



TERMS OF REFERENCE (TOR)

Fuel Supply for Phufai Depot

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INVITATION FOR BID PROPOSAL
TOR Fuel Supply for Phufai Depot

On behalf of Hongsa Power Company Limited (the “HPC”), I am pleased to invite you to propose the TOR Fuel Supply for Power Phufai Depot for Hongsa Mine Mouth Power Plant, located in Hongsa District, Xayabouly Province of the North-West of Lao PDR.

HPC established in 2009 by Banpu Power Limited (BPP), Ratchaburi Electricity Generating Holding Public Company Limited (RATCH) and Lao Holding State Enterprise (LHSE) for the project operation of 1,878 MW coal-fired mine mount power station to develop and operate for supplying sustainable source of energy in Laos and Thailand.

Regarding the procurement of Fuel Supply for Power Plant Operation, the Bid Proposal shall be submitted as specified in this TOR and shall be lodged in the reception of the procurement, not later than 05:00 PM Laos Standard Time (LST) on the closing date **5th September 2023** provided that late submission of the Bid Proposal may not be considered under any circumstances.

Currently, HPC operates power plant stations for 8 years foregoing commercial operation since 2015. The Bidders can access and view our certain commitment and information at the HPC’s website www.hongsapower.com. In addition, the Bidders may request additional information for the performance of Bid Proposal during the event.

Kind regards,

Mr. Prateep Yoknamgoen
Chairman of Procurement Committee
for, and on behalf of the Procurement Committee’s Hongsa Power Company Limited

1. INTRODUCTION AND BACKGROUND

Hongsa Power Plant serves as a part of the development of 1,878 MW coal-fired power project to supply electricity to Laos and Thailand, located in Hongsa District, Xayabouly Province of the North-West of Lao PDR includes all the project facilities related thereto (together, the “**Hongsa Project**”) in the National Power Development Program of Laos.

Since the Hongsa Project comprises, not only the Power Plant but also 500 kV Transmission Lines, 500 kV Substation, 115 kV Substations, Coal Mine, 2 Dams and Water reservoir so that varieties of equipment, spare parts, and tools for the Hongsa Project.

On the whole, this Term of Reference (the “**TOR**”) is orderly prepared to provide enquiries and invite potential suppliers for the Bidding Process by following the intention of TOR Fuel Supply for Power Plant Operation.

2. OBJECTIVE

Hongsa Power Company Limited (the “**HPC**” or “**Employer**”) to procure Diesel Oil (the “**Product**”) for Phufai Depot during 1 March 2024 – 31 December 2025.

Besides, HPC is also entitled to verify all statements, information and documents submitted by the Bidders in response to the TOR provided that any such verification or lack of such verification by HPC to undertake such result shall not relieve the Bidders of their obligations or liabilities nor will affect any rights of HPC.

Currency and Language

- All prices in the Bid Proposal should be quoted in Thai Baht.
- Unless otherwise specified by HPC, all Bid Proposal including the supporting information and/or documents should be written in English. If any supported document attached is translated and in case of any ambiguity the translation (original as translated by the Employer) shall be prevail.

Bidding Process Fees

The Bidders are not required to pay the Bidding Process Fee.

3. ELIGIBLE BIDDERS

The bidding is opened to all firms, either alone or in joint-venture or in consortium (jointly and severally responsible) satisfied to the **required qualifications** by HPC as the following:

- i. **Bidders shall be invited and received the TOR supplied by HPC;**
- ii. Shall have experiences for supply the Products in Lao PDR more than 3 year.
- iii. Shall be a company with register in Lao PDR and be duly and legally incorporated.
- iv. Having its registered capital at not less than 300,000,000 LAK (Three Hundred Million)
- v. Shall be a manufacturer or authorized distributor of the Product required.
- vi. Shall have import license for the Product required.

Commented [SK1]: Direct qualifications to project

Commented [SK2]: Applicable for limited conditions

What's more the Bidders shall:

Commented [SK3]: In general of legally commercial

- i. Being a juristic person, duly and legally incorporated.
- ii. Having the business objective in carry on related to TOR's objective (supply and/or services).
- iii. Having the legal authority to execute the Bid Proposal according to this TOR.
- iv. Not being bankrupt or liquidated.
- v. Having adequate finances to perform the scope of work as described in this TOR.
- vi. Never breach of contract/agreement or any work to HPC, HPC's counterparties or HPC's suppliers or contractors.
- vii. Not sharing any collusive information with other Bidders and commit any action in obstruction of the fair competition.
- viii. No having business, financial, personal, or other interests to HPC's activities, the project or others that related thereto.

Finally, Any Bidders who submit any fraudulent document to HPC or misrepresent any documents shall be deemed disqualified in all cases.

4. PART I: GENERAL TERM

4.1 BIDDING PROCESS AND CONDITION OF BID

Bidding Process

The TOR Document is to distribute to the potential bidders by e-mail or USB flash drive and/or HPC 's website. The Bidders shall propose the Technical and Commercial approach based on the provided information, guidelines scripts and table from HPC or specified herein. The Bidders shall submit to HPC in accordance with the schedule as specified in Clause 4.14 (Bid Schedule).

Addenda

No amendment to the TOR Document, shall be effectual unless in the form of a written addendum thereto issued by HPC.

An addendum may be notified in writing, facsimile transmission, or e-mail. HPC may, in its discretion, extend the Bid period to allow the Bidders for consideration the addenda.

The Bidders shall formally acknowledge the receipt of each and all addendum to the TOR Document issued by HPC and received by Bidder during the Bidding period.

Cost of Bid

For Bid Proposal Submission, the Bidders acknowledge that the Bid Proposal entirely at their own costs and expenses. HPC is not responsible for payable any costs and/or expenses as incurred by any preparation and submission of the Bidders.

Discrepancies, Errors, Question and Omissions

In the event that bidder finds any discrepancy, error or omission in, or requires clarifications of the TOR, shall notify HPC no later than 25th August 2023 in writing.

HPC is going to respond in writing (with a copy to others) to any notification that received within 28th August 2023.

Enquires of Bid or technical nature may be directed, in the first instance by e-mail to:

Mr. Phusit Apichartviwat

E-mail: Phusit_a@hongsapower.com

Tel: 020 23050229

Acceptance and Rejection of Bid Proposal

HPC reserves the right, at its sole discretion, to accept the proposal that is most responsive and best offer, or to reject any or all proposals, or to waive minor irregularities and informalities in any proposal submitted.

HPC will reject any proposal, which at its judgment, is not responsive. Notwithstanding, HPC shall not be bound to award a contract to the Bidder who has submitted the lowest price proposal. On the other hand, HPC will take into account all evaluating factors and other factors such as compliance with the TOR Documents, technical and financial qualification, capability of the Bidder, and other related matters as HPC deems appropriate to execute the works promptly and vigorously in such manner as to secure delivery and/or completion within the timeframe specified.

Moreover, HPC also reserves the right to separate its order into several purchase orders for different amounts and/or for the selected items to different Bidders and/or to remove any part of scope of supply specified herein and in the TOR Documents after the Bid Evaluation process is completed in order to fulfill its business profit and budget utilization plan.

Ultimately, HPC reserves the right to cancel proposal submission by all Bidders on date and time as designed in TOR due to necessitates the change in our procurement plan.

Commented [SK4]: Insert to protect interest once proposal submitted, then HPC changes plan.

4.2 TOR DOCUMENTS

The TOR Documents shall be issued by HPC for the Bid Proposal as comprised of the document lists as the following together with other documents that required by the conditions to be submitted by the Bidders with Bid Proposal:

1. Invitation for Bid Proposal
2. Introduction and Background
3. Bidding Process and Conditions of Bid
4. HPC's Requirements
 - a) Part I: General Terms; and
 - b) Part II: Work Quality and Specification.
5. Bid Proposals
 - a) Annex I: Price Bid Form.
 - b) Annex II: Technical Bid Form.
 - c) Annex III: Commercial Bid Form.
6. Schedule to TOR Document
 - Schedule I: CA Requirements and Compliances
 - Schedule II: General Conditions of Contract

- Intentionally omitted -

4.3 REQUIRED BIDDER SUBMISSION DOCUMENTS

Notwithstanding, the Bidders shall submit the following documents but not limited to:

i. Price Proposal Documents (Envelope 1)

- a) Quotation.
- b) Printout of the completely filled-up [Annex I- Price Bid Form]; and
- c) USB Flash Drive contains the PDF file of the item **Error! Reference source not found.** and Excel File of [Annex I- Price Bid Form].

Commented [SK5]: As project owner design his format.

ii. Technical Proposal Documents (Envelope 2)

- a) Printout of the completely filled-up [Annex II- Technical Bid Form.
- b) Technical data sheets.
- c) Authorization Letter if the Vendor is an Authorized Dealer and/or Distributor of the Product, if any.
- d) Delivery, Shipment Procedure
- e) Regulation or measurement for prevent water contamination into Fuel storage tank and inspection method for checking water content in fuel.
- f) Support documents for license and certificate of Company for selling/handling/export and import of the Product.
- g) Other necessary supporting documents (if any); and
- h) USB Flash Drive contains the Excel Files of [Annex II- Technical Bid] and PDF file of the item a) to g).

iii. Commercial Proposal and Corporate Documents (Envelope 3)

is to be used for the examination of the Bidder, consist of:

- a) Printout of the completely filled-up [Annex III- Commercial Bid Form].
- b) Copy of Certificate of Registration of the Bidder (not outdated more than 6 months).
- c) Copy of Tax Certificate.
- d) Copy of Passport / ID Card of the Company Directors.
- e) Copy of Power of Attorney (if any).

- f) Copy of Passport / ID Card of the Authorized Representatives if in case that there is a Power of Attorney, if any
- g) Company profile, reference project list, and other documents required by HPC.
- h) The last Financial Statement Audited. (Upon HPC request)
- i) ISO 9001, ISO 14001, ISO 45001 and OHSAS 18001 Certificates (if any);
and
- j) USB Flash Drive contains the Excel File of [Annex III – Commercial Bid Form] and PDF Files of Items a) to i).

Provided that, the above documents must be certified by the authorized person(s) and affixed with the company seal of the Bidder.

HPC provides to the Bidders one (1) completed set of TOR Document as electronic format.

- Intentionally Omitted -

4.4 SUBMISSION OF BID PROPOSAL

1. The Bid Proposal shall be submitted to HPC in three (3) separate sealed envelopes:
 - i. **Envelope 1 (Price Proposal)**: sealed envelope shall contain the quotation together with the Price Proposal Documents.
 - ii. **Envelope 2 (Technical Proposal)**: sealed envelope shall contain the quotation together with the Technical Proposal Documents; and
 - iii. **Envelope 3 (Commercial Proposal and Corporate Documents)**: sealed envelope shall contain the quotation together with the Commercial Proposal Documents.
2. Prior to submission of the Bid Proposal, the Bidders shall thoroughly review and study the entire the Bid Documents as well as attachments and deeply comprehend of the conditions as stipulated herein.
3. The Bidders shall seal the original of the Bid Proposal in the envelopes address to:
“The Procurement Committee of TOR Fuel Supply for Phufai Depot”

Bid Proposal for Fuel Supply for Phufai Depot

and label the envelope as follow:

Envelope 1: Price Proposal

Envelope 2: Technical Proposal

Envelope 3: Commercial Proposal

The submission of the Bid Proposal shall be addressed to HPC’s personnel and office address as provided, no later than 05:00 PM local time on the date of 5th September 2023.

4. The lodgment of Bid Proposal Submission

Bid Proposal shall be enclosed in sealed envelope and addressed to:

Hongsa Power Company Limited

Attention: Ms. Phannipa Kiatbumrung
(Manager - Procurement)

3/37-38 Woravichai Road, Nai-Wiang
District, Muang Nan, Nan Province
55000, Thailand

or

Hongsa Power Company Limited

Attention: Ms. Phannipa Kiatbumrung
(Manager - Procurement)

Phonchan Office, Hongsa District,
Xayaboury Province, Lao PDR.

or

Hongsa Power Company Limited

Attention: Ms. Phannipa Kiatbumrung
(Manager - Procurement)

NNN Building 4th Floor/Room No. D5,
Boulichan Road, Phonsinouan Village,

5. For the determination of the deadline for the Bid Proposal Submission, any documents submission by the Bidders later than the date of 5th September 2023. HPC reserves the right to consider as deem appropriated either reject or receive such delay Bid proposal Submission.

- Intentionally Omitted -

4.5 DELIVERY AND SHIPMENT

1. Except as otherwise expressly specified by HPC, the goods shall be delivered to the place of delivery no later than the date of delivery as the following:

Applicable Incoterms Rule

This TOR is subject to the condition of Delivery Incoterms® 2020, provided that the place of delivery is varied indication in each term.

Place of Delivery

Delivered Duty Paid (DDP): [Hongsa Power Plants/Mine Inventory Warehouse],
Hongsa District, Xayabouly Province, Lao PDR.

2. Unless otherwise agreed in writing by the parties, the risk, right and responsibility of each party under the TOR shall be applicable as the Incoterms® 2020.
3. Unless otherwise instructed by HPC in writing, any partial shipment shall not be allowed.

- Intentionally Omitted -

4.6 BID EVALUATION PROCESS

Bid Evaluation Process

The Bidders shall respond all requirements in the TOR to the maximum extent possible to ensure that all aspects of the evaluation criteria are covered. HPC also encourages the Bidders to expand their responses to include details of technical infrastructures, standards, and key differentiators.

Besides, the Bidders are required to clearly identify limitations and expectation to the specifications and requirements inherent in the proposed Bid Proposal.

Any Bidder who submits the documents and information that are not complied with the materials, conditions, and specifications as HPC's requirements, shall be rejected from the determination.

The conditions of Bid Evaluation process as the following:

Bid Opening

- i. Bid is going opened after 05:00 PM on the next date of closing date for Bid Submission date, provided that the Bid Opening is internally private.
- ii. In the event that Bid received after the time as set for the receipt of Bid Submission may be returned, unopened or retained for consideration entirely at the option of HPC.
- iii. Related information to the examination, clarification and evaluation of Bid and recommendations concerned on the award is confidential to HPC, who shall be under no obligation to disclose the information to any Bidders.

Clarification and Evaluation of Bid Proposal

- i. To assist on the examination, evaluation and comparison of Bid Proposal, HPC may at its discretion, inquire any Bidders for clarification of their Bid Proposal. However, the requested clarification and response shall be in writing and no change in the Price or substance of Bid Proposal, shall be sought, offered or permitted.
- ii. The Bidders may be requested to participate the Bid Evaluation meeting at the site in Laos, Nan Office in Thailand, or Tele-Conference (if any).
- iii. HPC may waive any informality in any received Bid Proposal and reject any and/or Bid Proposal without assigning reasons, therefore.

Right to Negotiation

- i. HPC may in its discretion to negotiate with any Bidders after the Bid closing.
- ii. During the Bid Evaluation period, HPC may negotiate with the Bidders to vary some aspect of HPC's specification and requirements or the Bidders' Bid Proposal, including but not limited to conditions of contract, scope of work, capability, costs and effectiveness or matters that related to the combination of part of the Bid Proposal with another of Bid.

Bid Evaluation Criteria

The Bid Evaluation Criteria for the Awarded Bidder selection is listed as the following:

i. Qualification of Bidder

The completeness and qualified criteria of the following documents, including but not limited to bidder's profiles and experiences, financial statement and current asset value, statement of capability, team members and proposed safety, system and procedures.

ii. Technical Evaluation

- a. The completeness and conformance of the technical specifications and requirements confirmation as specified in Annex II- Technical Bid Form.
- b. The suitable and conformance of warranty conditions;

Commented [SK6]: Optional

iii. Commercial Evaluation

- a. The completeness and conformance as specified in Annex III- Commercial Bid Form.
- b. HPC reserves the right for consideration in any portion of such commercial in entire benefit of HPC.

iv. Price Evaluation

- a. Price of goods for all relevant costs and expenses as specified in Annex I- Price Bid Form.
- b. HPC reserves the right not to accept the lowest price or any portion of the price or the entire proposed price.

Bid Evaluation Processi. Examination of the Bidders' Proposal

NNN Building 4th Floor/Room No. D5, Boulichan Road, Phonsavan Village,
Sikattanak District, Vientiane Capital, Lao PDR.
Tel: +856 21 223911, 222315, 222482, 219301
Fax: +856 21 222080

Phonchanh Office, Hongsa District, Xayaboury Province, Lao PDR.
Tel: +856 74 266121 - 29
Fax: +856 74 266120

Upon the Bidders qualified the non-price aspects, HPC considers and examines to price proposal evaluation by using the result from the scoring criteria as solely designed and specified by HPC.

- a. If the rates and prices specification of the price proposal are non-conformance with the provided to the Bid Document or is not reasonable or inconsistent with any type, size, dimension of goods or services to be further supplied, HPC may disqualify such Bidders.
- b. In consideration of assessment the appropriated bidder of enter the Contract, HPC shall entitlement to request for the rates and prices declaration, status and other facts relating to the Bidder. However, HPC reserves the right to reject the Price Proposal or enter the Contract with the Bidder in case of the evidence is not appropriated and/or incorrected.
- c. HPC still reserves the right to reject the lowest Price Proposal or some portion of the price or the entire Price Proposal at its own determination on basis of the best benefit of HPC.
- d. If the lowest proposed Bidder submits low price beyond expectation, which may likely result in the inability for the Bidder to perform, HPC may request the Bidder to explain and present evidence, which will increase the credibility of the ability of that Bidder to fully fulfill his obligations. If the explanation is not reasonable or justifiable, HPC, at its own discretion, is entitled to reject the proposed price of that Bidder.
- e. the bidder acknowledged and accepted that the selection process is fully authority by HPC's its own decision.

Bid Proposal Validity Period

Bid Proposal shall remain valid for a period of 180 days from the expiration of the proposal submission date. The bidder has to specify the validity in Annex III.

- Intentionally Omitted -

4.7 TEST CERTIFICATE AND METER CALIBRATION

1. HPC will randomly request the successful bidder to provide, at no additional cost, the test certificates in accordance with the specification of the Products as set out in Annex II. Where the specifications do not call for particular test certificates then the successful bidder shall provide the standard recognized test certificates to confirm quality of the Products and performance characteristics.
2. The successful bidder shall provide, at no additional cost, HPC with the Meter Calibration Certificates in accordance with the regulation from Lao Government.

The provision of such certificates shall be a condition precedent to HPC for making the corresponding payment to the successful bidder.

4.8 PAYMENT

Unless specified in the Annex I the Price Proposal, the proposal for the Goods shall be quoted on a lump sum price basis that the Bidder shall provide an itemized break-down price in all-inclusive basis that covers all items and services necessary for the successful completion of the work.

To consider the bidding price, the Bidder shall completely fill up the [Annex I- (Price Bid Form)].

1. In consideration of payment progression shall be payable to the Bidder in compliance with the following conditions: (the bidder shall identify in ANNEX III)
2. Subject to this TOR, all payments for the Goods payable to the Bidder shall be made as the following conditions:

- (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.

In this regard, when there is the case that such submitted invoice is incorrect of the work performed or goods procured is not in compliance with the requirements provided under the contract, the bidder could be entitled to receive the payment on the same due date **only on the conditions that** such invoice is revised to HPC'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 HPC within the date of 15 of such 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.

In this regard, when there is the case that such submitted invoice is incorrect of the work performed or goods procured is not in compliance with the requirements provided under the contract, the bidder could be entitled to receive the payment on the same due date **only on the conditions that** such invoice is revised to HPC'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 HPC within the end of such month.

3. the bidder shall be as specified its payment term in [Annex III – Commercial Bid Form of the TOR Documents] but the proposal that will be complying with the preferred

Commented [SK7]: If use installments

Payment Terms without L/C or Advance Payment shall be primarily considered by HPC.

4. The Credit Terms for processing the payment shall be as specified in [Annex III – Commercial Bid Form of the TOR Documents], which are subject to the company's payment cycle.

- Intentionally Omitted -

4.9 INSURANCE

Before the successful bidder commences their work or services, the successful bidder shall obtain and ensure to obtain and maintain, at its own costs and expense, the insurances referred below.

The insurance amounts indicated here below are minimum requirements and not limits of liability, and they shall not be construed as HPC's consent to waive its financial liability in excess of the amounts set forth, except as otherwise agreed by both parties.

(a) Comprehensive General Third-Party Liability Insurance, including Pollution Insurance, with a limit of not less than THB 1,000,000 (One Million Thai Baht) combined single limit any one occurrence.

(b) Automobile Public Liability Insurance covering all automobiles and automotive equipment employed, if any, by the Vendor (whether as owner or hirer or otherwise) in connection with the supply of the Fuel for not less than the amount required by applicable laws.

- Intentionally Omitted -

4.10 ENTER INTO CONTRACT

- After the Bidding Period has been evaluation and completed as the specified in the Bidding Schedule herein, the Letter of Award (LOA) or Letter of Intent (LOI) may be issued by HPC to the successful Bidder in order to advise the successful Bidder of HPC's intent to award a contract of this project prior the enter into the contract thereto.
- the parties are responsible for preparing the contract upon the terms and conditions as preliminary set forth in the General Conditions of Contract (schedule II) as attached thereof.
- The successful Bidder shall provide HPC the performance security in the amount and conditions as specified herein of the TOR Documents on or before the contract execution.
- Subject to Law PDR Laws requirement, the successful Bidder shall register the temporary tax identification number and be the corporate income tax of Laos and any other required/complied under a) HPC Concession Agreement and b) Lao PDR Laws.

Commented [VS8]: PB need ?

- Intentionally Omitted -

4.11 CONFIDENTIALLY AND INTELLECTUAL PROPERTY

The information in this TOR Document is considered to be the confidential by HPC. The implementers shall use the information only as it pertains to complete the Bid Proposal and MUST not disclose to any third party without the written consent by the Employer.

All Bidders shall treat the TOR Document as confidential and shall be circulated to as few persons and other organizations as possible compatible with the Bidder's ability to submit the best commercial Bidder Sum.

The Bidders shall keep confidential all documents, drawings and other information supplied by HPC as marked "**Confidentiality**" and shall not disclose such information or items to a third party except as may be required by law or for the proper execution of the work.

Ultimately the conditions shall survive the termination or expiration of the TOR Documents.

- Intentionally Omitted -

4.12 CONTACT PERSON

The following HPC personnel shall be the point of contact for any queries relating to the commercial and technical part of the TOR Document during the bidding stage.

Contact Person (Commercial):

Ms. Phannipa Kiatbumrung
(Division Manager- Procurement)
E-mail: Phannipa_k@hongsapower.com
Tel: +856 20 52441809

Contact Person (Technical):

Mr. Phusit Apichartviwat
(Division Manager Inventory Management
Mining)
E-mail: phusit_a@hongsapower.com
Tel: +856 20 2305 0229

- Intentionally Omitted -

4.13 IMPORT/EXPORT MATERIALS, VEHICLE AND OTHER EQUIPMENT

The successful bidder shall be responsible for import and/or export materials, vehicle and other equipment for working including any sample which shall be sent to be analyzed in any country, and the analyzed sample which shall be sent back to HPC. All of the cost shall be borne by the successful bidder.

- Intentionally Omitted -

4.14 TENTATIVE BIDDING SCHEDULE

HPC shall endeavor to adhere to the following schedule:

No.	Event Description	Estimated Date
1	TOR Document issuance	21 st August 2023
2	Q&A close date	25 th August 2023
3	Addenda/Amendments	28 th August 2023
3	Bid Proposal Submission and Technical Review	5 th September 2023
4	Bid examination and negotiation	8 th September 2023
5	Bidder Award	1 st November 2023
6	Contract preparation and Negotiation	15 th November 2023
7	Contract Signing Date (tentative)	15 th December 2023

Remark:

- HPC, at its discretion retains right, but is not obligated, to extend the Bid Submission Date by issuing the corrigendum.
- This timetable may be varied upon HPC's discretion.

- Intentionally Omitted -

4.15 TAX AND DULY PROVISION

Tax Privilege and Tax Liabilities

No.	Lao Taxes	Privileges Granted
1	Corporate Income Taxes	The successful Bidder shall be responsible for paying any applicable Corporate Income Taxes is required under the laws of Lao PDR.
2	Business Turnover Tax	Exempted for all non-Lao domiciled the successful Bidder and Subcontractors.
3	Value Added Tax	<p>The following items will attract a 0% VAT rate for all non-Lao domiciled the successful Bidder and Subcontractors:</p> <ul style="list-style-type: none"> a) all goods, equipment, machinery, materials and services provided to HPC relating to the operation of the Project (excluding consumer goods and foods, fuel, diesel oil and petroleum-based products); and b) all spare parts, chemicals, lubricants and other similar consumables imported into the Lao PDR by the successful Bidder or Subcontractors in the name of HPC for use in connection with the Project. <p>Please note that the 0% VAT rate does not apply to goods and services procure from suppliers in Lao PDR.</p>
4	Imported Duties and Taxes	<p><u>Goods, Equipment, Machinery, Materials and Services</u> All goods, equipment, machinery, materials and services imported by or provided to HPC relating to the construction and operation of the Project (including all chemicals, lubricants, explosive and other consumables (but excluding for the avoidance of doubt consumer goods and foods) used by the Project) shall be fully exempted from import duties and taxes.</p> <p><u>Steel Rebar and Cement</u> There are no import duties on steel rebar and cement so long as such items are not available in Lao PDR based on quality, quantity, or price competitiveness.</p> <p><u>Fuel</u> During the Operation Period, there is no exemption from import taxes and duties and the successful Bidder and Subcontractors must pay all customary taxes on imported fuel, diesel oil, and petroleum-based products.</p> <p><u>Spare Parts</u> All spare parts, chemicals, lubricants and other similar consumables imported into the Lao PDR by the HPC or any of its bidders or Subcontractors in the HPC's name for use in connection with the Project shall be exempted from import duties and taxes and all other</p>

No.	Lao Taxes	Privileges Granted
		<p>government duties and taxes payable under Lao PDR Law.</p> <p><u>Trucks and Construction Vehicles</u> All trucks and construction vehicles (including construction equipment, cranes, heavy lifting equipment, pick-up trucks, and dump trucks) purchased or leased by or on behalf of HPC, and registered in the name of, and bearing a license plate or tag issued to HPC or Mining Company are exempted from applicable import duties.</p> <p><u>Passenger Vehicles</u> All sedans and passenger vehicles purchased or leased by the successful Bidder or Subcontractors, and registered in the name of, and bearing a license plate or tag issue to, HPC, and used in connection with the Project will be subject to an import tax of one percent (1%).</p> <p>Any truck or vehicle that is not registered to HPC or which does not bear the appropriate license plates or tags will be fully subject to applicable import taxes and no exemption will apply.</p> <p>Note: There will be no tax exemption on fuel of office vehicles (passenger sedans and other vehicles not used at the construction site for construction activities) during construction and operation period.</p>

- Intentionally Omitted -

4.16 COVID-19 PREVENTION MEASURES

The successful Bidder shall strictly comply with COVID-19 prevention measures as stipulated by Lao Government, Hongsa District and HPC's policies while the successful Bidder including its personnel or agents staying and/or performance of the works in Hongsa Site.

the successful Bidder has acknowledged itself through this covid-19 pandemic crisis, which shall not release the Bidder to the fullest extent the Bidder's provision under the purchase agreement contributed to the covid-19 pandemic crisis.

For avoidance of doubt, in no event shall the Bidder's delay or failure to perform in accordance with the purchase agreement in which is caused by foreseeable event on the date of the submission of the proposal, including but not limited to covid-19 pandemic crisis, will be claimable as impracticable performance and deemed as force majeure. The Bidder shall use, at its own cost and expense, all reasonable efforts to remedy its inability to perform and to resume full performance hereunder as soon as practicable.

- Intentionally Omitted -

4.17 TOR DOCUMENT DISCREPANCY

In any event of any discrepancy, the documents to prevail shall be given precedence in the following order: (i) the Part I of this TOR: General Terms, (ii) the Part II of this TOR, the Work Quality and Specification, (iii) the Schedule to this TOR, and (iv) the Bid Proposal (Annex of this TOR).

- Intentionally Omitted -

5. PART II WORK QUALITY AND SPECIFICATION

5.1 THE SCOPE OF WORK

1. Preserve and maintain the depot and its facilities.
2. Operate the Depot services during the time 06:00 a.m. to 08:00 p.m. from Monday to Sunday including official holidays.
3. Sell and distribute the Products to HPC for use specifically for the Project. In this respect, the Vendor will provide measures or systems in order to prevent frauds or the use of the Products for other businesses other than the Project. This includes, but not limited to other measures requested or recommended by HPC or Lao's government authorities.
4. Provide office locations in the Depot for the government officers upon requested by the government agencies or local government agencies or the competent authorities.
5. Provide insurance for the operation of the Depot and the delivery of the Products as described herein.
6. Provide safety systems according to international standards, the standards required under the laws and regulations and as may instruct from time to time by HPC; and
7. Provide a weekly report on consumption of the Products to HPC.
8. Follow safety and Environmental requirements from HPC However, HPC reserves the right to accept or reject all or any parts of the Bid Proposal without assignment of any reasons whatsoever.
9. Remove the Depot from HPC's provided area after completion date of the contract.

5.2 QUANTITY OF PRODUCT

HPC may inform the successful bidder in advance an estimated quantity of the Product which will be used in the Project in the next three-month-period.

During the term of contract, the successful bidder shall be responsible to reserve the Products at the Depot in the quantity not less than fifty (50) percent of the capacity of the successful bidder's Depot and HPC shall be entitled to inspect the successful bidder's stock of the Products from time to time. In the event HPC finds that the successful bidder does not comply with this condition, HPC shall be entitled to impose penalty on the successful bidder in a rate of THB 5,000 (Five Thousand Thai Baht) per day until the

successful bidder can reserve the Products reaching fifty (50) percent of the capacity of the successful bidder's Depot

HPC will provide only the clear area for the oil depot location construction. In the case , its oil depot station shall be removed caused by HPC's instruction, the successful bidder shall not be entitled to claim any additional cost and this contract shall be termination mutatis mutandis.

5.3 SPECIFICATION OF HIGH SPEED DIESEL(HSD) (0.005 SULPHUR MAX)

No	Properties	Unit	Test Method	HPC Requirement	Result Offer
1	Specific Gravity @ 15 C		ASTM.D 1298	0.81-0.87	
2	Cetane Index	min	ASTM.D 976	min 50	
3	Viscosity 40 C- 50 C	CST(Centistoke)	ASTM.D 445	1.8-4.1	
4	Pour Point	C	ASTM.D 97	max 10	
5	Cloud Point	C	ASTM.D	max 10	
6	Flash Point	C	ASTM.D 93	min 52	
7	Sulphur Content	% Weight	ASTM.D 4294	max 0.005	
8	Copper Strip Corrosion 50 C 3 hrs	No	ASTM.D 130	max No1	

No	Properties	Unit	Test Method	HPC Requirement	Result Offer
9	Carbon Residue	% Weight	ASTM.D 189	max 0.05	
10	Water and Sediment	% Vol	ASTM.D 2709	max 0.05	
11	Ash Content	% Weight	ASTM.D 482	max 0.01	
12	Distillation 90% Recovered	C	ASTM.D 86	max 357	
13	Color		ASTM.D 1500	max 2	

5.4 PRICE STRUCTURE, PRICE BID, DEPOT CONSTRUCTION TABLE

Price = Avg. MOPs + Premium + Import Tax + Excise Tax + Road Fees + Oil Fund + VAT

Where: -

MOPs: is calculated based on the average Platt's price of High-Speed Diesel (HSD) with 0.005 % of sulfur content according to the standard of Euro IV in Singapore on the date which the Company purchases the Products from the Supplier's Depot.

Premium: all actual charges from Lao PDR and profit (THB per liter)

Import Tax is collected on imports by the customs authority of Lao PDR.

Excise Tax: is collected on the sale of the particular The Product charged by the government of Lao PDR.

Road Fees: is collected on the use of the road of Lao PDR by the vehicle owner by the government of Lao PDR.

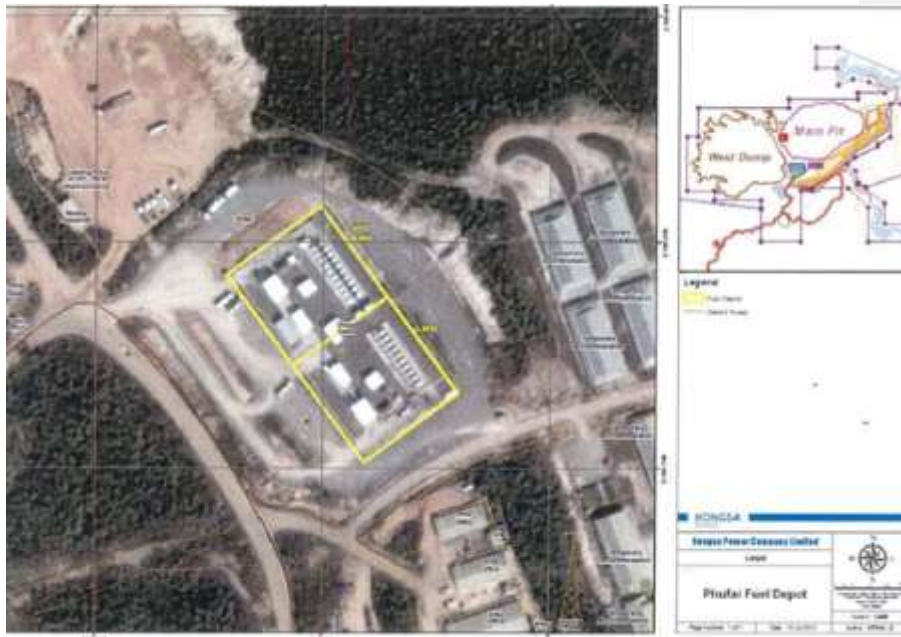
Oil Fund: is collected on imports by the customs authority of Lao PDR for the purpose to maintain and reduce the impact of oil price vitality.

VAT: is incrementally collected on a product (the Fuel) charged by the government of Lao PDR.

The Supplier shall ensure that the premium is the lowest premium and unique best price which the Supplier applies to the prices charged with other customers in Lao PDR under the same conditions of premium calculation.

Location of Supply

Phufai Depot



Schedule 1: CA REQUIREMENTS AND COMPLIANCES

CONCESSION AGREEMENT

CA Requirements

The bidder warrants that the Works shall themselves comply with, and shall be operable in accordance with, the requirements of the Concession Agreements which are set out on the following pages. The bidder further warrants that it has performed and shall perform its obligations under the Contract in such a manner and at such times so as not to cause or constitute any breach by the Employer of any of its obligations under or pursuant to the Concession Agreement which are set out on the following pages.

The following obligations are based on similar obligations specifically imposed on the Employer in the below-referenced Clauses of the Hongsa Coal and Limestone Mining Concession Agreement (the “**Mining Concession Agreement**”). These obligations are also imposed upon the bidder to enable the Employer to comply with its obligations under the Mining Concession Agreement and such obligations may be duplicative of similar obligations already contained in the Mining Services Agreement or other provisions of the Bidding Document, and bidder agrees to comply with the obligations stated in each of this Schedule 3, the Mining Services Agreement and other provisions of the Bidding Documents regardless of any duplication in whole or in part.

Capitalized terms used but not otherwise defined herein or in the annexes attached hereto shall have the meanings set forth below:

“**Commercial Operation Date**” or “**COD**” means the earlier of (a) the last day of the Construction Period and (b) date on which the “Third Unit Commercial Operation Date” has occurred in accordance with the EGAT Power Purchase Agreement.

“**Concession Period**” means the period commencing on the execution date of the Mining Concession Agreement and ending twenty-five (25) years after the COD, as the same may be extended in accordance with the terms and conditions of the Mining Concession Agreement.

“**Equal Remuneration**” means rates of remuneration that have been established without differentiation based on the ground of sex or nationality but which exclude expatriate allowances in the form of relocation, overseas living, special disturbance, housing, education, health, travel and similar allowances forming part of the overall employment package of any Foreign Personnel given specifically because they are Foreign Personnel required to work in Lao PDR.

“**Foreign Personnel**” means all bidder’s Personnel who are Foreign Persons.

“**Foreign Persons**” means the period commencing on the execution date of the Mining Concession Agreement and ending twenty-five (25) years after the COD, as the same may be extended in accordance with the terms and conditions of the Mining Concession Agreement.

“**Lao Persons**” means:

- (a) natural persons who are Lao PDR citizens; and

- (b) businesses and/or companies-principally based in the Lao PDR and which are owned and operated by persons who are Lao PDR citizens, which Lao PDR citizens are in each case, normally resident in Lao PDR.

“**Lao Supplies**” means Project Supplies, the whole or a significant part (being at least 40% in value of the inputs into the end product) of which are produced, assembled or manufactured in the Lao PDR and, in any case, are supplied by Lao Persons.

“**Material Subcontractors**” means Subcontractors who are performing services or supplying equipment or materials with a value of US\$50,000,000 or more.

“**Mining Project Facilities**” means the Coal Mining Project Facilities and the Limestone Mining Project Facilities.

“**Person**” means any individual, partnership or corporation, wherever organized or incorporated, and all other juridically recognized entities, including governments, governmental bodies and associations whether or not incorporated and includes references to their respective successors and permitted assigns.

“**Project Facilities**” means the Power Plant, the transmission network for the Project, and the Ancillary Facilities, and includes all related equipment and materials.

“**Project Supplies**” means services and goods required by the Employer and/or any bidder for the purposes of the construction, commissioning, operation and maintenance of the Project.

“**Reporting Year**” means:

- (a) the period from the date of execution of the Concession Agreements to the next 1 January date;
- (b) a period of each twelve (12) consecutive months commencing on the 1 January date next following the date of execution of the Concession Agreements and then on each successive anniversary of that date; and
- (c) the period from the final 1 January date during the Concession Period to the end of the Concession Period.

Clause 1.19 (Supplies and Spare Parts):

The bidder shall ensure that at all times during the Operating Period it maintains:

- (a) a supply of consumable spare parts adequate to meet the normal needs of the Mining Project Facilities to ensure smooth operations and spare parts for the repair of breakdowns. All spare parts shall be of the standard and specifications set out in the manufacturer’s guidelines or recommendations (as applicable), or otherwise of suitable grade and quality; and
- (b) sufficient fuels, chemicals and other materials required for the operation of the Mining Project Facilities.

Clause 1.20 (Government Audit Rights): The bidder acknowledges that the GOL shall have the right to engage a qualified, independent party to audit the Employer’s compliance with its material obligations under the Mining Concession Agreement.

Clause 1.21 (Safety and Emergencies): The bidder shall ensure the safe operation of the Mining Project Facilities. The bidder shall develop in consultation with the Employer and the GOL an emergency plan

relating to measures to be undertaken by the bidder in the event of an emergency situation at or with the Mining Project Facilities, which may threaten life or property or have an adverse impact on the environment. The bidder shall consider in good faith and incorporate as applicable any recommendations of the GOL with respect to such emergency plan.

Clause 1.23 (Government Inspection Rights):

- (a) The bidder undertakes that the GOL shall at all reasonable times and on reasonable notice have the right to monitor and inspect the Project to confirm that the Employer is in compliance with its obligations under the Mining Concession Agreement, including all applicable Lao PDR laws;
- (b) The bidder undertakes that without limiting the GOL's specific rights to monitor and inspect the Project, the GOL and its representatives shall from time to time be entitled, on at least two (2) business days' prior written notice to the bidder, to monitor and inspect the Project construction, maintenance and management of the Project Facilities, operation and management of the Project, the bidder's records and books with respect to the Project, including the right to confirm information concerning the results of the operation of the Project and the calculation of Net Taxable Income and Gross Operating Revenues of the Project;
- (c) The GOL's authorized personnel, who the Employer have cleared in advance pursuant to protocols and procedures to be agreed to by the Employer and the GOL prior to the date on which all the conditions precedent in the Mining Concession Agreement have been met, shall have the right to enter onto the Sites and make reasonable inspections of the Mining Project Facilities at any time and from time to time without prior notice to the bidder in connection with any emergency or as reasonably necessary to address such emergency;
- (d) Upon at least two (2) business days' prior written notice, the bidder shall, and shall cause its Subcontractors to, afford and facilitate reasonable access by the GOL and its representatives to all parts of the Sites and of the Project and, during normal business hours and at reasonable intervals (which access shall be no more than quarterly except to the extent required by clause (iii) above) to the business offices of the bidder in order for the GOL to carry out monitoring and inspection rights provided in the Mining Concession Agreement;
- (e) Without limiting the provisions in the preceding clauses, the GOL shall have the right to make spot inspections of the Sites and the Mining Project Facilities without any advance written notice to the Employer as contemplated in or required pursuant to applicable Lao PDR laws, in each case to confirm that the bidder is in compliance with its obligations under the Mining Concession Agreement and applicable Lao PDR laws;
- (f) The bidder shall at all times maintain a record containing relevant data and information regarding design, construction, maintenance and operation of the Project to enable the Employer to comply with its obligations under Clause 1.23 of the Power Concession Agreement;
- (g) The bidder shall retain and permit the GOL to inspect (regardless of whether there is a pending dispute) its records required under Clause 1.23 of the Mining Concession Agreement until issuance of the Taking-Over Certificate; and
- (h) The bidder shall bear the costs of the GOL's inspection in the case of an inspection caused by the bidder's violation of any of its material obligations under the Contract or applicable Lao PDR laws, as well as the costs of remedying such violation.

Clause 2.2 (Grant of Rights for Project Management for the Concession Period): The GOL grants to the bidder and its Subcontractors:

- (a) the right to employ personnel (regardless of whether such personnel are Foreign Persons or Lao Persons) in connection with the management of the Project, as is deemed necessary by the bidders or its Subcontractors, provided that such employment complies with applicable Lao PDR law and Annex 2 to this Schedule 26;
- (b) subject to payment of any applicable transportation or use fees and rights of the GOL under the Mining Concession Agreement, the right to take and use from the Sites, such soil, stone, sand, gravel, lime, water and any other products and materials as are necessary for, or are to be used for the Mining Project during the Concession Period free of charge and free of royalties;
- (c) subject to the compliance with the applicable authorizations described in the Mining Concession Agreement and the limitations set forth in clause (g) above, the right to clear away and remove timber, overburden and other obstructions from the Sites as required for Project Construction and Project Management and to ensure that bidders and Subcontractors are provided with timely access to the Sites in accordance with the schedule as provided for under the Mining Concession Agreement;
- (d) subject to the Government approval of technical specifications, such approval not to be unreasonably denied or delayed, and subject to the receipt of any applicable authorizations from the Communications and Post Authority under the Prime Minister's Office and the Ministry of Public Security, the right to install and operate for the use of the Mining Company and, to the extent the Mining Company deems appropriate, for the use of bidders and Subcontractors and their employees and agents, such telecommunications and other infrastructure facilities as it considers necessary or appropriate; provided that such approval of technical specifications is not required for temporary infrastructure during construction works;
- (e) such rights of way, easements or other rights for access routes to and from the Sites as are needed for the Mining Project and in connection with Project Management;
- (f) the right to import into the Lao PDR and to re-export from the Lao PDR such Equipment and Materials as the bidder may deem necessary or appropriate for the Mining Project and/or the Project Management, as set forth in the Mining Concession Agreement; and
- (g) the rights to (i) establish, maintain and use bank accounts in Foreign Currency, inside and outside the Lao PDR, (ii) receive, disburse, hold, transfer and otherwise transact business in and with Foreign Currency in connection with Project Management, and (iii) receive and maintain and hold its cash and other financial assets in Foreign Currency equity, revenues and proceeds of payments of any kind in bank accounts established and maintained, inside and outside Lao PDR, in each case in accordance with, and subject to the limitations set forth in, the Mining Concession Agreement.

Clause 2.16 (Expatriates): The bidder shall ensure that the employment of Foreign Personnel is in accordance with the requirements set forth in Annex N to the Power Concession Agreement (attached as Annex 2 hereto) and applicable Lao PDR law, subject to any applicable exemptions granted to the bidder.

Clause 3.1(d) (Import Duties and Taxes): The Employer shall be exempt from import duties, value added taxes and any other taxes on (i) all Equipment and Materials and all services imported by or provided to the Employer relating to the construction and operation of the Project, and (ii) all spare

parts, chemicals, lubricants and other similar consumables imported into the Lao PDR by the Employer or any of its bidders or Subcontractors in the Employer's name for use in connection with the Project during the Concession Period; provided, however, that (A) the exemption with respect to imported fuel, diesel oil, and other petroleum-based products shall apply only up to the Commercial Operation Date, and (B) during the exemption period for imported fuel, diesel oil, and other petroleum-based products (i.e., prior to the Commercial Operation Date), such imported fuel, diesel oil or other petroleum based products must be colored or treated in a manner such that they can be distinguished from fuel, diesel oil, and other petroleum-based products from sources in Lao PDR.

Clause 3.2 (Government Penalties): The bidder acknowledges that the GOL maintains rights under applicable Lao PDR laws to impose fines or penalties (or both) on the bidder or Subcontractors, including Persons who work for the bidder or Subcontractors.

Clause 3.5 (Tax Holiday): During the Concession Period the tax holidays and preferences specifically granted to the Power Plant Company in Clause 3.1(b) of the Power Concession Agreement during the time periods described therein shall also apply to the income of all bidders, Subcontractors, Shareholders, Lenders and other Associated Persons (other than bidders and Subcontractors who are domiciled for tax purposes in Lao PDR) to the extent such income is attributable to the Mining Project such that any bidder, Subcontractor, Shareholder, Lender or Associated Person who is domiciled for tax purposes in a country other than Lao PDR shall be entitled to receive the same tax holiday and preferences then available to the Power Plant Company for the then remaining period of the Power Plant Company's tax holiday period at the same rates then applicable to the Power Plant Company at such time. All bidders and Subcontractors who are domiciled for tax purposes in Lao PDR or in a country that has entered into a double tax treaty with the Lao PDR in respect of which the procedures and mechanics are effectively established between Lao PDR and such double tax treaty counterparty country to implement the benefits of such double-tax treaty as of the effective date that any contract or subcontract entered into with the Mining Company at any time after the date that the unlimited notice to proceed under the Power Plant EPC Contract has been issued by the Power Plant Company shall not enjoy the foregoing tax holidays or tax preferences. Any bidder, Subcontractor, Shareholder, Lender or Associated Person who enters into a contract with the Mining Company during the period prior to the date that the unlimited notice to proceed under the Power Plant EPC Contract has been issued by the Power Plant Company notwithstanding the date that procedures and mechanics are effectively established between Lao PDR and the country of its tax domicile, and all Subcontractors of any tier of such bidders and Subcontractors party to such contracts, shall be entitled to enjoy the same tax holidays and preferences available to the Mining Company in Clause 3.1(b) notwithstanding the date of establishment of such procedures and mechanics. Any bidder or Subcontractor who enters into a contract with the Mining Company during the period after the date that the unlimited notice to proceed under the Power Plant EPC Contract has been issued by the Power Plant Company and the date that procedures and mechanics are effectively established between Lao PDR and the country of its tax domicile shall not be entitled to an exemption from corporate income tax under this Agreement and will in all cases be required to pay all applicable corporate income taxes on its income earned from activities conducted in Lao PDR. Upon the Mining Company's request, the Government will promptly confirm whether a given double-tax treaty is in effect and provide substantiation that such procedures and mechanics are effectively established in Lao PDR and there is evidence that such procedures and mechanics have been effectively established by the counterparty government. Unless both the Government has provided substantiation that such procedures and mechanics are effectively established for any country at the time that the Mining Company issues solicitations for new Project Documents and there is evidence that such procedures and mechanics have been effectively established by the counterparty government, the Mining Company shall be entitled to rely on the availability of such corporate income tax exemption for the contracts entered into pursuant to such solicitation.

Clause 4.3 (Project Management): The bidder must perform its obligations under the Contract with the diligence and care of a prudent manager in accordance with the generally accepted international standards with respect to the activities involved. The bidder and its Subcontractors shall be required by the terms of their contracts to comply with all applicable Lao PDR laws and perform their obligations in a manner to ensure that the Employer is not in breach of any of its obligations as set forth in the Contract.

Clause 4.5 (Health and Safety): The bidder shall take reasonable precautions to protect the health and safety of all persons involved in the construction of the Project or otherwise present at or on the Sites in accordance with the requirements set forth in Schedule 4 and Schedule 18.

Clause 4.6 (Environmental and Social Obligations):

The detailed obligations of the bidder with respect to environmental and social obligations under Annex Q to the Mining Concession Agreement.

- (a) The bidder shall design and construct the Project in accordance with the obligations set forth in Annex I to the Mining Concession Agreement and the following: (i) the “Hongsa Power Plant, Mining Development and Transmission Line Project Environment Impact Assessment Study Final Report” prepared by TEAM Consulting Engineering and Management Co., Ltd. February 2007; (ii) the “Environmental Management Plan of Hongsa Power Plant, Mining Development and Transmission Line Project” prepared by TEAM Consulting Engineering and Management Co., Ltd. February 2007; and (iii) the “Hongsa Power Plant, Mining Development and Transmission Line Project Social Impact Assessment” prepared by TEAM Consulting Engineering and Management Co., Ltd. February 2007.
- (b) The bidder shall adhere to and observe the standards and practices concerning the protection of health, safety and the environment in accordance with the integrated social and environmental obligations which have been mandated by the GOL and are in force and effect and of general applicability in the Lao PDR, as such requirements and obligations have been incorporated into the integrated social and environmental obligations set forth in Annex Q of the Mining Concession Agreement.
- (c) The bidder shall at all times take all reasonable precautions to protect the environment, both on and off the Sites, and to limit damage and nuisance to people, nature and property resulting from pollution, contamination, noise and other results of the construction, operation and maintenance of the Project. The bidder shall observe and comply with all environmental requirements set forth in the Mining Concession Agreement and applicable Lao PDR laws, including, subject to the right to a variation order, applicable Lao PDR laws in effect after the date of such variation order.
- (d) The bidder shall at all times manage and be responsible for the handling and proper disposal of all wastes and waste products produced by the Works under the Contract and in so doing, shall comply with all applicable integrated environmental and social requirements.
- (e) The bidder shall collect, maintain and make available for the GOL’s inspection all environmental and social information, compliance, violations, claims by other parties, complaints, resolutions, and payments by and on behalf of the Employer or the bidder.

Clause 4.7 (Training Lao Nationals): The bidder and its Subcontractors shall comply with the Lao reference requirements set forth in Annex N to the Power Concession Agreement (and attached hereto as Annex 2) and shall use commercially reasonable efforts to transfer relevant skills to Lao employees and to employ Lao PDR nationals in each case to the extent practical and consistent with efficient

management of the Project; provided that such Lao employees have suitable qualifications or are qualified through suitable practical experience.

Clause 4.8 (Deliver of Construction Plan): The bidder shall assist the Employer in preparing plans, specifications and a schedule for the construction of the Mining Project Facilities that are consistent with the Master Schedule attached in Annex G to the Power Concession Agreement and shall deliver “as built” drawings for the Mining Project Facilities following completion of the construction thereof.

Clause 4.10 (Compliance with Lao PDR law):

(a) The bidder shall at all times observe and comply with the provisions of all Lao PDR laws that have been promulgated and are in force and effect.

(b) The bidder shall keep itself current and well informed on applicable Lao PDR law in respect of the Project to the extent such laws are promulgated and in force and effect in the Lao PDR and the bidder shall be deemed at all times to have full knowledge of same

Clause 4.15 (Authorizations): The bidder and its Subcontractors shall obtain and maintain all such permits, licenses and governmental authorizations as are required to be obtained and maintained by it under the applicable laws of the Lao PDR, and assist the Employer and the Project to obtain and maintain the permits, licenses and governmental authorizations described in Annex 3 to Schedule 26, which are extracted from Annex H to the Mining Concession Agreement for which the Employer requires assistance from the bidder in preparing the application.

Clause 4.16 (Archaeological, Geological and Historical Objects): The bidder shall promptly give the Employer notice of any discovery of archaeological relics, fossils, antique tombs and sites, historical pieces of art and any other objects of archaeological, geological and historical interest and take appropriate measures as are required by Lao PDR law to safeguard such findings and the site on which the objects are located.

Clause 4.17 (Lao Services and Goods): The bidder shall use, and shall enter into contracts with all its Material Subcontractors that ensure such Subcontractors shall use, commercially reasonable efforts to use Lao PDR services and goods whenever they are (i) of the kind and quality required in order for the bidder to implement the Works, and (ii) competitive in terms of quality, warranty, service, relevant expertise, procurement, delivery schedule and price, and shall ensure that its Subcontractors observe this provision. When evaluating bids for contracts, the bidder shall take into account the extent to which the bidders use Lao services and goods. In the case of the importation of cement and steel rebar, the bidders shall provide, and shall cause all of its Subcontractors to provide, documentary evidence that (i) such materials are not available of the kind and quality required or (ii) the Lao bidder/bidders of such material are not competitive in terms of quality, warranty, service, relevant expertise, procurement, delivery schedule and price (without taking into consideration the applicable import tax or duties that may be applicable for proposed imported goods and materials but for the exemptions granted under the Mining Concession Agreement). The bidder shall provide and shall enter into contracts with its Material Subcontractors that ensure that such Subcontractors provide the Employer with a copy of its records relating to its competitive bidding process and all bids submitted pursuant thereto. The Employer shall notify the bidder whether the GOL accepts such documentary evidence relating to cement and steel rebar within three weeks of submission of such evidence by the bidder. The bidder shall ensure that the bidders accept that such documents will be made available to the Government and held by the Government subject to confidentiality obligations. The detailed obligations of the bidder with respect to Lao PDR services and goods under Annex N to the Power Concession Agreement are set forth Annex 2 to this Schedule 26.

Clause 4.18 (Insurance): The bidder shall at its own cost effect and maintain in force the types of insurances required by prudent utility practices reasonably expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and location, and consistent with generally accepted international standards for limited recourse debt financed privately owned coal or lignite fired mine mouth power projects and as required by the Power Purchase Agreements, at times and terms consistent with the following requirements:

- (a) The insurances required under Clause 4.18 of the Mining Concession Agreement shall be effected and maintained at all relevant times with insurers of international standing and repute. The bidder agrees that in obtaining its insurance coverages it will invite insurers in the Lao PDR to bid for such insurances and, where such Lao insurers meet the criteria of the bidder, the bidder, to the extent permitted by law, agrees that it will give preference to such Lao insurers (subject to the applicable Lao insurers having reinsured with insurers acceptable to the Employer and the Lenders); provided always, however, that the GOL agrees that, other than for statutory insurances having general application in the Lao PDR (e.g., workers compensation and vehicle third party liability insurance), the bidder shall be under no obligation to effect and maintain any insurance with insurers in the Lao PDR.
- (b) The bidder shall and shall ensure that all Subcontractors comply with the minimum insurance requirements required under Lao PDR laws that have been promulgated and in force and effect in respect of statutory insurances, including, without limitation, suitable worker's compensation insurance before they commence work or services under their contracts.
- (c) If the bidder fails to effect and maintain any of the insurances it is required to effect and maintain under Clause 4.18 of the Mining Concession Agreement, the GOL may at its option and without prejudice to any other right or remedy the effect such insurance at the bidder's expense. The bidder shall reimburse the GOL promptly on demand for the amount it has paid for such insurance.
- (d) The bidder shall provide the GOL with certificates of insurance evidencing that the bidder and each Material Subcontractor have obtained the insurance required by Clause 4.18 of the Mining Concession Agreement.
- (e) The bidder shall cause the insurers issuing the liability, casualty, property damage and other insurance policies in respect of the Project to issue endorsements naming the GOL as an additional insured to the extent of its insurance interests and provided that Lenders and EGAT have been identified as an additional insured.

Clause 4.11 (Resettlement Obligations): The bidder shall assist the Employer in the implementation of all arrangements which may prove necessary or advisable to resettle any Persons who occupy or inhabit the Sites as of the date of the Mining Concession Agreement and to carry out all environmental mitigation procedures as contemplated in Annex Q to the Mining Concession Agreement.

Clause 5.10 (Explosive and Explosive Devices): If the bidder imports and transport into Lao PDR and uses explosives and explosive devices as are reasonably necessary for the Works, the bidder shall in each case act in conformity with applicable Lao PDR law and take all reasonable care in the handling and security in accordance with such applicable Lao PDR law.

Clause 5.25 (Designated Border Access Points): The Government agrees that Designated Border Access Points will be established for the delivery of Equipment and Materials to the Power Project as are being imported into the Lao PDR or exported from the Lao PDR and the entry and exit of personnel and that those Designated Border Access Points for the processing of Equipment and Materials and the entry

and exit of personnel will be open at all times as specified in Annex U of the Power Concession Agreement. □ Upon reasonable advance notice from the Company and when reasonably required by the bidders or Subcontractors (or any of their personnel), the Government shall consider in good faith and grant as feasible, the right to enter and exit the Designated Border Access Points at times other than the times specified in Annex U

Clause 7.1 (Progress Reports): The bidder shall provide to the Employer as part of the progress report written progress reports and notices of major events in relation to Material Subcontractors.

Clause 7.3 (Confidentiality): The Employer shall be bound by the confidentiality provisions set forth in Clause 7.3 of the Power Concession Agreement, and to the extent such provisions conflict with the confidentiality provisions set forth in the Contract, Clause 7.3 of the Power Concession Agreement shall prevail.

Clause 8.2 (Import of Equipment and Materials): At least ninety (90) days prior to the first date on which the bidder intends to import equipment and materials into the Lao PDR, the bidder shall submit to the Employer on an annual basis on each anniversary date of this Agreement, a schedule of all equipment and materials to be imported during the next calendar year to enable the GOL to review and approve, within such ninety (90) day period, the various items to be imported for the Project by the Employer and its bidders. Notwithstanding the foregoing, the bidder may amend the schedule of such equipment and materials required (including the approximate periods such equipment and materials are expected to be in the Lao PDR) from time to time by notice to the GOL. Any such equipment and materials may be imported and re-exported free from Taxes including import duties and other levies; provided that such equipment and materials are for the exclusive purposes of the Project or the Power Project unless otherwise agreed to by the Government. In case of an emergency where equipment not listed and approved is needed by the Employer, the GOL has undertaken under the Power Concession Agreement to, upon request, expedite approval of the importation of such item. For each batch of imports, where necessary, the bidder may post a bond to permit the import of such batch prior to the approval of, and provided that the bidder has already submitted, all customary required documentation.

Clause 8.4 (Import Restrictions): The bidder shall duly observe import restrictions and prohibitions and rules and procedures of general application.

Clause 9.3 (Tax Exemption Limitation): Following the fifth (5th) anniversary of the Commercial Operation Date, the bidder and any Subcontractor providing services and/or goods that are directly related to the Project shall pay taxes as required by Lao PDR laws. All Subcontractors who provide services and goods to the bidder that are indirectly related to the management or operation of the Project (such as food and beverage providers, Persons providing goods and/or services to employees of the Employer or any bidder or Subcontractor, etc.) shall not be entitled to the same tax holidays and reduced tax rates as applicable to the bidder that are providing goods and services which are directly related to the management and operation of the Project.

Clause 9.5 (Taxes of Employees): Employees of the bidder and its Subcontractors shall pay taxes upon their income earned in Lao PDR in accordance with Lao PDR law; provided that in relation to Foreign Personnel the aggregate rate of any taxes of the Lao PDR applied to such income shall be at the flat rate of ten percent (10%) of income earned from the Project in any Fiscal Year. Any Foreign Personnel who is an employee of the bidder and Subcontractors that resides in Lao PDR for a period of less than a total of one hundred eighty (180) days in any tax year shall be exempt from personal income taxes with respect to that tax year.

Explosive Handling and Usage Procedures

- (a) The importation and use of explosives require the following licenses from the Defense Industry Department, Ministry of Defense:
 - (i) Explosives Warehouse License
 - (ii) Explosives Importation and Utilization License
- (b) Explosive Warehouse License. The application for this license shall contain the following details and attachments:
 - (i) Technical plan, detailed design and specification of warehouse
 - i. Recommendation or Confirmation Letter from Ministry of Energy and Mines on the utilization of explosive devices of the Project; and
 - (iii) Corporate Documents of the bidder.

If the proposed technical plan, detailed design and specification of the warehouse do not meet the requirement of the Ministry of Defense, the designated warehouse owned and constructed by the Ministry of Defense shall be used.

The warehouse must be ready for use before the explosives are imported.

- (c) Explosive Importation and Utilization License. The application for this license shall contain the following details and attachments:
 - (i) Type, quantity, and manufacturer of the explosives;
 - (ii) Intended purpose of the explosives;
 - (iii) Purpose of and plans for the use of the warehouse;
 - (iv) Details of the explosives specialists who will handle the explosives (if any). If the Company does not have qualified specialist the Defense Industry Department is able to provide one to handle them.
 - (v) An explanation for the necessity of the importation;
 - (vi) Details of the border checkpoint through which the explosives will be imported;
 - (vii) Corporate Documents of the bidder.
- (d) Importation and Transportation Protocol.
 - (i) 7 days prior to any importation of explosives, the bidder must notify the Defense Industry Department of the importation, in order for the Defense Industry Department assign staff to accompany the trucks carrying the explosives from the border checkpoint to the project site, and to monitor the use of the explosives.
 - (ii) The transportation of explosives from one location to another not stipulated in the notification letter to the Defense Industry Department must be approved by the Defense Industry Department.

- (iii) The bidder shall, apart from requiring the approval from the Defense Industry Department for each transportation of explosives, submit the advance notice specifying the schedule and plan for each transportation of its explosive devices to the Department of Public Road, Ministry of Public Works and Transportation in order to plan and control the transportation of such explosives in the appropriate manner and in the safe transportation route.
- (iv) The bidder must submit a monthly report to the Defense Industry Department on the use of the explosives imported in that month including the amounts of any remaining and unused explosives.
- (e) Importation License from the Ministry of Industry and Commerce.

As explosive is categorized as one of the prohibited and controlled goods under Lao PDR Laws, the bidder shall also apply for Importation License from the Ministry of Industry and Commerce.

The application for this license shall contain the following details and attachments:

- (i) The application form for the importation of goods and other materials
- (ii) Corporate Documents of the bidder
- (iii) Recommendation Letter certifying the material importation list of the bidder

ENVIRONMENTAL AND SAFETY COMPLIANCE**A. Environmental and Safety Obligations of the bidder**

- (a) The bidder shall prepare the bidder's Environmental Management Plan ("EMP") for the Employer's consideration and approval.
- (b) The Construction bidders' EMP for the Construction Phase is prepared in accordance with the Standards, the EMP, the EMS (ISO 14001), the CPEMMP, the Concession Agreements and Permits.
- (c) The bidders' EMPs Detailed Obligations.

In order to avoid, alleviate, mitigate or remedy or compensate or otherwise address the Project Impacts within the Construction Areas and in any other areas impacted by Company's activities or the Project, Employer shall ensure that each Construction bidder comprehensively and properly covers in its EMP its detailed obligations with respect to each of the following activities (insofar as may be applicable to each particular contract) in accordance with applicable Standards:

- a) meeting all effluent standards, all air quality requirements for discharges into the air, and all water quality requirements for discharges into surface waters and groundwater;
- b) avoiding and controlling erosion and sedimentation;
- c) managing on-site traffic to eliminate where possible, and otherwise to minimize, dust and vehicle exhaust;
- d) meeting ambient noise, dust, air-blast and non-dust emission standards;
- e) managing bidder's Project-related off-site traffic and meeting all ambient and emission standards;
- f) providing archaeological and heritage site protection and relocation as necessary;
- g) landscaping, rehabilitating and re-vegetating the Construction Areas;
- h) managing on-site waste and hazardous waste;
- i) managing Project-related off-site waste in compliance with the Authorizations and Permits;
- j) managing Project-related hazardous materials, oil / lubricants and chemical substances;
- k) developing and managing emergency plans for environmental incidents;
- l) surveying and detecting UXOs and, where UXOs are detected, rendering them safe by expert removal and destruction or by expert in-situ destruction;

- m) managing the impoundment of reservoirs;
 - n) planning and managing a detailed biomass removal plan from the reservoir prior to inundation;
 - o) designing, constructing and managing construction work camps, including the planning and provision for spontaneous resettlement with proper and comprehensive sanitation and pollution control facilities;
 - p) implementing a program for construction worker education in environmental issues;
 - q) implementing a health and safety program for all persons engaged in construction works; and
 - r) implementing a health education and disease prevention program for construction camp followers.
- (d) The bidder shall submit the monthly reports in the form that the Employer shall instruct.
- (e) Starting at commencement of the Works and continuing until the end of the Term, the bidder shall prepare and submit monthly to WREA reports (in form to be agreed with WREA) covering the following items:
- a) extent of implementation of the Environmental Measures compared against the planned and approved implementation program;
 - b) all difficulties and obstacles encountered in implementing the Environmental Measures, the causes thereof, proposals for avoiding, minimizing or remedying such difficulties and obstacles, and an indication of which proposals have been implemented and progress to date;
 - c) all violations of / failures to comply with Company obligations set forth in the Environmental Measures, including for each a description of what led to the violation / failure, what steps Company has taken to remedy such defect in performance, the date on which such violation / failure was first reported to WREA, and what steps Company has taken to address the underlying cause of such violation / failure to avoid any recurrence thereof;
 - d) unexpurgated copies of all sections of original reports from Construction bidders and the Project Operator that deal with Environmental Measures or otherwise address environmental or social obligations of such persons;
 - e) any and all accidents or incidents that relate to the health, safety, and welfare of Company staff and employees, bidders and sub-contractors, PAPs, or any other visitors to the Project or affecting the environment; and

- f) data obtained through monitoring of environmental parameters and social conditions as committed in the EIA / EMP.
- a) Delay in the submission of a required report within five (5) days of the date due therefor will subject to the penalties unless the bidder has provided: (i) prior written notice to WREA of any potential delay in completion of such report, (ii) an interim report containing all then available components of such report, (iii) an explanation as to why the full report cannot be timely submitted, and (iv) an indication of when the complete final report will be submitted. The bidder shall use reasonable best efforts to complete and submit the final report as soon as possible and shall keep WREA advised as to any developments.
- (f) The bidder shall comply with all the limit value specified in these following Governing Parameters. The bidder shall comply with all the limit value specified in these following Governing Parameters:

(A) Ambient Air Quality Limit Values

Parameter	Period	Annual Arithmetic Mean	24 hr average	1 hr average	10 min average	Reference Document
Particulate Matter less than 10 µm (PM ₁₀)	NTP	100 µg/m ³	500 µg/m ³	-	-	WB Environment, Health & Safety Guidelines Mining & Milling-Open Pit, August 1995
	From 1 st day of year 2 to last day of year 3	80 µg/m ³	400 µg/m ³	-	-	As above
	from 1 st day of year 4 to last day of year 5	70 µg/m ³	350 µg/m ³	-	-	As above
	from 1 st day of year 6 to end of Concession Period	70 µg/m ³	300 µg/m ³	-	-	As above

Parameter	Period	Annual Arithmetic Mean	24 hr average	1 hr average	10 min average	Reference Document
Sulfur Dioxide (SO ₂)*	From NTP and throughout Concession Period	0.1 mg/m ³	0.3 mg/m ³	0.78 mg/m ³		Draft Lao National Environmental Quality Standards, 4 September 2009 attached as Schedule I-
Nitrogen Dioxides (NO ₂)*	From NTP and throughout Concession Period	-	-	0.32 mg/m ³	-	As above

The Ambient Air Quality Limit Values for Nitrogen oxides and Sulfur dioxide shall be adjusted from time to time to always be the same as the ambient air quality standards for Nitrogen oxides and Sulfur dioxide in the then prevailing and most recent Draft Lao National Ambient Air Quality Standard or officially issued Lao National Ambient Air Quality Standards. Company is not entitled to Change-in-Law protection for such adjustments of Ambient Air Quality Limit Values for Nitrogen oxides and Sulfur dioxide as long as the adjusted values are not more stringent than the *guideline* values listed in Table 1.1.1 in IFC EHS Guideline Air Emission and Ambient Air Quality, April 30, 2007, and if the adjusted values are more stringent than such guideline values, Company shall only be entitled to Change-in-Law protection with respect to the achievement of adjusted values in excess of such guidelines and not achievement up to such guidelines.

(B) Noise Level Standard

The noise limits shall be complied with at any sensitive receptor installed in the potentially noise impacted ambient environment surrounding the Project.

Company shall be responsible for any violations of permitted noise levels and in addition to any penalties that may be imposed in connection therewith. Subject to the applicable maximum cap on liability described in the “Additional Noise Mitigation Measures” provision below, Company shall implement Additional Noise Mitigation Measures (as defined below) to enable compliance with the permitted noise level established as provided herein.

Noise from Blasting shall comply with the following:

- The maximum level for airblast is 115 dBA;
- The level of 115 dBA may be exceeded on up to 5% of the total number of blasts over a period of 12 months; provided, however, the level should not exceed 120 dB(A) at any time;
- Blasting is only permitted during the hours of 0900 hrs to 1700 hrs Monday to Saturday and excluding all public holidays. Company shall obtain prior written permission

from the appropriate local Governmental Authority on a case by case basis as needed to conduct blasting on any Sunday or public holiday.

Other short term single events:

- Daytime dBA L_{max} to be determined based on the noise investigations
- Nighttime dBA L_{max} to be determined based on the noise investigations

Day and nighttime one-hour equivalent continuous noise level limits:

- Daytime $L_{Aeq\ 1\ hour}$ noise limit to be determined based on the noise investigations
- Nighttime $L_{Aeq\ 1\ hour}$ noise limit to be determined based on the noise investigations

Noise from Company's activities and the Project together with the background level determined pursuant to clause (j) above shall not cause the ambient noise levels to exceed the identified best ambient noise limit plus a margin of 2 dB(A).

(C) Ambient Water Quality Standard

Parameter	Unit	Standard	Reference Document
pH		5-9	The Surface Water Quality Standard of Thailand (Class 2), 1994 issued by ONEP
Dissolved Oxygen	mg/l	6.0	as above
BOD ₅	mg/l	1.5	as above
COD	mg/l	5.0	Draft Lao National Environmental quality Standards, 4 September 2009
Nitrogen as nitrate (N-NO ₃)	mg/l	5.0	The Surface Water Quality Standard of Thailand (Class 2), 1994 issued by ONEP
Nitrogen as ammonia (N-NH ₃)	mg/l	0.2	Draft Lao National Environmental quality Standards, 4 September 2009
Sulfate	mg/l	500	Company shall have the right to dilute this

Parameter	Unit	Standard	Reference Document
			effluent prior to discharge in order to comply with this limit subject to the limitations described in "Sulfate Effluent Dilution Parameters" below
Total coliform bacteria	MPN/ml	5,000	The Surface Water Quality Standard of Thailand (Class 2), 1994 issued by ONEP issued by ONEP
Total faecal coliform	MPN/ml	1,000	As above
Phenols	mg/l	0.005	As above
Arsenic (As)	mg/l	0.01	As above
Cadmium (Cd)	mg/l	0.005	as above, CaCO ₃ ≤ 100 mg/l
Cadmium (Cd)	mg/l	0.05	as above, CaCO ₃ ≥ 100 mg/l
Chromium (VI) (Cr ⁶⁺)	mg/l	0.05	The Surface Water Quality Standard of Thailand (Class 2), 1994 issued by ONEP issued by ONEP
Copper (Cu)	mg/l	0.1	As above
Cyanide	mg/l	0.005	As above
Lead (Pb)	mg/l	0.05	As above
Mercury (Hg)	mg/l	0.002	As above.
Nickel (Ni)	mg/l	0.1	As above.
Zinc (Zn)	mg/l	1.0	As above.
Manganese (Mn)	mg/l	1.0	As above

Sulfate Effluent Dilution Parameters

1. All water used for purposes of dilution of sulfate effluent from the Project must be obtained from sources that would otherwise have flowed into the same recipient body of water in which the Project's sulfate effluent will end up (i.e., the Nam Kaen Reservoir).
2. From whatever diversion point or points of the water used for dilution of sulfate effluent, Company must be responsible for redressing and mitigating any social and environmental impacts of the diversion (consistent with obligations and procedures that are imposed in respect of persons diverting or extracting water from public rivers and waterways).
3. Dilution will be allowed only for sulfate effluent and not for any other emission or discharge of any other substance from the Project.

(D) Effluent Standards for Mining

Parameter	Unit	Effluent Limit Value	Reference Documents
Total Suspended Solids (TSS)	mg/l	50	IFC EHS Guidelines, Mining, December 10, 2007
pH	-	6-9	as above
Oil and grease	mg/l	10	as above
BOD ₅	mg/l	50	as above
COD	mg/l	150	as above
Cadmium (Cd)	mg/l	0.05	as above
Copper (Cu)	mg/l	0.3	as above
Total Iron (Fe)	mg/l	2.0	IFC EHS Guidelines, Mining, December 10, 2007
Cyanide (total)	mg/l	1.0	as above
Cyanide Free	mg/l	0.1	as above
Cyanide WAD	mg/l	0.5	as above
Nickel (Ni)	mg/l	0.5	as above
Phenols	mg/l	0.5	as above
Zinc (Zn)	mg/l	0.5	as above
Temperature	°C	< 3 degree differential	as above

Parameter	Unit	Effluent Limit Value	Reference Documents
Mercury (Hg)*	mg/l	0.002	EHS Guidelines Mining & Milling- Open Pit, August 1995
Arsenic (As)*	mg/l	1.0	EHS Guidelines Mining & Milling- Open Pit, August 1995
Chromium(VI)(Cr6 ⁺)*	mg/l	0.05	as above
Total Lead (Pb)*	mg/l	0.6	as above

* WREA and Company have agreed that with respect to these four elements (Arsenic (As), Chromium VI (Cr6⁺), Lead (Pb) and Mercury (Hg)) Company shall from the outset of its mining activities be obliged to comply with the levels allowed by World Bank 1995 Mining Standards, provided that one or more interim, lower targets or steps with respect to the permissible levels of such elements in future periods shall be agreed by WREA and Company as part of the submission and review process for Company's first revised CPEMMP, and provided further that Company shall use best efforts to achieve full compliance with the 2007 Standards for these four elements within a reasonable period of time from the commencement of mining activities, as contemplated by such agreed interim, lower targets or steps.

B. Certain environmental obligations of the bidder

(a) Dust Suppression and Prevention

(A) Moisture content increase at working faces and dust suppression work.

The bidder shall increase moisture content to suppress dust at all working faces by water spraying before excavation. Dust will have to be controlled not to exceed opacity threshold limit specified by the Employer. Activities other than this will have to be approved by the Employer.

The bidder shall propose the more efficient method for moisture content increasing, together with the detailed work and detailed calculation formula for water truck to the Employer for approval prior to the commencement of the operation.

(B) Guidelines to increase moisture content

(i) At the blasted area. After the blast, the bidder shall plan to increase moisture content by spraying water approximately 2-3% by volume and it shall be done 1 day before excavation.

(ii) At the unblasted area. The bidder shall provide water trucks at all working faces and shall spray water to suppress airborne dust and increase moisture content at all times.

The above guidelines are only the initial information. During actual operation, the bidder may make an adjustment to suit the existing condition. The dust

suppression result has to reach the target and no effect of damp waste and coal sticks to the conveyer.

- (C) The bidder shall own enough vehicles for dust suppression and moistening purpose at all times as specified in the table EN6 of Schedule 13; provided that the number of machines available for utilization shall not be less than the list of machines instructed by the Employer.
- (D) For the purpose of dust suppression, the bidder shall procure one (1) water truck with a capacity of 12,000 liters per twenty 10-wheel trucks (the truck must be equipped with pump, spray bar) and/or one (1) water truck with a capacity of 50,000 liters per ten (10) 100t off-highway truck class (the truck must be equipped with pump, spray bar). If the bidder uses the water trucks for other purposes and without Employer's consent, he shall be fined at the rate of one thousand (1,000) Baht per hour but no more than ten thousand (10,000) Baht per day.
- (E) For the purpose of dust suppression system of the Bucket wheel Excavator, Belt Conveyor system and Spreader, the bidder shall submit the details of such that system for the Employer to provide comments three (3) months before the commencement of the works. In case such that the suppression system provided by the bidder fails to mitigate the dust emission to the level require by the Law and Regulation and as specified in this Agreement, the bidder shall immediately improve such equipment at the bidder's own expense.
- (F) If the bidder fails to comply with these terms and conditions, or the machines as indicated in the table EN. 6 of Schedule 13 are not in working condition or the Employer foresees that the bidder has not completed the work efficiently, the Employer may notify the bidder to cease the operation until improvement can be made. And when the Employer has already notified the bidder to make improvement within the specified timeframe and no action has been taken, the Employer will have the right to conduct his own dust prevention and suppression work. Operating charge will be three thousand (3,000) Baht per hour excluding VAT and other related expenses. The Employer will have the right to deduct the charge from the payment installment.

(b) Noise Control

- (A) The bidder, at all times, shall control machines and equipment not to generate nuisance noise that may affect the communities throughout the contract period. Noise measurement shall comply with the limit value specified in the concession agreement entered into between the Employer and the government of Lao PDR.
- (B) Noise measurement at the communities will be recorded and compared to the base line. Therefore every six (6) months in a year, the bidder shall temporarily cease the operation for about two to three (2-3) hours for noise measurement and shall not indemnify the Employer from any loss or damage.
- (C) If noise level exceeds the allowed limit value specified under the concession agreement resulting in an effect on the neighboring communities; the Employer shall be entitled to suspend all or part of the operation to control the noise limit. The bidder shall not be entitled to indemnify the Employer from any loss or damage.

4. The bidder shall propose his Quality, Occupational Health and Safety, and Environmental Management System by preparing and submitting the manual, policy, operational plan and/or the documentation specifying all the operational procedures and/or any relevant documentation for the Employer's consideration. These documents shall be incorporated within the Technical Part Document. The System the bidder proposed shall be at the same standard with the international standards of ISO 9001, OHSAS 18001 or ISO14001.
5. The bidder shall appoint the Safety and Environmental Officer to coordinate with the Field Manager of the Employer (as prescribed in the Lao PDR laws "Labor Safety Regulation on Mine Sector No. 647/IH, Article 3 and 4"). The Safety and Environmental Officer shall monitor all the compliance of the bidder's work with the conditions instructed by the Employer. At least 1 Safety and Environmental Officer must have graduated with bachelor's degree in the field of safety and environmental. The bidder shall submit the name lists of the Officer for the Employer's consideration at least one month prior to starting any operational procedures at least 1 month.
6. The bidder shall prepare the Protection and Mitigation Plan for the Emergency circumstances every time it occurs within the Work Field. The bidder shall also provide a complete set of the equipment to protect and mitigate any emergency circumstances as well as any warning sign and alarms ranging from the level of risk and in compliance with all international standards within the Work Field and the residential camp of the bidder.
7. The bidder shall prepare the Quality, Occupational Health and Safety, and Environmental Plan for the Employer's consideration and approval every fiscal year. The bidder shall supervise the operation of his Employees to comply with the approved Plan. The bidder has the authority to propose any adaptation or change of the approved plan under the conditions specified in this Agreement.
8. The bidder shall prepare the annual training schedule concerning Quality, Occupational Health and Safety, and Environmental Management for his Employees which shall include all the management systems as prescribed in the laws ranging from the level of the risk. The bidder shall also submit the training schedule for the Employer's consideration before the end of each fiscal year provided that the proposed schedule shall be pre-approved by the Employer.
9. All new Employees of the bidder shall attend the first orientation concerning the Occupational Safety, regulations and conditions instructed as well as other agreements between the Employer and the bidder concerning the working operation such as the speed control or the wearing of personal safety equipment.
10. The bidder shall provide the standardized Personal Protective Equipment (PPE) for all Employees depending on the work section and the level of risk of that Employee. At a minimum standard, all Employees shall be provided with safety helmets and safety shoes and the Employees shall wear them at all operational times and/or within the hazardous areas.
11. The bidder shall control the waste water quality released from his residential camp to comply with the standard of the Lao PDR and the conditions in the Environmental Impact Assessment (EIA). The bidder shall submit the Layout of the Employer's residential camp at least 1 month before constructing any structures, especially the construction of the fuel oil or lubricant oil bank, machine maintenance area, waste water and rain drainage system, the position of fire distinguishing equipment installation and the evacuation of Employees.

12. The bidder shall submit a report to the Employer on the period and with the topic as specified by the Employer in this Agreement.
13. If the bidder fails to comply with the conditions of Quality, Occupational Health and Safety, and Environmental Management Systems, it shall be deemed that the bidder is in breach of Agreement and the Employer shall be entitled to a penalty on the daily basis of 10,000 baht accruing after the fixed period the Employer specified in the notice has elapsed until the complete reparation done by the bidder. If the bidder is still in violation of these conditions following the fixed period, the Employer shall double the penalty rate and may directly deduct the penalty amount from the Agreement Price the Employer shall pay to the bidder.
14. After the Employer has notified the bidder of the unsafe circumstances, if the bidder fails to conduct that reparation within the fixed period of time, the Employer shall give written notice that he may repair it himself or hire another bidder to fix those circumstances at the bidder's cost. The Employer may deduct such cost from the Agreement Price.

C. Penalties for Failure to Comply with Environmental and Social Standards

The bidder shall be subject to the penalties specified hereunder subject to its compliance with the Environmental and Social Standards under this Schedule to the extent that the bidder is responsible for such non-compliance.

Non-Compliance	Amounts in US\$ Minimum and Maximum ¹	Aggravating Factors Considered	Further Sanctions which WREA may Impose
Failure or delay in timely submission of reports other than as required in this Agreement or the Mining Concession Agreement	<ul style="list-style-type: none"> • 250 to 750 • Plus 12.5 to 50 per day until cured 	<ul style="list-style-type: none"> • Deliberate • Financially motivated or for financial gain • History of non-compliance • Nature of report / a failure in respect of incident report submission 	<ul style="list-style-type: none"> • Issue Enforcement Notice

¹ All penalty amounts shall be increased every five (5) years by ten percent (10%) of the then current amounts.

Non-Compliance	Amounts in US\$ Minimum and Maximum ¹	Aggravating Factors Considered	Further Sanctions which WREA may Impose
Obstruction or interference with an official in the course of his or her duties in connection with the enforcement of this Schedule	<ul style="list-style-type: none"> • 500 to 25,000 	<ul style="list-style-type: none"> • Deliberate • Financially motivated or for financial gain • History of non-compliance • Attempt to conceal • Potential to cause serious damage to environment, human health, livelihoods 	<ul style="list-style-type: none"> • Issue Enforcement Notice
Providing false or materially misleading written information to WREA or any representative in connection with the topics addressed in this Schedule	<ul style="list-style-type: none"> • 5,000 to 25,000 	<ul style="list-style-type: none"> • Deliberate • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to environment or human health 	<ul style="list-style-type: none"> • Suspension or revocation of Permit in whole or in part • Breach of contract
Failure to provide information to inspector when requested in regard to	<ul style="list-style-type: none"> • 500 to 25,000 	<ul style="list-style-type: none"> • Deliberate 	<ul style="list-style-type: none"> • Issue Enforcement Notice

Non-Compliance	Amounts in US\$ Minimum and Maximum ¹	Aggravating Factors Considered	Further Sanctions which WREA may Impose
inspection and monitoring as provided in this Schedule		<ul style="list-style-type: none"> • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to environment or human health 	
Operating without a Permit	<ul style="list-style-type: none"> • 2,500 to 25,000 • Plus 250 to 2,500 per day until cured 	<ul style="list-style-type: none"> • Deliberate • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to environment or human health 	<ul style="list-style-type: none"> • Breach of contract
Non-compliance with an Enforcement Notice or Suspension Notice pursuant to a violation of this Schedule	<ul style="list-style-type: none"> • 10,000 to 25,000 • Plus 250-5,000 per day until cured 	<ul style="list-style-type: none"> • Deliberate, reckless • Financially motivated or for financial gain 	<ul style="list-style-type: none"> • Suspension or revocation of Permit in whole or in part • Breach of contract

Non-Compliance	Amounts in US\$ Minimum and Maximum ¹	Aggravating Factors Considered	Further Sanctions which WREA may Impose
		<ul style="list-style-type: none"> • History of non-compliance • Potential to cause serious damage to environment or human health 	
<p>Failure to notify WREA (or other relevant GOL department as appropriate) of any knowledge of any event of an imminent threat of environmental damage</p>	<ul style="list-style-type: none"> • 5,000 to 25,000 	<ul style="list-style-type: none"> • Deliberate, reckless • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to environment or human health 	<ul style="list-style-type: none"> • Issue Enforcement Notice • Suspension or revocation of Permit in whole or in part
<p>Failure to take reasonable steps to prevent an imminent threat of damage to the environment, human health, livelihoods, or property, where applicable based on the CPEMMP</p>	<ul style="list-style-type: none"> • 10,000 to 50,000 	<ul style="list-style-type: none"> • Deliberate, reckless • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to 	<ul style="list-style-type: none"> • Issue Enforcement Notice • Suspension or revocation of Permit in whole or in part

Non-Compliance	Amounts in US\$ Minimum and Maximum ¹	Aggravating Factors Considered	Further Sanctions which WREA may Impose
		environment or human health	
Failure to comply with any Governing Parameters(per single violation / instance)	<ul style="list-style-type: none"> • 2,500 to 50,000 	<ul style="list-style-type: none"> • Deliberate, reckless • Financially motivated or for financial gain • History of non-compliance • Potential to cause serious damage to environment or human health 	<ul style="list-style-type: none"> • Issue Enforcement Notice • Suspension or revocation of Permit • Breach of contract

Without prejudice to the above requirements, the bidder shall also strictly comply with Environmental and Safety Laws and Regulations including the following work instructions and/or procedures in which may be amended, modified and/or supplemented by the Employer from time to time;

1. HPC-CSD-WP-006 V.00 Noise and Vibration Control;
2. HPC-CSD-WP-007 V.00 Electrical Work Safety Procedure;
3. HPC-CSD-WP-010 V.00 Housekeeping Management;
4. HPC-CSD-WP-014 V.00 Stop Work Procedure;
5. HPC-CSD-WP-020 V.00 Site Decommissioning Site Clearing and Rehabilitation Procedure;
6. HPC-CSD-WP-022 V.00 Safety, Health and Environmental Inspection;
7. HPC-CSD-WP-024 V.00 Site Permit Requisition Procedure;
8. HPC-ESD-WP-001 V.01 Chance find procedure;
9. HPC-ESD-WP-002 V.04 Waste Management Procedure;
10. HPC-ESD-WP-009 V.01 Non-Hazardous Waste Disposal in the HPC mine area;
11. HPC-ESD-WP-016 V.01 Hazardous Materials Handling Procedure;
12. HPC-ESD-WP-017 V.03 Chemical Substances Registration and Importation;
13. HPC-ESD-WP-026 V.02 Environmental Aspect Identification Procedure;
14. HPC-ESD-WP-031 V.00 SHE Incident Management Procedure;
15. HPC-ESD-WP-032 V.00 Fall Protection Procedure;
16. HPC-MIO-WP-004 V.00 Blast Hole Drilling for Mining Operation Procedure;
17. HPC-MIO-WP-005 V.00 Explosive and Blasting for Mining Operation Procedure;

18. HPC-MSE-WI-009 V.01 bidder Safety, Health and Environment Management;
19. HPC-MSE-WI-023 V.00 Mining Traffic Management;
20. HPC-OHM-WP-009 V.00 Drug Screening and Testing;
21. HPC-OHS-WP-002 V.00 Explosive Management Procedure;
22. HPC-SHE-POL-001 V.08 Safety, Health, Environment and Social Policy;
23. HPC-SHE-POL-002 V.00 Drugs and Alcohol Policy;
24. HPC-SHE-SD-002 V.01 SHE Manual;
25. HPC-SHE-SD-015 V.03 Safety, Health and Environmental Management System Manual;
26. HPC-SHE-SD-018 V.00 Environment and Occupational Health Standards 2018;
27. HPC-SHE-WP-001 V.03 Non-Conformity and Corrective Action Management Procedure;
28. HPC-SHE-WP-003 V.02 Permit to Work Procedure;
29. HPC-SHE-WP-004 V.01 Emergency Preparedness and Response Procedure;
30. HPC-SRS-WP-001 V.01 Fire Prevention and Protection
31. HPC-SRS-WP-003 V.01 Crane and Lifting Equipment Operation;
32. HPC-SRS-WP-006 V.00 Occupational Health and Safety Risk Assessment;
33. HPC-SRS-WP-007 V.03 Scaffolding Safety Procedure; and
34. SHE-SD-GUI-001(I) SHE Rules and Regulations Guideline.

Local Recruitment Requirement

1. General Obligations of the bidder in relation to Lao labor

1.1 The bidder shall comply with the Lao preference obligations specified under Concession Agreements and the detailed preference requirement for each staff classification as further described in the table below as attached in Annex N of the Concession Agreements:

Level	Staff Classification	Preference Exemption %				
		2Mar2016 to 1Mar2021	2Mar2021 to 1Mar2026	2Mar2026 To 1Mar2031	2Mar2031 To 1Mar2036	2Mar2036 To 1Mar2041
1	Plant Manager	100	100	100	100	100
2	Senior Management Officers reporting to MD, e.g. <ul style="list-style-type: none"> • Operation Manager • Maintenance Manager • Administration Manager • Safety Health and Environment manager 	100	100	100	50	25
3	Middle Management Officers reporting to above, e.g. <ul style="list-style-type: none"> • Shift Operation • Assistant Operation • Control room engineer • Planning manager • Engineering manager • Maintenance manager • Senior Engineers • Accountant • Human Resources Manager • Procurement manager 	100	75	50	40	20
4	Junior Management, e.g. <ul style="list-style-type: none"> • Unit operator • Assistant Unit operator • Water treatment manager • FGD operator • Section managers • General accounting staff 	80	50	40	25	0

Level	Staff Classification	Preference Exemption %				
		2Mar2016 to 1Mar2021	2Mar2021 to 1Mar2026	2Mar2026 To 1Mar2031	2Mar2031 To 1Mar2036	2Mar2036 To 1Mar2041
5	<ul style="list-style-type: none"> Senior clerical staff Supervisor Level, e.g. <ul style="list-style-type: none"> Outside plant operator Coal and ash operator Foreman Laboratory technician 	50	25	10	0	0
6	<ul style="list-style-type: none"> Skilled labour, e.g. <ul style="list-style-type: none"> Welder Senior Secretary Fitter and turner Electrician Mechanic 	25	10	0	0	0
7	<ul style="list-style-type: none"> Semi-skilled labour, e.g. <ul style="list-style-type: none"> Assistant to levels 5 and 6 Heavy truck driver Secretary Clerk 	0	0	0	0	0
8	Unskilled labour	0	0	0	0	0

1.2 The bidder must engage Lao Persons for unskilled labor positions.

1.3 The bidder must not engage Foreign Persons to fill unskilled labor positions, unless it has first complied with the Recruitment Procedure for the bidder.

1.4 The bidder is required to provide on the job training programs for Lao Persons in order to upgrade the skill and knowledge of Lao Persons and to enable them to handle their job assignment efficiently.

2. Recruitment Procedure for the Construction bidder

2.1 The GOL agrees to nominate one of its departments or agencies to act as a recruitment agency to source Lao Persons for positions needed for the Project (“Nominated GOL Agency”).

2.2 The Construction must provide to the Nominated GOL Agency, a Lao Mobilization Plan for which it will be employing labor during the Term to allow the Nominated GOL Agency the

maximum opportunity to source Lao Persons for each position as soon as available after the signing of the relevant contract.

- 2.3 The Lao Mobilization Plan for the bidder must contain details of skilled and unskilled positions it expects to fill over the period specified for the plan, including for each skilled position, or class of skilled position:
- (a) a detailed description of the position;
 - (b) skills and experience necessary to perform the work concerned (as applicable);
 - (c) details of any training or qualification necessary to perform the position concerned (as applicable);
 - (d) the number of new positions available, or likely to be available;
 - (e) the number of positions previously held by Foreign Persons under contract which are becoming available during the period of the plan; and
 - (f) details of remuneration and allowances (where applicable) payable to the successful applicant(s).
- 2.4 As soon as possible after submission of Lao Mobilization Plans, the Nominated GOL Agency shall review those plans and agree targets with the bidder for the positions which have been notified to it.
- 2.5 The bidder must do all reasonable things to achieve and where possible, to exceed the agreed targets.
- 2.6 The Nominated GOL Agency shall be allowed a reasonable period from the receipt of notice from the bidder, but in no case more than two weeks in which to propose Lao Persons for each position.
- 2.7 When determining whether a person proposed by the Nominated GOL Agency is a suitably qualified Lao person for a position or not, the bidder must:
- (a) review all the factors including abilities, formal qualifications, prior learning, relevant experience, the capacity to acquire promptly the ability to do the work concerned; and
 - (b) determine whether that person has the ability to do the work concerned in terms of any one of those factors (if sufficient), or a combination of those factors; and
 - (c) not discriminate against a person solely on the grounds of that person's lack of experience (if experience is not reasonably necessary for the relevant position).
- 2.8 If the Nominated GOL Agency is unable, or reasonably believes that it will be unable, to source a Lao Person for a position within two (2) weeks of a request from the bidder, it will notify the bidder that it is permitted to consider other sources for skilled and unskilled labor. The absence of such notification or the failure of the Nominated GOL Agency to offer a suitably qualified Lao person for a position within such two (2) week period shall be considered as permission given by the Nominated GOL Agency to the bidder to consider other sources for the position so notified to the Nominated GOL Agency.

- 2.9 The Construction bidder must not accept offers from other bidder/bidders of labor for positions until it has complied with its obligations under this recruitment procedure.
- 2.10 If the bidder does accept an offer from a bidder/bidder of Labor in breach of these recruitment procedures, the GOL may refuse access for that labor into the Lao PDR.

3. Lao Preference Requirements relating to Project Supplies

When sourcing project supplies, the bidder must source Lao Supplies where the Lao Supplies can be provided on a basis which is and remains competitive with other potential providers or supplies of project supplies, having regard to the commercial terms on which those Lao Supplies and other project supplies can be supplied, including whether:

- (a) the Lao Supplies are equal to comparable project supplies in price, quality, performance, efficiency and reliability and are compatible with other equipment and supplies for the project;
- (b) the bidder/bidder can demonstrate capacity to deliver the requested quantity of Lao Supplies on a timely basis;
- (c) the bidder/bidder can offer comparable after sales service;
- (d) the financial capacity of and credit terms offered by the Lao bidder/bidder are equal or better; and
- (e) the Lao Supplies satisfy the required specification.

Tax Privileges and Tax Liabilities for the bidder

No.	Lao Taxes	Privileges Granted
1.	Corporate Income Tax	The bidder shall be responsible for paying any applicable Corporate Income Tax as is required under the laws of Lao PDR.
2.	Personnel Income Tax	The bidder shall be responsible for paying any applicable Personnel Income Tax as is required under the laws of Lao PDR.
3.	Value Added Tax	The following items will attract a 0% VAT rate for all non-Lao domiciled bidders and Subcontractors: <ul style="list-style-type: none"> (a) all goods, equipment, machinery, materials and services provided to the Employer relating to the construction and operation of the Project (including all imported fuel, diesel oil, chemicals, lubricants, and other consumables (but excluding for the avoidance of doubt consumer goods and foods) used by the Project), provided that such fuel, diesel oil and petroleum based products shall only be entitled to the 0% VAT rate during the Construction Period; and (b) all spare parts, chemicals, lubricants and other similar consumables imported into the Lao PDR by bidders or

No.	Lao Taxes	Privileges Granted
		<p>Subcontractors in the name of the Employer for use in connection with the Project.</p> <p>Please note that the 0% VAT rate does not apply to goods and services from Lao PDR bidder/bidders.</p>
4.	<p><u>Import Duties and Taxes</u> <u>Goods, Equipment, Machinery, Materials and Services</u></p> <p><u>Fuel</u></p> <p><u>Spare Parts</u></p> <p><u>Trucks and Construction Vehicles</u></p> <p><u>Passenger Vehicles</u></p>	<p>All goods, equipment, machinery, materials and services imported by or provided to the Employer relating to the construction and operation of the Project (including all chemicals, lubricants, explosive and other consumables (but excluding for the avoidance of doubt consumer goods and foods) used by the Project) shall be fully exempted from import duties and taxes.</p> <p>All fuel, diesel oil, and petroleum-based products during the Construction Period are exempted from all import taxes and duties and all other government duties and taxes payable under Lao PDR Law. During the Operation Period, there is no exemption from import taxes and duties and bidders and Subcontractors must pay all customary taxes on imported fuel, diesel oil, and petroleum-based products.</p> <p>All spare parts, chemicals, lubricants and other similar consumables imported into the Lao PDR by the Employer or any of its bidders or Subcontractors in the Employer's name for use in connection with the Project shall be exempted from import duties and taxes and all other government duties and taxes payable under Lao PDR Law.</p> <p>All trucks and construction vehicles (including construction equipment, cranes, heavy lifting equipment, pick-up trucks, and dump trucks) purchased or leased by or on behalf of the Employer, and registered in the name of, and bearing a license plate or tag issued to HPC or PFMC are exempted from applicable import duties.</p> <p>All sedans and passenger vehicles purchased or leased by bidders or Subcontractors, and registered in the name of, and bearing a license plate or tag issue to, the Employer, and used in connection with the Project will be subject to an import tax of one percent (1%).</p> <p>Any truck or vehicle that is not registered to the Employer or which does not bear the appropriate license plates or tags will be fully subject to applicable import taxes and no exemption will apply.</p> <p>Note: There will be no tax exemption on fuel of office vehicles (passenger sedans and other vehicles not used at the construction site for construction activities) during construction and operation period.</p>

SCHEDULE 2: General Conditions of Contract for Procurement of Goods**General Conditions of Contract for Procurement of Goods****Clause 1: Definitions**

"Acceptance Letter" means a written letter 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 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 this 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.

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, Sisattanak District,
Vientiane Capital, Lao PDR; or
 - Hongsa Power Company Limited (Representative Office)
3/37-38 Woravichai Road, Nai-Wiang 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 or the Quotation, the Vendor warrants to HPC, that the Goods, whether being manufactured by the Vendor or not, shall be free from defect in materials, design, functionality, and workmanship within twelve (12) months 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 Goods, or Vendor's document that clearly states the warranty condition and claim policy of the Goods.

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 (10) per cent (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

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 (0.1) percent 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 (10) percent 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.

Schedule 3 Form of Performance Security**FORM OF BANK GUARANTEE**

[Bank's Name, and Address of Issuing Branch or Office]

Hongsa Power Company Limited

4th floor, Room No. D5, NNN Building, Phonsinouane Village, Bourichan Road, Sisattanak District, Vientiane Capital, Lao PDR

Date: _____

BANK GUARANTEE No.: _____

We, [Issuing Bank's name], with principal office at [Address of Issuing Bank] (the "Guarantor") hereby issue the bank guarantee (this "Bank Guarantee") for the benefit of Hongsa Power Company Limited (including its successor or assignee, the "Beneficiary") under the provisions as follows:

1. The Guarantor acknowledges that [bidder's name], a company organized under the laws of [country] with the principal office located at [Address] (hereinafter the "bidder") has entered into [name of contract] (on the date [date] with reference no. [number] (if specified)) with Hongsa Power Company Limited (the "Beneficiary") for [work's description] at Hongsa, Xayaboury Province, Lao PDR, including the conditions of the contract, the annexes thereto and as amended, modified and supplemented from time to time (hereinafter collectively referred to as the "Agreement"). Capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Agreement.
2. According to the terms of the Agreement, the Beneficiary shall pay the first installment in the aggregate amount of [amount in word] ([amount in figure]) to the bidder. The bidder is obligated to provide a bank guarantee at the equivalent amount on or prior to the payment of the first installment as a condition precedent to such payment.
3. At the request of the Beneficiary, as of the issuance date of this Bank Guarantee, the Guarantor hereby irrevocably and unconditionally undertakes to pay as the primary debtor or as the joint and several debtor to the Beneficiary any sum or sums not exceeding in total an amount equal to [amount in word] ([amount in figure]) at any time on and after the issuance of this Bank Guarantee (the "Security Amount") upon receipt by the Guarantor of the Beneficiary's demand in writing in the form of Attachment 1, signed by its authorized signatories with the blanks duly completed and stating that the bidder fails to perform its obligations under the Agreement and the Beneficiary is entitled to draw under this Bank Guarantee, without the need to prove or to show further grounds for the Beneficiary's demand or the sum specified therein and regardless of whether the Beneficiary has claimed any damages from the bidder or not. The Guarantor must make payment of any such demand within three (3) business days of the date of receipt of the demand. The Beneficiary may draw under this Bank Guarantee any number of times, but in any event not exceeding the Security Amount and within the Validity Period (as defined below).
4. Our payment hereunder shall be made to the bank account as to be designated in the Beneficiary's demand, (free and clear of, and without deduction by reason of any or all present or future taxes, levies, imposts, duties, fees or withholdings, whatsoever, imposed or collected with respect thereto). All payments under this Bank Guarantee shall be in Thai Baht.
5. The Guarantor acknowledges and accepts that its liabilities and obligations under this Bank Guarantee shall not be discharged or released by any arrangement between the bidder and the Beneficiary with or without its consent or by any alteration in the obligations undertaken by the bidder or by any forbearance whether as to payment, time, performance or otherwise. The Guarantor shall pay the Beneficiary the amount demanded notwithstanding the existence of any disputes or differences which may have arisen between the bidder and the Beneficiary or any defenses which the bidder may have or any request or instruction which may be given by the bidder to the Guarantor not to pay the same or any objection made by the bidder or any other Party.

- 6. This Bank Guarantee shall be effective upon the issuance date hereof and shall remain in force and effect until the earlier of (a) the Guarantor receives the Beneficiary's written confirmation to release the Guarantor from liability under this Bank Guarantee, or (b) [calendar date] (the "Validity Period"); provided that notwithstanding the expiration of the Validity Period, the Guarantor shall comply with any demand received during the Validity Period. The Guarantor shall not revoke this Bank Guarantee during the Validity Period. However, in order to be valid, any demand made hereunder must reach the Guarantor on or before the expiry of the Validity Period; the Guarantor shall hold no responsibility or obligation whatsoever for any demand made thereafter.
- 7. This Bank Guarantee is subject to the URDG758; provided that Article 15 (a) of the URDG758 shall not apply to this Bank Guarantee.
- 8. For the matters not covered by the URDG758, this Bank Guarantee shall be governed by Thai law. The Guarantor, the Beneficiary and the bidder irrevocably agree that the Courts of Thailand shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Bank Guarantee and, for such purposes, irrevocably submit to the jurisdiction of such Court.
- 9. The Beneficiary may assign upon written notification to the Guarantor, the whole or any part of its rights, benefit and interest in, to and under this Bank Guarantee whether by way of security or otherwise to any person.

This Bank Guarantee is signed by the Guarantor by our authorized representative who has signed in front of a witness.

Signed and delivered
by the said Guarantor

.....
Name:.....
Designation:

in the presence of

.....
(Witness)
Name:.....
Designation:

Attachment 1

[Letterhead of the Beneficiary]

Date: _____

[Bank], as Guarantor
[Address of Issuing Branch or Office]
Re: Bank Guarantee No. [●]

Ladies and Gentlemen:

We refer to the Bank Guarantee given by the Guarantor to us dated [*date*] and referenced as Bank Guarantee No. [●] (the "**Bond**"). Capitalized terms used herein and not otherwise defined have the meanings given to them in the Bond.

The undersigned, Hongsa Power Company Limited (the "**Beneficiary**"), hereby certifies that:

1. The bidder fails to perform its obligations under the Agreement and the Beneficiary is entitled to draw under this Bank Guarantee.
2. We hereby demand payment by the Guarantor in an amount of _____ by deposit of such amount within three (3) business days of receipt of this demand to [*bank account detail*].

Very truly yours,

Hongsa Power Company Limited

By: [*signed by authorised person*]

[*Name*]

[*Title*]