according to the conditions specified in Attachment 1.

"**Procurement of Goods**" means the process for purchasing or buying of goods including the purchase and installation of goods, as well as remedying any defects of goods.

"**Quotation**" means formal statement of promise submitted by the Vendor to supply the Goods including related services (if any) describing the specification of the Goods as attached herewith.

"**TOR**" means the documents issued by HPC describing the conditions and requirements of the Goods which HPC requires as attached herewith, no matter that its head title stated as the term of reference or not

"**Vendor**" means the person or entity named in the 'Vendor' field of the PO.

Clause 2: Scope of These Conditions

This General Conditions of Contract for Procurement of Goods shall be only applied to all procurement of the Goods which HPC agrees to make with the Vendor. Therefore, the Vendor has obligations to procure, supply, test, and deliver the Goods having the specifications and requirements as agreed with HPC under the Contract at the Delivery Address on or before the Delivery Date. The Vendor shall be responsible for ensuring compliance with any and all applicable laws and regulations as well as safety and environmental requirements and standards reasonably instructed by HPC.

No conflicting, contrary or additional term shall be deemed to be accepted by HPC unless HPC expressly agrees in writing.

Clause 3: Delivery and Shipment

Unless otherwise agreed in writing by the Parties, the risk, right and responsibility of each Party under the Contract shall be in accordance with Applicable Incoterms. Vendor shall deliver the Goods to the Delivery Address no later than the Delivery Date in accordance with the conditions and period hereunder as evidenced by the Acceptance Letter. Partial delivery or shipment shall not be allowed unless HPC agrees with in writing.

Clause 4: Packing

Unless otherwise instructed by HPC, the Goods must be suitably packed with appropriate protection against damage. The packing must be in accordance with the normal practice of Vendor, provided that Vendor warrants that it shall use its best effort to pack the Goods in a manner that complies with good industry practice. If the damage is caused by the packing of the Good, the Vendor shall indemnify such damage by its own cost and expense.

Clause 5: Title of the Goods and Intellectual Property Rights

The Vendor represents and warrants that it has title in the Goods which shall be delivered free of lien, encumbrance, and any third party's rights, and that the Goods are suitable for HPC's intended purposes under the Contract. The title in the Goods shall be passed to HPC upon the actual delivery at the Delivery Address and the acceptance by HPC in accordance with Clause 8.

Intellectual Property Rights mean copyrights, patents, utility models, trademarks, trade names, topography rights, design rights and rights in databases or applications whether or not registerable in any country and all rights and forms of protection of a similar nature or having equivalent or similar effect anywhere in the world. The Vendor hereby assigns to HPC all Intellectual Property Rights in the Goods and all parts or materials incorporated into the Goods, or grants or procures that the relevant third parties grant the Contractor, a non-exclusive, royalty-free, perpetual, and worldwide license to use the Goods. The Contractor agrees to execute all documents and do all other things required: (a) to assign such rights to HPC; or (b) to assist HPC in applying for and being granted such rights.

Clause 6: Contract Price and Condition of Payment

1) Subject to the Applicable Incoterms, the contract price stated in PO is inclusive of all costs and expenses that HPC is obligated to pay to the Vendor in consideration of the procurement and supply of the Goods to the Delivery Address. The contract price of the Goods shall be as stated in the PO and shall not be increased except with the express written consent of HPC.
2) Unless stated otherwise in PO, the payment term shall be a single payment payable in full,

and shall be conditional upon HPC receiving the undisputed invoice and issuing the Acceptance Letter as follow:

(a) If an invoice is submitted to HPC during the date of 1 – 15 in any month, the payment of such invoice will be paid on the date of 10 of the following month.

(b) If an invoice is submitted to HPC during the date of 16 – 31 in any month, the payment of such invoice will be paid on the date of 25 of the following month.

3) Each payment shall be made by transfer to the bank account designated by the Contractor.

4) Each invoice shall include HPC's address, telephone number, and attention to Managing Director of Hongsa Power Company Limited. Each invoice shall be submitted to one or the other following addresses:

- Hongsa Power Company Limited (Head Office)
  NNN Building, 4th Floor, Room No. D5, Boulichan Road,
  Phonsinouan Village, Sisattanark District,
  Vientiane Capital, Lao PDR; or
- Hongsa Power Company Limited (Representative Office)
  3/37-38 Woravichai Road, Nai-Wieng District,
  Muang Nan, Nan Province 55000 Thailand; or
- Hongsa Power Company Limited (Site Office)
  Phonchan Office, Phonchan Village, Hongsa District,
  Xayabouly Province, Lao PDR
  Attention to name of the Requestor stated in the PO.
- Telephone number: +66(0) 54 775 869, 775 894.

5) Each Party shall be responsible for any bank, government, and other charges at its own side.

Clause 7: Test

Unless agreed otherwise in writing by the Parties, the conditions of the test of the Goods shall be in accordance with the TOR. The Vendor is obligated to provide, at no additional charge, the test certificate or any other document which warrants the test result of the Goods upon HPC's request. Where there is no particular certificate or document stated in TOR, the Vendor is obligated, at no additional charges, to provide the standard certificate or document to confirm the specifications, quality and/or test result of the Goods.

Any nominated person by HPC to join any test shall only be a witness, not an inspector. Such person shall have no responsibility to assist or support the Vendor for the tests. The Vendor acknowledges that despite the nomination of HPC's personnel or third party as a witness at the test, the Vendor shall not be released from its obligations and liabilities under the Contract such as defect, transfer of the ownership, any delay, liquidated damages, and warranty obligation, etc.

Any inspection or testing carried out under this clause shall not release the Vendor from any obligations under the Contract.

Clause 8: Acceptance of the Goods

The Goods shall be deemed to be accepted by HPC upon the issuance of the Acceptance Letter. Such letter shall be issued within seven (7) days after the fulfillment of the following conditions:

(a) the Vendor has already fulfilled the condition in Clause 7 (if any);

(b) HPC has finished inspection of the Goods at the Delivery Address; and

(c) such Goods are in compliance with the requirements and specifications set forth in the

Contract.

Clause 9: Warranty

Unless stated otherwise in the PO, TOR, or Quotation, the Vendor warrants to HPC that the vehicles shall be free from defects in materials, design, functionality, and workmanship for at least 3 years or 100,000 kilometers, whichever comes first, from the date of delivery as stated in the Acceptance Letter. The Vendor has an obligation to provide HPC with the warranty certificate and claims policy of the vehicles, or the Vendor's document that clearly states the warranty condition and claim policy of the vehicles.

Clause 10: Insurance

Subject to the Applicable Incoterms, the Vendor has to provide the insurance for the Goods at its costs and expenses with the reputable and financially sound insurer acceptable to HPC.

Unless otherwise instructed by HPC, the insurance policy to be provided by the Vendor shall be in accordance with the Institute Cargo Clause A (all risk) and shall cover, at a minimum, the contract price plus ten percent (10 %) (i.e. 110%) in the currency of this Contract.

Clause 11: Set-off

HPC shall be entitled to set off against any sum payable by HPC to the Vendor:

(a) any debt or other money due from the Vendor to HPC; and

(b) any claims for money which HPC may have against the Vendor whether for damages (including liquidated damages) or otherwise.

Clause 12: Liquidated Damages

Unless otherwise agreed in writing by both Parties, if the Goods are not delivered to the Delivery Address on the Delivery Date as evidenced by the Acceptance Letter, the Vendor agrees to pay to HPC the delay liquidated damages in daily rate of zero point one percent (0.1 %) of the total price of the undelivered Goods for each day of delay until the Goods are duly delivered according to the Contract, without prejudice to any rights and remedies of HPC under the Contract or the law. However, the total delay liquidated damages payable by the Vendor under the Contract shall not exceed ten percent (10 %) of the contract price.

Nonetheless, in case the Vendor fails to deliver the Goods within the agreed Delivery Date, HPC may, at its sole discretion, allow a grace period of fifteen (15) days free of the liquidated damages, provided that the Vendor informs HPC in writing of such failure at least seven (7) days prior to the Delivery Date. After such period, if the Vendor still cannot complete the delivery according to the Contract, the Vendor will be charged with the liquidated damages for such fifteen (15) days instantly.

The Vendor must pay the accrued liquidated damages to HPC as notified in writing by HPC.

Clause 13: Indemnity

The Vendor shall indemnify, defend, and hold harmless HPC, its officers, agents, subcontractors, contractors, directors, employees, successors and assigns from and against any and all liabilities, claims, losses, damages, penalties, costs and expenses of any kind (including without limitation to replacement cost, transport cost, reasonable attorney fees and court costs) suffered by HPC as a result of or in connection with:

(a) any breach of the Contract by the Vendor, its employee, personnel, agent, or subcontractor, including delivery of non-compliant goods;

(b) any actual or alleged infringement of Intellectual Property Rights or violation of other proprietary right or other litigation or threatened litigation of any kind in connection with any of the Goods;

(c) any actual or alleged injury to persons (including death) or property resulting from the contemplated or foreseeable handling or use of the Goods;
(d) any other negligence, willful misconduct, misrepresentation, fraud, violation of law, or other wrongdoing by Vendor, including its employees, personnel, agents, or subcontractors in performing the obligation under the Contract; and
(e) any defects in the Goods.
This Clause shall survive the termination of this Contract.

Clause 14: Termination

HPC may terminate the Contract in any of the following events:

(a) the Vendor is in breach of any obligation under the Contract, and such breach is not remedied within seven (7) days or any other period specified by HPC following the Vendor's receipt of the notice given by HPC;
(b) the Vendor fails to deliver the Goods to the Delivery Address by the Delivery Date when HPC has become entitled to the maximum amount of the delay liquidated damages under Clause 12; or
(c) the Vendor is subject to any receivership, becomes bankrupt or insolvent, or is in liquidation, winding up or reorganization procedures;

The termination of the Contract is without prejudice to the right of HPC to claim in respect of the liabilities of the Vendor under the Contract that accrue up to the termination date.

Clause 15: Force Majeure

Neither Party shall be liable for any failure to perform its obligations under the Contract to the extent that such failure is caused by Force Majeure; provided that such affected Party must inform other Party in writing of the Force Majeure event and its effect on the performance under the Contract within seven (7) days from the date that the affected Party becomes aware or should become aware of such Force Majeure. If the affected Party fails to do so, no any extension of time in connection with such Force Majeure shall be allowed.
If the Force Majeure continues for a period of thirty (30) consecutive days or more, either Party may terminate the Contract upon giving the other Party written notice of termination. The termination shall be without prejudice to the accrued rights of the Parties.

Clause 16: Notice

Where any notice is to be given to the Vendor under the Contract, such notice shall be submitted to the address and to the person stated in the PO, provided that Vendor hereby confirms that such address is affirmed and such person is authorized as a legal representative of Vendor. The Vendor is obligated to provide HPC with evidence of such legal representative such as recent power of attorney, and/or registered company certificate, upon HPC's request.
Where any notice is to be given to HPC under the Contract, such notice shall be submitted to the address and to the person as stated in 'Managing Director' field in PO.
Notices shall be deemed to have been duly delivered on the day on which it was served by hand, or transmitted by electronic mail, or if delivered by registered postal services, when actually delivered to the relevant address.

Clause 17: Performance Security

Unless otherwise stated in the PO, in the event where the Vendor is obligated to arrange and deliver the Performance Security to secure its obligations under the Contract, such Performance Security shall be in accordance with the conditions specified in Attachment 1.

In the event that the Performance Security is issued with a fixed expiry date and such expiry date may occur prior to the end of the period of cover to be provided in the relevant Performance Security, the Vendor shall ensure that the expiry date under the applicable Performance Security is extended to the end of relevant period or deliver a replacement Performance Security to cover such period.

Such extended or replacement Performance Security shall be duly executed and delivered to HPC no later than thirty (30) days before the relevant expiry date. Any expiry date under the Performance Security or an extension or replacement thereof shall be without prejudice to existing claim made under such Performance Security.

If the Vendor fails to provide an extension or replacement of the Performance Security, HPC shall be entitled to draw down the full amount of available amount outstanding under such Performance Security and to hold the funds drawn down as a security for compliance by Vendor with its obligations and liabilities under this Contract.

HPC shall be entitled to make deduction against the amounts so held in respect of any claims for which it would have been entitled to call against such extended or replacement Performance Security. The remaining balance of such amounts so held shall be returned to the Vendor following the end of the relevant period to be provided in the relevant Performance Security.

All fees, taxes and expenses associated with providing, completing, maintaining, replacing, amending and stamping (if applicable) each Performance Security shall be borne by the Vendor.

Clause 18: Tax and Duties

If applicable, HPC being the importer will have to provide the Vendor with the official documents issued by the government to beneficiate of eventual tax exemption before shipment of the Goods or to settle the import taxes when needed.

Except the exemption of tax privilege granted by the government of Lao PDR to HPC, the Vendor shall be responsible for any costs and expenses related to the supply of the Goods subject to the Applicable Incoterms.

Clause 19: Dispute Resolution

Any dispute, controversy, or claim arising out of or in connection with this Contract, including any question regarding its existence, validity, or termination shall be submitted to the competent court of Thailand

Notwithstanding the existence of any dispute, each Party shall at all times proceed diligently and in good faith with the performance of its obligations under the Contract not subject to the dispute settlement.

Clause 20: Independent Vendor

The Parties acknowledge that the Vendor is an independent supplier in the business of supplying the Goods and is not for any purpose a partner, employee, agent or representative of HPC. The Vendor shall not be entitled to bind HPC or pledge the credit of HPC, nor shall the Vendor be entitled to collect or to pay money on behalf of HPC unless expressly authorized by HPC to do so.

Clause 21: No Waiver

Failure by HPC to enforce at any time or for any period any one or more of the terms or conditions in the Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Contract.

Clause 22: Severability

In the event that any provision of the Contract is void, invalid or unenforceable, both Parties agree that such void, invalid or unenforceable provision shall not affect the validity of any other provision of the Contract.

Clause 23: Change in Law

In case of any change-in-law and regulations which any Party perceives to impose material adverse impact on its cost or profit under this Contract (including tax issues other than with respect to corporate income tax), the effected Party shall propose the details of expenses of the amendment or change to the other Party within thirty (30) days along with other details at the request of the other Party. Both Parties shall, in good faith, meet to discuss and resolve such effect of such change-in-law.

Clause 24: Consequential Damages

Neither Party shall be liable to the other Party for any indirect, incidental, consequential nor punitive damages as a result of the performance or non-performance of its obligations imposed pursuant to the Contract.

Clause 25: Assignment and Subcontracting

None of the rights and/or obligations accruing hereunder may be assigned, subcontracted or otherwise divested by the Vendor without HPC's prior written consent. Any such consent shall not relieve the Vendor from any liability or obligation under the Contract and the Vendor shall be responsible for the acts, defaults and negligence of its subcontractors, agents, representatives or workmen as fully as if they were the acts, defaults or negligence of Vendor itself.

Clause 26: Amendment

No amendment, alteration or modification to the Contract will be effective unless it is in writing and signed by both Parties.

Clause 27: Governing Law and Language

The Contract shall be governed by and construed in accordance with laws of Thailand. Any document or notice made under the Contract shall be made in English.
