

POWER PURCHASE AGREEMENT

BETWEEN

BELIZE ELECTRICITY LIMITED

AND

SS ENERGY LIMITED

Dated as of December 13, 2016

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This **POWER PURCHASE AGREEMENT** (this “**Agreement**”) is made as of the 13th day of December, 2016 (the “**Execution Date**”).

BETWEEN:

- (1) **BELIZE ELECTRICITY LIMITED** (“**BEL**”, which expression shall be construed so as to include its successors in title and permitted assigns), a limited liability company incorporated under the Companies Act of Belize and having its registered office at 2½ Miles Philip Goldson Highway, Belize City, Belize; and
- (2) **SS ENERGY LIMITED** (the “**Seller**”, “**SS**” or “**SS Energy**”, which expressions shall be construed so as to include its successors in title and permitted assigns), a limited liability company incorporated under the Companies Act of Belize and having its registered office at No. 21 San Vincent Street, North Piscini, Belmopan City, Cayo District, Belize.

BEL and the **Seller** each may be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS:

- (a) **BEL** is duly licensed to generate, supply, transmit, and distribute power and Energy throughout Belize, and operates its power system as an independent power grid and must maximize system reliability for its customers by ensuring that sufficient generation is available and its system (including transmission and distribution) meets the requirements for voltage stability, frequency stability and reliability standards;
- (b) The Public Utilities Commission of Belize (“**PUC**”) is a statutory corporation established pursuant to the Public Utilities Commission Act (Chapter 223) with the responsibility, inter alia, to license operators and to ensure safe and reliable utility services to consumers of electrical power at reasonable rates while affording licensees an opportunity to recover the reasonable cost of providing service and earn a reasonable rate of return on investments when operating in an efficient manner;
- (c) In order to satisfy current and expected demand in Belize for electricity services, in 2013 the **PUC** published a request for proposals for electricity generation titled the RFPEG Belize 2013 (“**RFP**”) by projects from which to contract additional electricity generation and supply capacity through a competitive bidding process;

- (d) The **Seller** has established, owns, manages and operates a sugar factory at the Valley of Peace in the Cayo District and as a by-product of its sugar milling activities produces significant quantities of bagasse;
- (e) The **Seller** has invested in and established an electrical cogeneration plant for the cogeneration of steam and electrical power at the Valley of Peace using bio-mass fuel (being the bagasse) which constitutes an eligible renewable Energy facility, with an initial Capacity of 16.5 MW of Electrical Energy, of which 8.5 MW is allocated for the operation of the sugar factory and the plant leaving a balance of 8MW of electrical power that was intended for sale to **BEL**;
- (f) In support of a proposed expansion of its sugar milling business in a second phase it is the **Seller's** intention to install a total Capacity of 33 MW, of which 17 MW is allocated for the operation of the sugar factory and the plant leaving the balance of approximately 16 MW or more of electrical power that is intended for sale to **BEL**;
- (g) In response to the **RFP** the **Seller** submitted a proposal to sell its additional Electrical Energy to **BEL** which proposal was evaluated and shortlisted by the **PUC** and recommended for negotiations with **BEL** leading to an intended Power Purchase Agreement ("**PPA**") for the supply of power and Energy by interconnection to **BEL's** National Transmission Grid;
- (h) Following on these negotiations the **Seller** agrees to generate, deliver and sell to **BEL**, and **BEL** agrees to purchase and take from the **Seller**, Electrical Energy from the Facility (hereinafter defined) in accordance with the terms and subject to the conditions of this Agreement;
- (i) During the course of their negotiations the **Parties** referred certain issues relating to the intended Agreement to the **PUC** for determination and the **PUC** considered the issues and issued a Ruling on the 9th March, 2016 which the **Parties** have accepted as binding. For reference a copy of the Ruling is annexed hereto marked Exhibit 9.

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations and warranties, conditions and promises herein contained, and intending to be legally bound hereby, the **Seller** and **BEL** hereby agree as follows:

1. DEFINITIONS

- 1.1 Unless otherwise defined herein or in any Exhibit hereto, the following terms, when used herein or in any Exhibit hereto, shall have the meanings set forth below:

“**Act**” means the Electricity Act Chapter 221 of the Laws of Belize Revised Edition 2011, as further amended or re-enacted from time to time.

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control of such Person. For purposes of this definition, a Person shall be treated as being controlled by another if that other Person is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

“**Agreement**” has the meaning assigned to such term in the preamble hereto.

“**Available**” means, in relation to the Facility, able to respond to a Dispatch Instruction and to deliver Net Energy Output and “**Availability**” shall be construed accordingly.

“**Average**” means the arithmetical mean.

“**Bagasse**” means the fibre left after the extraction of juice from sugar cane.

“**BEL**” has the meaning assigned to such term in the preamble hereto.

“**BEL’s Licence**” means the licence issued to **BEL** under the Act to conduct its business, as amended from time to time.

“**Belize Dollar**” or “**BZ\$**” means the lawful currency of Belize.

“**Billing Period**” means (i) the period commencing at 00.00 hrs on the Commercial Operation Date and ending at 24.00 hrs on the last day of the calendar month in which the Commercial Operating Date occurs and (ii) thereafter, each consecutive period of one calendar month, commencing at 00:00 hrs on the first day of each calendar month and ending at 24:00 hrs on the last day of that calendar month.

“**Business Day**” means any day except Saturday, Sunday and or any weekday on which Commercial Banks in Belize City are required or authorised to be closed.

“**Capacity**” means the electrical generating capacity of the Facility net of steam load.

“**Carbon Credit**” means any certified emission reduction unit or similar environmental or greenhouse gas unit applicable as a credit or credited under the Kyoto Clean Development Mechanism or similar environmental protocol.

“**Carbon Credit Ownership**” means the right to the benefit of any Carbon Credit from a Certified Renewable Facility.

“Certification” means certification as a renewable Energy generation facility as defined under the Kyoto Clean Development Mechanism or similar environmental protocol and **“Certified”** shall be construed accordingly.

“Change in Law” means any event or circumstance occurring on or after the Execution Date as a result of or in connection with any action or inaction by any Governmental Authority including:

- (a) a change in or repeal of an existing Law;
- (b) an enactment or making of a new Law;
- (c) a cancellation or non-renewal or change in the conditions to any Governmental Approval granted to **BEL**, the **Seller** or otherwise relating to the Facility;
- (d) a change in the manner in which a Law is applied or the interpretation or application thereof.

“Check Metering Facilities” means the metering equipment owned by the **Seller** for the purpose of checking the accuracy of the Energy Metering Facilities by measuring Net Energy Output at the Delivery Point.

“Claims” means any and all claims, judgments, losses, liabilities, costs, expenses (including reasonable attorneys’ fees) and damages of any nature whatsoever (except workers’ compensation claims) in relation to personal injury, death or property damage.

“Commercial Operation” means the availability of the Facility for the delivery by the **Seller** of the Electrical Energy to be supplied hereunder as from each annual Commercial Operation Date.

“Committee of Operation” means the committee of operation formed in accordance with Article 9.2 (*Committee of Operation*) for the purpose of elaborating the Operating Procedures and agreeing other issues in relation to the Facility subject to and in accordance with the provisions of this Agreement.

“Commercial Operation Date” means the day in each calendar year which immediately succeeds the day declared by the **Seller** by a Commercial Operation Notice as the day upon which the Facility will be ready for Commercial Operation.

“Commercial Operation Notice” means a minimum of 21 days written notice served on **BEL** pursuant to Article 2.1 declaring the date on which the Facility will be ready for Commercial Operation.

“Commissioning Tests” means the tests to be carried out on the Facility by **BEL** and the **Seller** in order to determine whether the Facility is ready for Commercial Operation, as set out in Article 7 and Exhibit 4 (*Testing Requirements for the Biomass Fired Plant*).

“Contract Capacity” means the electrical generating capacity of the Facility as set forth in Article 2.6 and which is required for the **Seller** to meet its contractual obligation to Dispatch electrical power.

“Contract Price” has the meaning assigned to such term in Article 16 (*Price/Compensation*).

“Contract Year” means (i) initially the period commencing on the Scheduled Commercial Operation Date and ending at 24:00 hrs on December 31, 2017 and (ii) subsequently, each consecutive period of twelve (12) calendar months thereafter, the first such period commencing at 00:00 hrs on January 1, 2018 and ending at 24:00 hrs on December 31, 2018.

“Control System Interface” means a computerized control system whereby a central operator can operate, supervise and remotely control the generators in the Facility from a central control room.

“Declared Capacity” means, in relation to any Dispatch Period, the Capacity declared to be Available by the **Seller** during that Dispatch Period. Exhibit 6 (*Dispatch Instruction*).

“Default Interest” means eight (8) percent per annum.

“Delivery Point” means the physical point at the Site where the Facility output lines are connected with the Interconnection Facilities, which shall be the low voltage side of the step-up transformer located at the Site.

“Design Limits” means the operating parameters of the Facility as set forth under the heading “Design Limits” in Exhibit 3 (*Description of the Biomass Fired (Bagasse) Project including Design and Operating Limits and Site Description*).

“Dispatch” means the dispatch by the Facility of electrical power to the Delivery Point in accordance with a Dispatch Instruction, the Dispatch Procedures, the Operating Procedures and this Agreement and subject to the Operating Limits and any form of the term Dispatch (e.g., “Dispatched,” “Dispatches” or “Dispatching”) shall be construed accordingly.

“Dispatch Instruction” means an instruction, issued by **BEL** in accordance with Prudent Utility Practice and this Agreement, to increase, reduce, commence or cease the Dispatch of electrical power, substantially in the form of Part II of Exhibit 6 (*Dispatch Instruction*).

“Dispatch Period” means the period commencing at 0.00 hrs (Belize time) on the immediately succeeding day (following the Dispatch Instruction) and ending at 24.00 hrs on that day.

“Dispatch Procedures” means the procedures for the Dispatch of electrical power from the Facility established by the Committee of Operations as set forth in Article 9.2 as amended from time to time by the Committee of Operation.

“Early Termination Date” has the meaning assigned to such term in Article 22.2 (*Termination*).

“Emergency” means a condition or situation which exists on the Transmission Grid during times when generation supply is outside required limits of the Transmission Grid Code as set forth in Exhibit 2 (*Transmission Grid Code*) and parameters for operation of the Transmission Grid as set forth in Exhibit 10 (*Operating Procedures and Emergency Procedures*) or other circumstances that exist resulting in a condition where the security, stability, integrity or safety of the Transmission Grid may be jeopardized.

“Emission Reductions” mean those benefits recognized as intangible commodities by the **Parties** and/or others as arising under the PPA through the direct displacement by Energy from renewable sources, of the emissions from fossil fuelled electrical generation and includes Emission Reduction Credits (**ERC’s**). Emission Reduction under the **PPA** relates to Greenhouse Gas Emissions (**GHG**) and other specific emissions known to arise from some or all fossil-fuel electrical generation. **GHG** and other specific air emissions recognized under the **PPA** are CO₂, NO_x, SO₂, particulates and heavy metals and/or their salts or combinations thereof. Emission Reductions and **ERC’s** do not include any tax credits, benefits, deductions or allowances under the laws of Belize.

“Emission Reduction Credits or ERC’s” means all benefits, rewards, credits premiums, incentives, and other advantages related, in whole or in part, to **GHG** Emission Reductions, whether in existence as of the date of the **PPA** or arising during the Term to the extent related or attributable to the operation of the Facility for the generation of Energy or otherwise, including:

- (a) any credit issued or granted by a Government Agency in any part of the world including Belize, (“Government Agency”) in connection with **GHG** Emission Reductions;

- (b) any tradable allowance or allocated pollution right issued or granted in connection with **GHG** Emission Reductions.

“Energy or Electrical Energy” are interchangeable terms and mean electric Energy measured as units for watt hours (kWh, MWh, or GWh).

“Energy Allocation for Facility and Factory” means the portion of the Electrical Energy generated by the Facility which is used by the Facility and the Factory.

“Energy Metering Facilities” means all meters and metering devices owned by **BEL** and used to measure the delivery of Net Energy Output at the Delivery Point.

“Environmental Compliance Plan” means the environmental compliance plan set out in the document issued by the Department of the Environment stipulating the environmental measures which must be adopted during the operation of the Facility and the Interconnection Facilities, as set forth in Exhibit 8 (*Evidence of Environmental Compliance Plan*).

“Event of Default” has the meaning assigned to such term in Article 22.1 (*Event of Default*).

“Event of Insolvency” means an event or circumstance in respect of a Person where: (i) that Person admits its insolvency or makes a general assignment for the benefit of creditors or any proceeding is instituted by that Person seeking relief or giving notice of its intention to seek relief on its behalf as debtor, or to adjudicate it a bankrupt or insolvent, seeking liquidation, winding-up, re-organization, arrangement, adjustment or composition of it or its debts under any insolvency legislation, or seeking appointment of a receiver, receiver and manager, trustee, custodian or other similar official for it or any substantial part of its property and assets or that Person takes any action to authorize any of the foregoing; or (ii) any proceeding is instituted against that Person seeking to have an order for relief entered against it as a debtor or adjudicate it as bankrupt or insolvent or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any Insolvency Legislation, or seeking appointment of a receiver, receiver and manager, trustee, custodian or similar official for that Person or any substantial **Party** of its property and assets, and (A) such proceeding results in any entry of an order for such relief or any such adjudication or appointment, or (B) if such proceeding is not being contested, or is being contested in good faith, such proceeding continues un-dismissed, or un-stayed and in effect, longer than twenty (20) days from the institution of any such proceeding.

“Execution Date” has the meaning assigned to such term in the heading of this Agreement.

“Facility” means the generating station described in Exhibit 3 (Description of Biomass Fired (Bagasse) Project including Design and Operating Limits and Site Description), located in the Cayo District, Belize adjacent to the Factory and which is constructed and operated for the purpose of (i) supplying Electrical Energy and steam to the Factory and (ii) supplying excess Electrical Energy to **BEL** in accordance with this Agreement.

“Factory” means the sugar mill and land of SS Energy in the Cayo District, Belize.

“Force Majeure Event” has the meaning assigned to such term in Article 11 (Force Majeure Event).

“Forced Downtime” means any partial or complete interruption of, or reduction in, the Facility’s Electrical Energy production capability that is not the result of (a) a Scheduled Downtime, (b) a Maintenance Downtime or (c) a Force Majeure Event.

“Fuel” means the combustible material used by the Facility which shall comprise Bagasse and any other combustible material agreed by both **Parties** to be used in the future.

“GHG or Greenhouse Gas Emissions” means any gas substance that is the subject of the UN Framework Convention on Climate Change and related protocols, treaties, agreements and instruments and includes carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons.

“GHG Emission Reductions” mean reductions in Greenhouse Gas Emissions however measured and includes, for greater certainty, any reductions in Greenhouse Gas Emissions attributable to the purchase and resale by **BEL** of Energy generated from the Facility as an alternative to generating Energy by other means which would result in higher levels of Greenhouse Gas Emissions.

“Governmental Approval” means, without limitation, any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, decree, declaration of or regulation by any Governmental Authority relating to the acquisition, ownership, occupation, operation or maintenance of the Facility or to the execution, delivery or performance of this Agreement, including those listed in Exhibit 1 (Governmental Approvals).

“Governmental Authority” means any authority of the Government of Belize having jurisdiction over either **Party** or the Facility, including any national, district, local, territorial or municipal government or any department, commission, board, bureau, agency, instrumentality, judicial or administrative body thereof.

“**GW**” means gigawatt.

“**GWh**” means gigawatt hour.

“**Harvest Season**” means the period of harvesting of sugar cane.

“**Interconnection Facilities**” means all the equipment and facilities which are used for the purpose of delivering Net Energy Output from the Delivery Point to the Interconnection Point, including the following: the Energy Metering Facilities, transmission and distribution lines and associated equipment, transformers and associated equipment, relay and switching equipment, protective devices and safety equipment and telemetering equipment, wherever located.

“**Interconnection Point**” means the physical point or points where interconnection is made between the Interconnection Facilities and the Transmission Grid.

“**kW**” means kilowatt.

“**kWh**” means kilowatt-hour.

“**Law**” means any statute, law, rule, regulation, order, decision, directive, treaty, court decision existing, enacted, made, issued or promulgated or imposed by a Governmental Authority or the National Assembly and includes the intended legislation relating to the project facility whether in effect now or at any time in the future and applicable to the **Parties**, the Facility or relating to the rate of return on investment of the **Seller** or its shareholders or the cost of financing, constructing, operating and maintaining the Facility including any of the foregoing relating to Tax, reserve or repatriation requirements of any kind or relating to expropriation or compulsory acquisition.

“**Lenders**” means, at any time, the banks and other financial institutions that have entered into commitments to provide financing or refinancing facilities (including loans, guarantees, letters of credit and hedging facilities) in connection with the Facility at such time and any transferees, agents, trustees or other representatives of such persons.

“**Loan Documents**” means the loan agreements, notes, indentures, security agreements, interest rate hedging agreements, guarantees and other documents entered into or to be entered into relating to the financing (including financing of working capital requirements and refinancing and provision of letters of credit for financing) of the Facility and Interconnection Facilities or any part thereof.

“Maintenance Downtime” means a partial or complete interruption of the Availability of the Facility that (a) has been coordinated in advance with **BEL** in accordance with Article 10.2 (Maintenance Downtime) (including agreed start date, time and duration), (b) is not a Force Majeure Event, Forced Downtime or a Scheduled Downtime, and (c) is for the purpose of performing work on specific components of the Facility in order to maintain the performance, safety or durability of the Facility, which should not, in the reasonable opinion of the **Seller**, be postponed until the next Scheduled Downtime.

“Marginal Cost of Energy or MCE” means the average cost of the last MWh purchased or produced by the purchaser’s generation portfolio during the day. MCE is represented by the formula below where n is the number of sub-periods over the evaluation period (i.e. 24 for a daily MCE using hourly data), i is the particular sub-period, and $Cost_i$ is the cost per MWh of the last resource dispatched during sub-period i .

$$MCE = \frac{\sum_{i=1}^n Cost_i}{n}$$

“Minimum Load” means the minimum load required by the Facility to be able to run under a stable condition, as defined in Exhibit 3 (Description of the Biomass Fired (Bagasse) Project including Design and Operating Limits and Site Description).

“Minister” means the Minister responsible for Public Utilities.

“Modification” means the modification or alteration of the design of Phase 2 of the generation project (as defined herein and referred to in the **PUC Ruling**) in such a manner and to such an extent that the modification will reasonably have a material effect on the costs of the Second Phase (whether increased or reduced costs).

“MW” means megawatt.

“MWh” means megawatt-hour.

“Net Energy Output” or **“NEO”** means the total Electrical Energy (net of equivalent steam) that is generated by the Facility less the Energy Allocation for Facility and Factory and delivered by the **Seller** to **BEL** at the Delivery Point in

accordance with a Dispatch Instruction, as measured in kWh by the Energy Metering Facilities.

“**Operating Limits**” means, collectively, the Design Limits and the Permit Limits set forth in Exhibit 3 (*Description of the Biomass Fired (Bagasse) Project including Design and Operating Limits and Site Description*).

“**Operating Procedures**” means the written operating procedures developed by the Seller and BEL pursuant to Article 9.2 (*Committee of Operation*), as amended, modified or supplemented from time to time.

“**Operating Year**” means each consecutive period of twelve (12) calendar months, the first such period commencing at 00:00 hrs on January 1, 2017 and ending at 24:00 hrs on December 31, 2017.

“**Party**” has the meaning assigned to such term in the preamble hereto.

“**Performance Test**” means a test performed in accordance with Exhibit 4 (*Testing Requirements for the Biomass Fired (Bagasse) Project*).

“**Permit Limits**” means the approved characteristics of the Facility and any operating constraints specified in the Governmental Approvals for the Facility.

“**Person**” means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization or Governmental Authority.

“**Phase 1**” means the first period of operation of the Facility during which the Capacity will be 16.5 MW.

“**Phase 2**” means the second period of operation of the Facility during which the total Capacity will then be approximately 33 MW.

“**Phase 2 Commercial Operation Date**” means the day which immediately succeeds the day declared by the Seller by a Phase 2 Commercial Operation Notice as the day upon which the Phase 2 Facility will be ready for Commercial Operation.

“**Phase 2 Commercial Operation Notice**” means a minimum of 60 days written notice served on BEL pursuant to Article 2.1.1 declaring the date on which Phase 2 will be ready for Commercial Operation.

“**Point of Isolation or POI**” means the designated disconnect switch that securely isolates the Facility from BEL’s Transmission Grid.

“Production Period” means the expected time of operation of the Facility for the generation of electricity as agreed upon by the Committee of Operations.

“Protected Persons” has the meaning assigned to such term in Article 27.5 (*Confidentiality*).

“Prudent Utility Practice” means the practices and standards generally or customarily followed from time to time by the Electrical Energy industry having regard to engineering and operational considerations, including manufacturers’ recommendations. For the avoidance of doubt, Prudent Utility Practice shall not be limited to optimum practices, methods or acts to the exclusion of all others, but shall be a spectrum of possible practices, methods and acts which could have been expected to accomplish the desired result at reasonable cost consistent with reliability and safety.

“PUC” means the Public Utilities Commission of Belize.

“BEL” has the meaning assigned to such term in the preamble hereto.

“Quarter” means, in relation to any calendar year, each period of three calendar months commencing on January 1, April 1, July 1 and October 1 of that year.

“Renewable Energy Credits” mean those credits, benefits or other intangibles that now, or at any time in the future, convey a right in respect of those attributes (fungible or non-fungible), whether or not tradable, pertaining to the generation of Energy pursuant to the PPA, representing the renewable aspect of the source of such Energy, and include “green tabs”, or “tradable renewable Energy credits”, or “renewable portfolio standard tags”.

“Scheduled Commercial Operation Date” means February 1, 2017.

“Scheduled Downtime” means a planned partial or complete interruption of the Availability of the Facility.

“Seller” has the meaning assigned to such term at the beginning of this Agreement.

“Site” has the meaning assigned to such term in Exhibit 3 (*Description of the Biomass Fired (Bagasse) Project including Design and Operating Limits and Site Description*).

“SS Energy” has the meaning assigned to such term in the preamble hereto.

“SS Electrical Energy Metering Facilities” means the metering equipment owned by the **Seller** for the purpose of measuring Electrical Energy supplied by the **Seller** to the Factory.

“Successor Company” means (a) in the case of **BEL**, any Person who acquires the whole or any substantial part of the rights of **BEL** under **BEL**’s License and (b) in the case of the **Seller**, any Person who acquires the whole or any substantial part of the rights of the **Seller** to conduct the business of generation and sale of the Electrical Energy to be supplied under this Agreement.

“Taxes” means any tax, charge, impost, tariff, duty or fee of any kind charged, imposed or levied directly or indirectly by the Government of Belize applicable to the **Seller**, the shareholders of the **Seller** or the Facility, including any such business tax, general sales tax, stamp tax, import duty, withholding tax (whether on dividends, interest payments, fees, equipment rentals or otherwise), tax on foreign currency loans or foreign exchange transactions, excise tax, property tax, registration fee or license, or environment tax.

“Term” has the meaning assigned to such term in Article 4 (*Term and Termination*).

“Termination Payment” has the meaning assigned to such term in Article 22.3 (*Termination Payment*).

“Transmission Grid Code” has the meaning assigned to such term in Exhibit 2.

“Transmission Grid” means the transmission system owned by **BEL**.

1.2 **Interpretation.** Unless the context otherwise requires:

- (a) Words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other.
- (b) Any reference in this Agreement to any Person includes its successors and assigns and, in the case of any Government Authority, any Person succeeding to its functions and capacities.
- (c) Any reference in this Agreement to any Article, Exhibit or Annex means and refers to the Article or Article contained in, or Exhibits or Annex attached to, this Agreement.
- (d) Other grammatical forms of defined words or phrases have the meaning corresponding to that of the defined word.

- (e) Any reference to a document or agreement, including this Agreement, is a reference to that document or agreement as amended, supplemented or restated from time to time in accordance with its terms.
- (f) Any reference to a Law is a reference to that Law as amended or re-enacted.
- (g) If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next Business Day.
- (h) The terms “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation” notwithstanding any omission of such phrase.
- (i) The words “hereof,” “herein,” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
- (j) Any reference to a document in the agreed form or in the agreed terms is to the form or terms of the relevant document agreed between the **Seller** and the **BEL** and initialled by or on their behalf for purposes of identification.
- (k) A “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization.
- (l) A “day” means a period beginning at 00:00 hrs on any day and ending at 24:00 hrs on the same day.
- (m) A time of day is a reference to Belize time.

2. **SALE AND PURCHASE OF ENERGY AND CAPACITY**

2.1 **Commencement of Annual Commercial Operations.** In each calendar year with effect from January 1, 2017 the **Seller** shall serve **BEL** with the Commercial Operation Notice declaring the Commercial Operation Date for that year.

2.1.1 **Commencement of Phase 2 Commercial Operations.** The **Seller** shall serve **BEL** with the Phase 2 Commercial Operation Notice declaring the Phase 2 Commercial Operation Date.

- 2.2 **Sale and Purchase.** Subject to and in accordance with the other terms and conditions of this Agreement, from (and including) the first Commercial Operation Date until (and including) the last day of the Term: (i) the **Seller** shall make available at the Delivery Point and sell to **BEL** all of the **Seller's NEO** and (ii) **BEL** shall purchase from the **Seller** the total NEO for the amount described in Article 16 (*Price/Compensation*).
- 2.3 **Assumptions and Project Parameters.** The **Seller** acknowledges that the Compensation to be paid by **BEL** for the **NEO** is based on certain assumptions and project parameters as set forth in the Ruling and in particular, the respective Phase 1 and Phase 2 Capacities, Design, Operating Limits and other specifications as per the description of the Facility in Exhibit 3.
- 2.4 **Effect of Modification.** The **Seller** shall serve **BEL** with prior written notice of any proposed Modifications to the Facility. Any Modification to the Facility [including for Phase 2 after execution] requires a Consent from the **PUC** and determination of applicable rates, if necessary.
- 2.5 **Title and Risk of Loss.** Title to and risk of loss of Electrical Energy generated by the Facility shall reside with the **Seller** until the Delivery Point and shall pass from the **Seller** to **BEL** at the Delivery Point.
- 2.6 **Contract Capacity.** Contract Capacity for each Contract Year shall be 8 MW for Phase 1 and a minimum aggregate of 16 MW upon execution of Phase 2.
- 2.7 **Energy Production and Purchase Guarantee.** **BEL** guarantees the purchase of the Net Energy Output (**NEO**) produced for each Operating Year subject to and in accordance with the Dispatch Procedures as set forth in Exhibit 10. In accordance with the **PUC** Recommendations noted in Exhibit 11, the **Seller** is expected to meet the Minimum Annual Production target of 18,572,400 kWh. The **Seller** agrees to ensure that in each Operating Year, the Facility will continue in operation to the extent necessary to utilize all available bagasse generated in that Operating Year excepting the amount of reserve bagasse required for the start of the boiler the subsequent year, such amount to be determined by the **Seller** and tabled at the next following Operations Committee meeting.
- 2.8 **Maintaining Availability.** In accordance with the Ruling the **Seller** will maintain Availability at a minimum of 90 percent, subject to any curtailment by **BEL**.
- 2.9 Failure by the **Seller** to meet the Minimum Annual Production or Availability requirements in any Operating Year shall constitute a material breach of this contract and without prejudice to the rights of **BEL** on the occurrence of an Event of Default shall entitle **BEL** to liquidated damages based on the average daily Marginal Cost of Energy purchased by **BEL** from another source to compensate for **Seller's** undelivered minimum Energy. Calculations of such liquidated damages would be based on the

average daily MCE of the day following the last day of purchase from SSEL by **BEL** in that operating year and shall exclude circumstances related to Force Majeure, **BEL**-directed curtailment, unavailability of the Interconnection Facilities or other circumstances reasonably beyond the control of the **Seller**.

2.10 Failure by the Purchaser, through no fault of **Seller**, to purchase the Minimum Annual Production or Availability in any Operating Year shall constitute a material breach of this contract and without prejudice to the rights of the **Seller** on the occurrence of an Event of Default shall entitle **Seller** to liquidated damages equal to the amount the **Seller** would have received based on the rates approved by the **PUC** for such Energy that would have been purchased by **BEL** save for the failure to purchase.

2.11 **Sale and Purchase during Commissioning**. **BEL** shall have the right at its option to purchase Electrical Energy during the Commissioning period at the Contract price set forth in Article 16.1. Any Electrical Energy purchased by **BEL** during the Commissioning period shall be aggregated with purchases after the Commercial Operation Date for the purpose of determining the price to be paid for each unit.

3. **CONDITIONS PRECEDENT**

3.1 **Effectiveness of the Seller's Obligations**. Notwithstanding anything to the contrary contained in this Agreement or any related agreement (but subject nonetheless to Article 3.3 below and Article 27.5) the **Seller** shall have no obligations under this Agreement until it shall have received all Governmental Approvals applicable to **Seller** as listed in Exhibit 1 (*Governmental Approvals*) and such Governmental Approvals remain in full force and effect.

3.2 **Effectiveness of BEL's Obligations**. Notwithstanding any other provisions of this Agreement or any related agreement (but subject nonetheless to Article 3.3 below and Article 27.5), **BEL** shall have no obligations under this Agreement until the following conditions precedent have been fulfilled or waived in writing by **BEL**:

(a) **BEL** shall have received copies of the Memorandum and Articles of Association of the **Seller**, certified as true by the **Seller's** company secretary, and a copy of the **Seller's** Licence to Generate and Supply Electricity under the Electricity Act;

(b) **BEL** shall have received copies of resolutions passed by the **Seller's** Board of Directors authorizing the execution, delivery and performance by the **Seller** of this Agreement and the transactions contemplated by this Agreement, together with a Certificate of Incumbency and Authorization regarding officers duly authorized to sign, certified as true by the **Seller's** company secretary;

- (c) **BEL** shall have received an opinion of Belize Legal Counsel acceptable to **BEL**, in form and substance satisfactory to **BEL**, confirming:
 - (i) that the **Seller** is a corporation duly organized, validly existing and in good standing under the Laws of Belize and the **Seller** has all requisite power and authority to conduct its business and own its properties;
 - (ii) that the execution, delivery, and performance of the **Seller's** obligations under this Agreement have been duly authorized by all necessary corporate action, and do not and shall not require any consent or approval of the **Seller's** board of directors or shareholders which has not been obtained and each such consent and approval that has been obtained is in full force and effect;
 - (iii) the power, capacity and authority of the **Seller** to enter into this Agreement and the transactions contemplated hereby, the enforceability of this Agreement against the **Seller** in accordance with its terms;
- (d) The **Seller** shall have provided **BEL** with copies of the Governmental Approvals described in Exhibit 1 (*Governmental Approvals*) attached hereto; and
- (e) The **Seller** shall have provided the written designation of qualified persons to represent it on the Committee of Operation in all acts regarding the implementation of this Agreement and the authentication specimen signature of the said representatives.

3.3 **Exhibits – Conditions of Effectiveness**. All Exhibits form a part of this agreement though the terms of this Agreement supersede, Save and Except for Exhibit 9. The **Parties** hereto mutually agree that this Agreement shall be binding and enforceable upon execution, Save and Except for Exhibit 10 (*Operating Procedures and Emergency Procedures*), which shall be annexed upon mutual agreement of the **Parties'** representatives upon completion by the Committee of Operation pursuant to Article 9.2.4 and which shall require the approval of the **PUC**.

4. **TERM AND TERMINATION**

4.1 The term of this Agreement shall commence on the Scheduled Commercial Operation Date and shall continue in full force and effect until the fifteenth (15th) anniversary of such date unless it is terminated earlier in accordance with this Agreement.

- 4.2 **Termination.** The termination or expiry of this Agreement shall be without prejudice to the rights and obligations of the **Parties** accrued under this Agreement prior to, or which are expressed to continue beyond, such termination or expiry.
- 4.3 **Extension.** Notwithstanding the above provisions and in accordance with the Ruling, the Term will automatically be extended for a period of ten (10) years unless either **Party** serves written notice of termination at least 1 year prior to the expiration of the Term as defined in Article 4.1 above, with the written approval or concurrence of the PUC.

5. **START OF COMMERCIAL OPERATIONS**

- 5.1 It is the intent of the **Parties** that on or before the Scheduled Commercial Operation Date:
- (i) The Facility shall be ready and available for the commencement of Commercial Operations;
 - (ii) The Interconnection Facilities shall have been completed and ready for the commencement of Commercial Operations;
 - (iii) Commissioning shall have been completed;
 - (iv) The Committee of Operations shall have been formed and the respective Representatives of each **Party** shall have been duly appointed;
 - (v) The Operating Procedures and Emergency Procedures shall have been developed and agreed by the Committee of Operations;
 - (vi) The Conditions Precedent shall have been delivered and accepted;
 - (vii) Forecasting in respect of the first Contract Year shall have been provided by the **Seller** pursuant to Article 9.4.4.1.

The **Parties** agree to use their best efforts to ensure that Commercial Operations in 2017 commence not later than 15 days following the Scheduled Commercial Operation Date.

- 5.2 **Failure to Commence.** Failure to commence Commercial Operations within 90 days from the Scheduled Commercial Operation Date will constitute a default which on written notice from **BEL** under Article 22.1.2(b) shall constitute an Event of Default.

6. INTERCONNECTION FACILITIES

- 6.1 **BEL** shall use its best efforts to construct and commission, at its own cost and expense by not later than February 1, 2017, the Interconnection Facilities from the POI as described in Exhibit 5 (*Description of Interconnection Facilities*).
- 6.2 **BEL** will secure all right-of-ways, permits, environmental approvals, and all other requirements of the construction of the facilities.

7. COMMISSIONING, TESTING AND CAPACITY RATINGS

- 7.1 The **Seller** shall perform the Commissioning Tests of the Facility as per Exhibit 4 (*Testing Requirements for the Biomass Fired Plant*) to demonstrate the capability of the Facility and the Interconnection Facilities.
- 7.2 **BEL** shall at its own cost and expense undertake any equipment upgrades, transmission upgrades or substation modifications reasonably required on the Transmission Grid after the **POI** (on the **BEL** side) to enable the Interconnection Facilities to remain properly connected to the Transmission Grid and to operate from and at any time after the test date.
- 7.3 **BEL** shall at its own cost and expense co-operate with the **Seller** to facilitate the Commissioning Tests including, without limitation, acceptance of the Electrical Energy generated, provision of data and information relating to the Transmission Grid and other such support services which may be reasonably required or desirable to enable the **Seller** to perform the Commissioning Tests.
- 7.4 The procedures and programme for the Commissioning Tests shall be in accordance with recognized international standards and Prudent Utility Practice appropriate to the Facility, and shall be agreed by the Committee of Operation not later than forty-five (45) days prior to the test date. **BEL** shall nominate an appropriately qualified representative to be present at the appropriate times to witness the Commissioning Tests.
- 7.5 At the same time as agreeing the procedures and programme for the Commissioning Tests, the Committee of Operation shall agree on the appropriate procedures and acceptance criteria such that acceptance or rejection in whole or in part of the Commissioning Tests is to be determined objectively and automatically. Any rejected parts of the Commissioning Tests shall be repeated until the acceptance criteria have been met.

8. CONTINUITY OF SERVICE AND SYSTEM SAFETY

- 8.1 **BEL** may require the **Seller** to temporarily curtail, interrupt or reduce deliveries of Energy, or where necessary to disconnect the **Seller's** Facility from **BEL's** system. Subject to the August 2, 2016 PUC Recommendations (Exhibit 11), **BEL** is permitted to curtail for justifiable non-technical reasons up to a maximum of five (5) accumulated days. In addition **BEL** is permitted to curtail for technical reasons, including but not limited to the following:
- (a) in order for **BEL** to interconnect following construction, install, maintain, repair, replace, remove, investigate, test or inspect any of its equipment or any part of its system including, but not limited to, accommodating the installation of non-utility owned facilities to its system; or
 - (b) because of a system emergency, forced outage, operating conditions on its system; or
 - (c) if either the **Seller's** Facility does not operate in compliance with Prudent Utility Practice or acceptance of Energy from the **Seller** by **BEL** would require **BEL** to operate **BEL's** system outside of Prudent Utility Practice which in this case shall include, but not be limited to, excessive system frequency fluctuations or excessive voltage deviations, and any situation that **BEL's** System Operator determines, at his or her sole discretion using Prudent Utility Practice, could place in jeopardy system reliability; or
 - (d) if at any time **BEL** reasonably determines that the continued operation of the **Seller's** Facility may endanger **BEL's** personnel, and/or may endanger the integrity of **BEL's** system or have an adverse effect on **BEL's** other customers' electricity service.
- 8.2 When a curtailment control signal (or instruction) is received by the **Seller's** Facility, the corresponding action (e.g., decrease in **Seller's** Facility's output) shall be initiated without delay. **BEL** shall send curtailment control signals (or instructions) to the **Seller's** Facility during a one minute period, which corresponds to a ramp rate not to exceed the unit ramp rate parameters established in Exhibit 3. Unless agreed in writing by both **Parties**, the curtailment signals (or instructions) will consist of raise and lower signals. Further curtailment may be implemented if conditions warrant and **BEL's** System Operator deems it necessary. The **Seller** shall not override **BEL's** curtailment. As conditions warrant, **BEL** shall end or reduce the curtailment when it is reasonably determined that the reason for the curtailment is no longer in existence. **BEL's** System Operator shall end or reduce the curtailment by sending raise control signals to the **Seller's** Facility through the Control System Interface. **Seller** may request that **Seller's**

Facility be restored no sooner than one hour after **BEL** has curtailed the **Seller's** Facility.

- 8.3 If a Control System Interface is unavailable, the **Seller** must be able to respond to verbal instructions by **BEL's** system operator, in the language mutually agreed between **BEL** and the **Seller**, and execute these instructions within the timeframe requested by **BEL**.
- 8.4 Where **BEL** finds it necessary to curtail or disconnect the **Seller's** Facility from **BEL's** System for personnel or system safety reasons, it shall as soon as practicable notify the **Seller** and thereafter confirm in writing the reasons for the curtailment or disconnection.
- 8.5 In keeping with **BEL's** rights and obligations as herein set forth the **Seller** must separate from **BEL's** System whenever requested to do so by **BEL's** System Operator according to this agreement. The **Seller's** Facility shall remain curtailed or disconnected, as the case may be, until such time as **BEL** is satisfied that the condition(s) referred to above have been corrected. Under no circumstances shall the **Seller**, when separated from **BEL's** System for any reason, reclose into **BEL's** System without first obtaining specific approval to do so from **BEL's** System Operator according to relevant provisions in the agreement.
- 8.6 In the event that **BEL** temporarily curtails, interrupts, or reduces deliveries of Energy or disconnects from the **Seller's** Facility pursuant to this Article, **BEL** shall not be obligated to accept or pay for any Energy from the **Seller** during such curtailment, interruption or reduction in delivery of Energy.
- 8.7 **BEL** shall take all reasonable steps to minimize the number and duration of curtailments, interruptions or reductions as per the approved guidelines of the Committee of Operations. **BEL's** performance against the guidelines will be reviewed quarterly by the Committee of Operations.
- 8.8 Logs shall be kept by the **Seller** for information on unit availability including reasons for planned and forced outages, circuit breaker trip operations and relay operations, including target initiation and other unusual events. **BEL** shall have the right to review these logs, especially in analyzing system disturbances. **Seller** shall maintain such records for a period of not less than thirty-six (36) months.

9. MAINTENANCE AND OPERATION OF THE FACILITY

9.1 Permits; Compliance with Laws.

- 9.1.1 The **Seller** shall, at its own cost and expense, acquire and maintain in effect, in accordance with applicable Law, any Governmental Approvals which the

Seller requires from time to time (i) for the operation and maintenance of the Facility and (ii) for the **Seller** to perform its obligations, in each case in accordance with this Agreement.

- 9.1.2 **BEL** shall use its best efforts to support the application by the **Seller** for such Governmental Approvals, and shall use its best efforts to assist with the procurement of such Governmental Approvals.
- 9.1.3 The **Seller** shall, at all times, comply in all material respects with all material Laws and Governmental Approvals applicable to it, the Facility and the generation of Electrical Energy, including all applicable environmental Laws in effect at any time during the Term.
- 9.1.4 The **Seller** shall promptly, and at its own expense, execute and deliver all such documents and do all such things as may from time to time be required for the purpose of giving full effect to its obligations under the provisions of this Article 9, including but not limited to the requisite annual and other filings under the Companies Act.
- 9.1.5 The **Seller** shall provide **BEL** with any information, certificate, filing or other documentation confirming or evidencing its compliance with its obligations as **BEL** may reasonably request.
- 9.1.6 **BEL** shall at all times, comply in all material respects with all Laws and, at its expense, acquire and maintain in effect any and all Governmental Approvals which may be necessary from time to time for **BEL** to perform its obligations under this Agreement.

9.2 **Committee of Operation.**

- 9.2.1 A Committee of Operation consisting of four persons shall be formed within forty-five (45) days of the Execution Date. Such Committee of Operation shall be comprised of an equal number of representatives of each of **BEL** and the **Seller** (each a “**Representative**”). Each **Party** shall delegate to its Representative(s) authority to agree procedures and technical issues in respect of the operation and maintenance of the Facility and the Interconnection Facilities.
- 9.2.2 Any and all procedures and technical issues to be agreed by the Committee of Operation shall be in accordance with, and shall not conflict with, this Agreement. The Committee of Operation shall have no authority to waive, alter or amend any provision of this Agreement.

- 9.2.3 The Committee of Operation shall meet one month prior to the beginning of the milling period, and at least two other occasions in each Contract Year, at times to be agreed between the **Parties**. Any and all costs incurred by a **Party** in respect of such meetings shall be borne by the **Party** which has incurred them. The decisions of, and any procedures agreed by the Committee of Operation shall be recorded in writing, and shall be verified, signed, on behalf of each **Party** by one Representative of such **Party** and submitted to the address for serving Notices in Article 26.
- 9.2.4 The Committee of Operation shall develop and agree on written Operating Procedures and Emergency Procedures not later than thirty (30) days before the Scheduled Commercial Operation Date. The Operating Procedures shall take into account the design of the Facility, the requirements of the Factory during the milling period, the Transmission Grid and the requirements of any Governmental Authorities. Topics covered in the Operating Procedures shall include, without limitation, the method for day-to-day communications, key personnel lists for both **Seller** and **BEL**, failure reporting, outage reporting and scheduling, Dispatch Instructions, forms of monthly capacity reports, daily capacity reports and Energy reports, unit operations logs to be maintained, clearances and switching practices.
- 9.2.5 The **Parties** agree to implement in good faith from time to time any changes to the Operating Procedures and Emergency procedures reasonably required by either **Party**. Any changes to the Operating Procedures and Emergency Procedures must be accepted and ratified by the Committee of Operation at a regularly scheduled meeting or a meeting called specifically to facilitate such ratifications.
- 9.3 **Operating Procedures**
- 9.3.1 The **Parties** agree to implement in good faith any changes to the Dispatch Procedures which may be agreed by the Committee of Operation from time to time.
- 9.3.2 The **Seller** shall operate the Facility and **BEL** shall operate the Interconnection Facility and the Transmission Grid such that, subject to Prudent Utility Practice, Net Energy Output delivered by the **Seller** is as close as possible to the Net Energy Output indicated in a Dispatch Instruction issued in accordance with this Agreement.
- 9.3.3 The Operational and Emergency Procedures, upon agreement of the **Parties** and approval of the **PUC**, shall form part of this PPA (Exhibit 10).

9.4 **Performance Standards**

9.4.1 **Operating limits**

BEL acknowledges that the **Seller** will not be required to exceed or surpass the operating capacity of any machinery equipment or facility beyond its manufacturers prescribed limits.

9.4.2 **Voltage regulation**

The **Seller** shall regulate the voltage at the Point of Interconnection to a voltage specified by **BEL's** System Operator. The power factor at which Energy is to be delivered by the **Seller** to **BEL** shall be adjustable and adjusted as necessary, within the limits of the reactive power range specified below (9.4.3.3), to maintain voltage at the specified level, but in no event shall the voltage deviate more than 0.5% from the voltage specified by **BEL's** System Operator. The design for the voltage regulation will be reviewed and approved by **BEL** from time to time.

9.4.3 **Reactive Amount**

9.4.3.1 The **Seller** shall install sufficient equipment to have the ability to deliver or absorb reactive power to and from **BEL**.

9.4.3.2 The **Seller** shall operate and control its Facility within the Operating Limits and the Transmission Grid Code in Exhibit 2 (to provide reactive power in accordance with the Dispatch Instructions).

9.4.3.3 **BEL's** dispatchers may request from time to time that the **Seller** generate or absorb reactive power such that the power factor could range between 0.90 and -0.90 at a response speed to achieve no less than 90% of its final value within 1 second following a step change in voltage to provide support to the system to maintain stability.

9.4.3.4 The **Seller** shall, when requested by **BEL**, alter its generation to operate within a requested power factor outside of the prescribed range in 9.4.3.3 for short time durations as long as the security of the **Seller's** system is not negatively impacted.

9.4.3.5 If the **Seller's** Facility does not operate in accordance with Article 9.4.2, **BEL** may disconnect all or part of the **Seller's** Facility from the System until the **Seller** corrects its operation.

9.4.3.6 The **Seller** shall not be compensated for such operating changes.

9.4.4 **Forecasting**

- 9.4.4.1 For **BEL's** planning purposes, **Seller** shall, by December 1 of each year during the Term of the Contract (except for the last year of the term), provide a forecast of each month's average-day Energy production from the facility, by hour, for the following calendar year. This forecast (i) shall include the expected range of uncertainty based on historical operating experience, and (ii) shall be updated on a monthly basis by notice given to **BEL** at least six Business Days before the first Business Day of each month.
- 9.4.4.2 By 0900 Belize time on the Business Day immediately preceding the day on which Energy from the Facility is to be delivered, **Seller** shall provide **BEL** with an hourly forecast of deliveries for each hour of the next day. **Seller** shall update a forecast any time information becomes available indicating a change in the forecast of generation of Net Energy Output from the then current forecast; provided, however, that **Seller** shall not be required to update such forecasts more frequently than once per hour.
- 9.4.4.3 In order to make **Seller's** forecasts as accurate as possible, **Seller** will install and maintain appropriate equipment for that purpose.
- 9.4.4.4 When **Seller** learns that any of its equipment will be taken out of service or will be returned to service which may affect its delivery of Energy to **BEL**, **Seller** shall notify **BEL** as soon as practicable, and in any event, no later than the daily forecasts required by Article 9.4.4.2 above. This requirement to notify shall include, but not be limited to, notice to **BEL** of **Seller's** intention to start up or shut down any turbines. Any start-up or shut-down must be coordinated with **BEL** in advance to the extent practicable to allow a reasonable amount of time for **BEL** to make generation adjustments required by the additional Energy resulting from a turbine start-up or the loss of Energy from a turbine shut-down.
- 9.4.4.5 The forecasts provided for in this Contract shall be non-binding, good faith estimates only, and shall be substantially in the form reasonably requested by **BEL**.

9.5 **Operating Standards**

- 9.5.1 **Compliance by the Seller**. The **Seller** shall, and shall ensure that its employees, agents and representatives shall, use best efforts to operate, maintain and manage

the Facility in accordance with (a) this Agreement, (b) the Operating Limits, (c) Prudent Utility Practice, (d) the Operating Procedures, (e) the Transmission Grid Code, (f) any applicable Governmental Approvals and Laws, including but not limited to the Act as amended from time to time and any environmental guidelines, occupational health and safety standards and (g) any applicable maintenance and repair guidelines.

9.5.2 **Compliance by the BEL.** **BEL** shall, and shall ensure that its employees, agents and representatives shall, use best efforts to operate, maintain and manage the Interconnection Facilities in accordance with (a) this Agreement, (b) Prudent Utility Practice, (c) the Transmission Grid Code, (d) any applicable Governmental Approvals and Laws, including but not limited to the Act as amended from time to time and any environmental guidelines, occupational health and safety standards and (e) any applicable maintenance and repair guidelines.

9.5.3 **BEL** shall operate the Transmission Grid in accordance with Prudent Utility Practice and within the operating parameters defined in Exhibit 2 (*Transmission Grid Code*) and Exhibit 10 (*Operating Procedures and Emergency Procedures*) when the latter is agreed, completed and approved. Furthermore, **BEL** will seek to procure that other generating entities that supply Electrical Energy to the Transmission Grid shall conduct their operations substantially in accordance with the Transmission Grid Code or otherwise in a manner which does not materially conflict with any right of the **Seller** under this Agreement or in respect of the transactions contemplated by this Agreement.

9.6 **Personnel**

9.6.1 The **Seller** shall employ only personnel (management, supervisory or otherwise) who are qualified and experienced in (i) operating and maintaining facilities similar to the Facility and (ii) coordinating operation of the Facility with the Transmission Grid. The **Seller** shall ensure that sufficient personnel is available at all times during operation of the Facility.

9.7 **Licenses**

9.7.1 **BEL** and the **Seller** shall at all times comply with their respective Licenses and shall use their best efforts to ensure that such Licenses are renewed or extended to a date which falls after the expiry of the Term and each shall disclose to the other **Party** all information which is available to it and which relates or might be relevant to the Facility, the Interconnection Facilities, the transactions contemplated by, or any right of the **Parties** under, this Agreement.

10. OUTAGES AND EMERGENCIES

The Committee of Operations shall ensure that Scheduled Downtime and Maintenance Downtime are scheduled so as to minimise disruption on **BEL's** system and to the operation of the Facility.

10.1 Scheduled Downtime

10.1.1 In consideration of the limited duration of the Production Period the **Seller** shall use its best endeavours to eliminate Scheduled Downtime during the agreed Production Period.

10.1.2 **BEL** shall coordinate the maintenance programmes for the Interconnection Facilities with Scheduled Downtimes so as to minimise any disruption to the operation of the Facility. The Committee of Operation shall coordinate and agree on the scheduling of all such maintenance programmes and Scheduled Downtimes.

10.2 Maintenance Downtime

10.2.1 In addition to Scheduled Downtime, the **Seller** may schedule additional hours of Maintenance Downtime provided that the **Seller** must deliver to **BEL**, as soon as reasonably possible but in any event not later than twenty-four (24) hours prior to commencement of a proposed Maintenance Downtime, written notice of the reason for the maintenance, the start time and the anticipated duration of the Maintenance Downtime.

10.3 Forced Downtime

10.3.1 Promptly upon the occurrence of a Forced Downtime, the **Seller** shall notify **BEL's** System Operator thereof.

10.3.2 If such Forced Downtime is continuing forty-eight (48) hours after it first occurred, the **Seller** shall deliver to **BEL** a written notice describing, to the extent that it is aware thereof

- (i) the nature and cause of the Forced Downtime,
- (ii) the expected restoration date or time; and
- (iii) the measures being implemented to remedy the cause of that Forced Downtime.

10.4 Emergencies

- 10.4.1 The Committee of Operation will agree to written procedures for operating the Facility during an Emergency consistent with the Design Limits, Permit Limits and safe operation of the Facility. Such Emergency procedures will be included in Exhibit 10 to this Agreement (*Operating Procedures and Emergency Procedures*) and will include recovery procedures following a local or widespread electrical blackout and voltage reduction procedures in order to effect load curtailment. Each of the **Seller** and **BEL** shall use their best efforts to comply with such procedures in the event of an Emergency.
- 10.4.2 During an Emergency, the **Seller** may supply such electrical power as the Facility is able to generate and **BEL** is able to receive, and which is in excess of the Contract Capacity as defined in Article 2.6, in accordance with Prudent Utility Practice and within the Operating Limits.
- 10.4.3 During an Emergency, the **Seller**, if requested, will use its best efforts to reduce its processing and increase the available Energy to be sold to **BEL** in order to prevent or reduce the potential for system failure. This reduction in operation will not be longer than two hours. The Committee of Operation will develop written procedures and a cost recovery mechanism, subject to the approval of the **PUC**, in favour of the **Seller** for this emergency.

11. FORCE MAJEURE EVENT

- 11.1 Except as expressly provided in this Agreement, neither **Party** claiming the existence of a Force Majeure Event (the “Claiming Party”) shall be in breach of its obligations under this Agreement or be otherwise liable to the other **Party** (the “Non-Claiming Party”) for any delay in performance or any non-performance of any such obligations if and to the extent that such delay or non-performance is due to a Force Majeure Event **provided that**:
- (a) the Claiming **Party** could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all matters known to it before the occurrence of the Force Majeure Event and all other relevant factors, it ought reasonably to have taken but did not take and such Force Majeure Event was beyond the reasonable control of the Claiming **Party**; and
 - (b) the Claiming **Party** has used reasonable efforts to mitigate the effect of the Force Majeure Event and remedy any inability to perform its obligations under this Agreement due to such Force Majeure Event provided that the Claiming **Party** shall not be obliged to take any such steps if the Facility is no longer

economically viable or technically viable due to, or as a direct or indirect result of, such Force Majeure Event.

11.2 A “**Force Majeure Event**” shall be defined as any event or circumstance or combination of events or circumstances beyond the control of the Claiming **Party** and which materially and adversely affects the Claiming **Party** in the performance of its obligations in accordance with the terms of this Agreement, such events and circumstances to include, without limitation:

- (a) flood, earthquake, tornado, hurricane, storm, fire, civil disobedience, labour disputes (other than between the Claiming **Party** and its employees), sabotage, war, drought;
- (b) restraint by court order or public authority (whether valid or invalid) not resulting from any improper or illegal action or inaction of the Claiming **Party**;
- (c) any action or failure to act on the part of a Government Authority not resulting from any improper or illegal action or inaction of the Claiming **Party**; or
- (d) the inability to obtain or renew required Governmental Approvals not resulting from any failure by the Claiming **Party** to comply with the terms of such Governmental Approvals, pay the prescribed fee therefor or fill out the prescribed application therefor.

11.3 The Claiming **Party** shall notify the Non-Claiming **Party** in writing of the occurrence of a Force Majeure Event as soon as reasonably possible, and in any event within forty-eight (48) hours after the Claiming **Party** knew, or ought reasonably to have known, of its occurrence and that the Force Majeure Event would be likely to have an impact on the performance of its obligations under this Agreement. Any notice pursuant to this Article shall set out full particulars of:

- (a) the nature of each Force Majeure Event which is the subject of any claim for relief;
- (b) the effect which such Force Majeure Event is having or had on the Claiming **Party’s** performance of its obligations hereunder;
- (c) the measures which the Claiming **Party** is taking, or proposes to take, to mitigate the impact of each Force Majeure Event;
- (d) the expected duration of the Force Majeure Event (if known); and
- (e) any other information relevant to the Claiming **Party’s** claim.

- 11.4 For so long as the Claiming **Party** continues to claim to be affected by a Force Majeure Event, it shall provide the Non-Claiming **Party** with regular (and not less than monthly) written reports containing:
- (a) the information required by Article 11.3 and
 - (b) such other information and evidence as the Non-Claiming **Party** may reasonably request concerning the Claiming **Party's** claim.
- 11.5 The Claiming **Party** shall promptly notify the Non-Claiming **Party** in writing when any Force Majeure Event ceases or when there is a material change in its impact on the Claiming **Party's** performance of its obligations under this Agreement.
- 11.6 Upon the occurrence of a Force Majeure Event, the time for the performance of obligations under this Agreement by the Claiming **Party** shall be extended to the extent reasonably necessary to compensate for the delay experienced by that Claiming **Party** provided that:
- (a) the performance by the Claiming **Party** of its obligations hereunder is resumed promptly upon the cessation of such Force Majeure Event;
 - (b) Claiming **Party** uses its best efforts to perform its obligations hereunder notwithstanding that such Force Majeure Event is continuing provided that nothing herein shall be construed so as to require the **Seller** to deliver Electrical Energy to **BEL** by oil firing of the Facility if that Force Majeure Event has resulted in (i) Bagasse not being available or being available but in insufficient quantities to generate Electrical Energy in excess of Energy Allocation for Facility and Factory or (ii) the **Seller** otherwise being unable to use Bagasse to generate Electrical Energy in excess of Energy Allocation for Facility and Factory; and
 - (c) the Force Majeure Event was not caused by, or the result of (i) any negligent acts or wilful misconduct on the part of the Claiming **Party**; (ii) any failure by the Claiming **Party** to comply with any Law; or (iii) any breach or default by the Claiming **Party** of any term of this Agreement.
- 11.7 If a Force Majeure Event causes a breakdown of communications such that a **Party** is unable to serve notice under this Agreement, the period for the serving of such notice shall be extended for every day whilst such Force Majeure Event prevents the service of such notice.
- 11.8 Subject to Article 11.10 in the event that one or more consecutive Force Majeure Events delays or prevents a **Party's** performance for a period in aggregate exceeding ninety (90) days and provided that the Claiming **Party** is not responsible for the occurrence or continuation of such Force Majeure Event(s), the Term shall be

extended by a period equal to the duration or the aggregate of the durations of such Force Majeure Event(s) subject to the following conditions:

- (a) the performance by the Claiming **Party** of its obligations hereunder is resumed promptly upon the cessation of each Force Majeure Event; and
- (b) If the Claiming **Party** is the **Seller**, the Term shall be extended only to the extent that the **Seller** has not received payment or insurance proceeds in an amount equal to the full revenue which would have been received by it from **BEL** in the absence of such Force Majeure Event(s).

11.9 Notwithstanding anything to the contrary contained in this Agreement, the **Seller** shall never be required to control and/or operate the Facility in a manner which (i) is inconsistent with the Permit Limits or Design Limits, (ii) might reasonably be expected to cause damage to the Facility or the Factory or (iii) may cause physical injury to any individual.

11.10 If a Force Majeure Event persists for a continuous period of at least 180 Days or if the duration of a Force Majeure Event is reasonably estimated by the Claiming **Party** to be at least 180 Days, then the Non Claiming **Party** shall have the right, but not the obligation, to terminate this Agreement by giving notice of termination to the Claiming **Party**. For purposes of this Article 11.10, if the period between the end of one Force Majeure Event and the commencement of another Force Majeure Event is less than 30 Days, the period of Force Majeure shall be deemed to be continuous, but the time between the Force Majeure periods shall not be counted in determining the 180-Day period required before termination hereunder is allowed.

12. ADMINISTRATION

12.1 Books, Records and Information.

12.1.1 Each **Party** shall keep proper books of record and account, in which full and correct entries shall be made of all dealings and transactions of, or in relation to, its business and affairs in accordance with generally accepted accounting principles in Belize and consistently applied.

12.1.2 All such records shall be maintained for a minimum of seven (7) years after the creation of such records and for any additional length of time required by applicable Law.

12.1.3 The **Seller** shall maintain accurate and up-to-date operating logs and work order history, as appropriate, at the Facility with records of real and reactive power production for each clock hour, changes in operating status, Scheduled

Outages, Maintenance Outages, Forced Outages and any unusual conditions found during inspections. The **Seller** shall require that all major equipment inspections be recorded with a reasonable amount of detail and consistent with Prudent Utility Practice. Operating logs for the plant shall be maintained throughout the life of the plant.

12.1.4 **BEL** may require periodic reviews of the **Seller's** Facility, maintenance records, available operating procedures and policies, and relay settings, and **Seller** shall implement changes **BEL** deems necessary for parallel operation or to protect **BEL's** System from damages resulting from the parallel operation of the **Seller's** Facility with **BEL's** System.

13. ELECTRIC METERING

13.1 Ownership of Meters

13.1.1 **BEL** shall own and maintain the Energy Metering Facilities. **BEL** shall purchase and own meters suitable for measuring the Net Energy Output of the **Seller's** Facility sold to **BEL** in kilowatts and kilowatthours on a time-of-day basis and of reactive power flow in kilovars and true root mean square kilovarhours. The metering point shall be at the Point of Interconnection. The **Seller** shall supply, at no expense to **BEL**, a mutually agreeable location and mounting structure for meters and associated equipment. **BEL** will calibrate these devices in accordance with the latest edition of the American National Standards Institute (ANSI) Code for Electricity Metering. **BEL** shall install, maintain and annually test such meters and shall be reimbursed by **Seller** for all reasonably incurred costs for such installation, maintenance and testing work.

13.1.2 The **Seller** shall own and maintain the Check Meter Facilities and the SS Electrical Energy Metering Facilities.

13.2 Meter Usage Testing, Inspection and Correction

13.2.1 The Energy Metering Facilities shall be used to determine the Net Energy Output delivered by the **Seller** to **BEL** at the Delivery Point.

13.2.2 The Check Metering Facilities shall be used to check the accuracy of the Energy Metering Facilities and to provide back-up metering facilities in the event of faults occurring in the Energy Metering Facilities.

13.2.3 Each **Party** will notify the other and the **PUC** when the meters are to be inspected, calibrated, tested or adjusted, giving not less than seven (7) days

prior written notice thereof. Calibration and testing shall be carried out at least once per calendar year and from time to time as may be required by either **Party** at any time following the occurrence of any discrepancy between the Energy Metering Facilities and the Check Metering Facilities. The other **Party** shall be entitled to have a representative present and to receive copies of all test and calibration reports.

- 13.2.4 If any test of any metering equipment conducted by the **Party** indicates that the meter readings are in error by one percent (1%) or more, the meter readings shall be corrected as follows: (i) determine the error by testing the meter at approximately ten percent (10%) of the rated current (test amperes) specified for the meter; (ii) determine the error by testing the meter at approximately one hundred percent (100%) of the rated current (test amperes) specified for the meter; (iii) the average meter error shall then be computed as the sum of one-fifth (1/5) the error determined in (i) and four-fifths (4/5) the error determined in (ii).

13.3 **Billing Corrections**

- 13.3.1 If, at any time and in relation to any Relevant Period (as defined below), either **Party** (acting reasonably) determines that the Energy Metering Facilities have not registered the true amount of Net Energy Output which was delivered by the **Seller** to the Delivery Point during that Relevant Period, such Net Energy Output shall be determined by the Committee of Operation, utilizing the average meter error determined according to Article 13.2.4.
- 13.3.2 The average meter error shall be used to adjust the bills for the amount of electric Energy supplied to **BEL** for the previous six (6) months from the **Seller's** Facility, unless records of meter readings conclusively establish that such error existed for a greater or lesser period, in which case the correction shall cover such actual period of error. The Committee of Operation shall determine (i) the Relevant Period and (ii) the amount of any balancing payments due from **BEL** to the **Seller** or from the **Seller** to **BEL** (as the case may be) in respect of that Relevant Period utilizing the average meter error determined according to Article 13.2.4.
- 13.3.3 “**Relevant Period**” means (i) (if the actual period can be determined by the Committee of Operation) the actual period during which different amounts of Net Energy Output were registered by the Energy Metering Facilities and the Check Metering Facilities or (ii) (if the actual period cannot be determined by the Committee of Operation) a period equal to one-half (1/2) of the time elapsed since the most recent test of the Energy Metering Facilities provided that a Relevant Period under paragraph (ii) shall not at any time exceed twelve (12) Months.

13.3.4 The **Parties** shall furnish in a reasonable time period, reports on all testing results and any Relevant Period and balancing payments due pursuant to this Article to the **PUC**.

13.4 **Meter Repair**

If either **Party** discovers that any component of the Energy Metering Facilities or the Check Metering Facilities is found to be outside acceptable limits of accuracy or is otherwise not functioning properly, it shall immediately notify the other **Party** thereof and (in the case of the Energy Metering Facilities) **BEL** and (in the case of the Check Metering Facilities) the **Seller** shall forthwith repair, recalibrate or replace such component (as required) and shall notify the other **Party** promptly upon the completion of any examination, maintenance, repair, recalibration or replacement thereof.

14. **ACCESS AND NON-INTERFERENCE**

- 14.1 The **Seller** hereby grants, and shall procure that the Factory shall grant to **BEL** (including **BEL's** duly authorized agents and representatives) a right of access, at reasonable hours (and, in an emergency, immediately upon request) to the Facility in order to construct, install, operate, maintain, repair, replace, inspect and remove **BEL's** equipment and facilities consistent with **BEL's** obligations and rights under this Agreement provided that such right of access shall not interfere with the **Seller's** rights of ownership and operation of the Facility.
- 14.2 **BEL** shall ensure that, during periods of access to the Facility or the Factory, **BEL's** personnel and/or agents shall at all times comply with health, safety and security rules or regulations applicable in respect of the Facility and/or the Factory (as the case may be) and the **Seller** shall not be liable for any loss or damage to any Person which results (directly or indirectly) from any failure by **BEL's** personnel and/or agents so to comply provided nonetheless that the **Seller** shall take reasonable steps to post by means of a notice in a conspicuous manner and shall provide to **BEL's** representatives a copy of the applicable safety and security rules or regulations.
- 14.3 The **Seller** shall, at the request and sole cost and expense of **BEL**, execute such documents as may reasonably be required formally to record such right of access to **BEL**.

15. PAYMENT AND BILLING

15.1 Delivery and Form of Invoice

15.1.1 On or after the tenth (10) day of each calendar month following a Billing Period, the **Seller** shall deliver to **BEL** a detailed written invoice in respect of Net Energy Output for the Billing Period most recently ended. Each invoice shall specify amounts owed by **BEL** to the **Seller** and, if applicable, amounts owed by **Seller** to **BEL**.

15.1.2 Each original invoice shall be in paper format and the **Seller** shall provide an electronic copy of each such invoice (in the original software file format with all formulae and calculations attached).

15.1.3 Each invoice shall be in a form agreed by the Committee of Operation from time to time and shall include the amount which is owing by **BEL** to the **Seller** and a calculation of the following:

- (a) payments for Net Energy Output associated with Available Capacity during the relevant Billing Period calculated in accordance with Article 16 (Price/Compensation);
- (b) any adjustments in respect of any corrections associated with the average meter error;
- (c) any other amounts owed by **BEL** to the **Seller**;
- (d) any amounts owed by the **Seller** to **BEL** in respect of Electrical Energy supplied by **BEL** to the Factory through the **Seller**; and
- (e) any other amounts owed by the **Seller** to **BEL** under or pursuant to this Agreement and which are to be set-off against the amount due from **BEL** to the **Seller** for the applicable Billing Period.

15.2 Payments

15.2.1 **BEL** shall pay the amount specified in the relevant invoice within thirty (30) days of delivery of that invoice by the **Seller** to **BEL**.

15.2.2 Invoices shall be paid in Belize dollars at a rate of 100.8 percent of the amount calculated by applying the approved tariff structure.

15.2.3 If any amounts are owing by the **Seller** to **BEL** under this Agreement and if such amounts are not specified on the relevant invoice, **BEL** may submit to

the **Seller** a separate invoice. Except as otherwise set forth herein, the **Seller** shall pay such invoice within thirty (30) days of delivery of that invoice by **BEL** to the **Seller**.

15.2.4 Default Interest shall accrue with effect from the next business day after the due date and shall be payable in respect of payments due from **BEL** to the **Seller** or from the **Seller** to **BEL**.

15.3 Same Day Funds

Notwithstanding anything contained in this Agreement to the contrary, all payments to be made under this Agreement shall be made by deposit of freely available same day funds to such account as the **Party** receiving such payment shall have specified. If the applicable payment due date is not a Business Day, the payment shall be due on the immediately preceding Business Day.

16. PRICE/COMPENSATION

16.1 Contract Price. **BEL** shall pay the **Seller** for **NEO** as follows:

16.1.1 Phase I only

<u>Supply-kWh</u>	<u>Tariff</u>
0-20,000,000 per Contract Year	\$BZ 0.18 per kWh
Over 20,000,000 per Contract Year	\$BZ 0.10 per kWh

16.1.2 Phase 2

Price/Compensation for Phase 2 is subject to the **PUC** Ruling (Exhibit 9) and shall be determined by the **PUC** according to its prescribed methodology.

17. DISPUTED PAYMENTS

In respect of amounts owing by one **Party** to the other pursuant to this Agreement:

17.1 If a **Party** believes that an invoice is inaccurate, it shall notify the other **Party** thereof within five (5) days of delivery of that invoice and provide details of the alleged inaccuracy. Both **Parties** have the right to withhold that portion of payment in dispute until resolution is reached. The **Parties** shall enter into negotiations with a view to resolving any dispute in accordance with Article 23.1 (*Mutual Discussion*).

Any adjustments to which the **Parties** shall agree shall be made by a credit or an additional charge on the next invoice rendered.

- 17.2 If the **Parties** are unable to resolve the dispute in this manner, the dispute shall be resolved in accordance with Article 23 (*Resolution of Disputes*) provided that (i) any amount (or part thereof) specified on the relevant invoice which is undisputed shall be promptly paid and (ii) any disputed amounts required to be paid as a result of resolution of a dispute shall be paid within ten (10) days after resolution of such dispute and shall be paid together with Default Interest compounded monthly, on that disputed amount from the date the payment should originally have been made until payment is received by the relevant **Party** in freely available funds.
- 17.3 Any payment due hereunder but not made by a **Party** on its due date and not subject to a dispute will incur Default Interest from the time payment was due until the time payment was actually received by the other **Party** provided that such payment shall remain due and payable and this Article 17 shall not be construed as agreement by the other **Party** to any delay or deferral thereof.
- 17.4 **BEL** reserves the right to net amounts previously invoiced and owed to the **Seller** against amounts owed by the **Seller** to **BEL**; however, if there is a dispute over any of the amounts involved, then **BEL** shall not net any amounts that are subject to the dispute.
- 17.5 The **Seller** reserves the right to net amounts previously invoiced and owed to **BEL** against amounts owed by **BEL** to the **Seller**, however, if there is a dispute over any of the amounts involved, then the **Seller** shall not net any amounts without the dispute being resolved.
- 17.6 For certainty, nothing, in this Article shall derogate from or affect any right of set off of either **Party**.

18. EMISSION REDUCTIONS AND RENEWABLE ENERGY CREDITS

BEL and the **Seller** may mutually agree to amend this agreement, with the approval of the **PUC**, to include provisions relating to:

- (a) the right to claim credits in any reporting program established or maintained by any Governmental Agency relating to GHG Emission Reductions;
- (b) the right to register, claim, file or bank GHG Emission Reductions in any registry system established or maintained by any Governmental Agency or nongovernmental organization or entity;

- (c) the right to any form of acknowledgment by any Governmental Agency that actions have been taken by any Person in connection with GHG Emission Reductions that result in the reduction, avoidance, sequestration or mitigation of anthropogenic GHG;
- (d) the right to claim or use GHG Emission Reductions for any and all purposes and in any manner or from whatsoever source now or in the future;
- (e) the right to any form of acknowledgment by a Governmental Agency to claim tradable GHG allowance allocations when those tradable allowance allocations can be:
 - (i) banked for credit in the event of regulation requirement any reduction, avoidance or mitigation of, or compensation for GHG,
 - (ii) claimed for credit against any compliance requirement, or
 - (iii) put to any other sanctioned use;
- (f) the right to any form of acknowledgment by an international agency in respect of GHG Emission Reductions including the right to any acknowledgment that GHG Emission Reductions constitute tradable emission reductions units for the purpose of international rules; and
- (g) the right to any offset of anthropogenic GHG that can be claimed by using GHG Emission reductions.

19. REPRESENTATIONS AND WARRANTIES

19.1 **Representations and Warranties of the Seller.** The **Seller** represents and warrants to **BEL** as of the Execution Date and which is deemed to be repeated as of the Scheduled Commercial Operation Date as follows:

19.1.1 The **Seller** is a corporation duly organized, validly existing and in good standing under the Laws of Belize and the **Seller** has all requisite power and has (or, at the appropriate time therefor, will have) the authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement.

19.1.2 The execution, delivery, and performance of its obligations under this Agreement by the **Seller** do not and shall not:

- (a) violate any provision of any Law, rule, regulation, order, writ, judgment, injunction, decree, determination, Governmental Approval, or award having applicability to the **Seller**, the violation of which could reasonably be expected to have a material adverse

effect on the ability of the **Seller** to perform its obligations under this Agreement;

- (b) result in a breach of, or constitute a default under, any provision of the memorandum and articles of incorporation or by-laws of the **Seller**;
- (c) result in a breach of, or constitute a default under, any agreement relating to the management or affairs of the **Seller**, any indenture, loan or credit agreement or any other agreement, lease or instrument to which the **Seller** is a **Party** or by which the **Seller** or its properties or assets may be bound, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of the **Seller** to perform its obligations under this Agreement; or
- (d) result in, or require the creation or imposition of any mortgage, trust, pledge, charge or other encumbrance of any nature (other than as may be contemplated by this Agreement) upon or with respect to any of the assets or properties of the **Seller** now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of the **Seller** to perform its obligations under this Agreement.

19.1.3 This Agreement constitutes legal, valid, binding and enforceable obligations of the **Seller**, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws applicable to the **Seller** and subject to the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law), including (i) the possible unavailability of specific performance, injunctive relief or any other equitable remedy and (ii) concepts of materiality, reasonableness, good faith and fair dealing.

19.1.4 There is no pending or, to the best of the **Seller's** knowledge, threatened action or proceeding against the **Seller** before any court, Governmental Authority or arbitrator that could reasonably be expected materially and adversely to affect the financial condition or operations of the **Seller** or the ability of the **Seller** to perform its obligations hereunder, or that purports to affect the legality, validity or enforceability of this Agreement.

19.2 **Representations and Warranties of BEL.** **BEL** represents and warrants to the **Seller** as of the Execution Date and deemed to be repeated as of the Scheduled Commercial Operation Date as follows:

- 19.2.1 **BEL** is a corporation, duly organized, validly existing and in good standing under the Laws of Belize and has the full legal right, power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement.
- 19.2.2 The execution, delivery, and performance of its obligations under this Agreement by **BEL** have been duly authorized by all necessary corporate action, and do not and shall not:
- (a) require any consent or approval of **BEL's** board of directors or any shareholder which has not been obtained and each such consent and approval that has been obtained is in full force and effect;
 - (b) violate any provision of any Law, rule, regulation, order, writ, judgment, injunction, decree, determination, Governmental Approval, or award having applicability to **BEL**, the violation of which could reasonably be expected to have a material adverse effect on the ability of **BEL** to perform its obligations under this Agreement;
 - (c) result in a breach of, or constitute a default under, any provision of the memorandum and articles of incorporation or by-laws of **BEL**;
 - (d) result in a breach of, or constitute a default under, any agreement relating to the management or affairs of **BEL** or any indenture or loan or credit agreement or any other agreement, lease, or instrument to which **BEL** is a **Party** or by which **BEL** or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of **BEL** to perform its obligations under this Agreement; or
- 19.2.3 This Agreement constitutes a legal, valid, binding and enforceable obligation of the **BEL**, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws applicable to **BEL** and except as the enforceability of this Agreement is subject to the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law), including (i) the possible unavailability of specific performance, injunctive relief or any other equitable remedy and (ii) concepts of materiality, reasonableness, good faith and fair dealing.
- 19.2.4 There is no pending or, to the best of **BEL's** knowledge, threatened action or proceeding affecting **BEL** before any court, Government Authority or arbitrator that could reasonably be expected materially and adversely to affect the financial condition or operations of **BEL** or the ability of **BEL** to

perform its obligations hereunder, or that purports to affect the legality, validity or enforceability of this Agreement.

20. INSURANCE

20.1 At the **Seller's** own cost and expense, the **Seller** shall purchase and maintain in full force during the Term a policy or policies of liability insurance in amounts that are in line with best industry practice for comparable operators and reasonable given the size of the Facility and the availability of insurance covering the **Seller's** ownership, occupation, and running of the Facility and endorsed to cover the **Seller's** liability obligations in Article 21. The **Seller** shall be responsible for all deductibles. Upon request the **Seller** will provide a certificate of insurance evidencing the coverage required.

21. INDEMNIFICATION AND LIABILITY

21.1 Indemnification

21.1.1 Each **Party** (the "**Indemnifying Party**") shall indemnify, defend and hold the other **Party** (the "**Indemnified Party**") and its officers, directors, partners, Affiliates, agents, employees, contractors and subcontractors harmless from and against any and all Claims, to the extent caused by any negligent act or omission or wilful misconduct of the Indemnifying **Party** or the Indemnifying **Party's** own officers, directors, partners, Affiliates, agents, employees, contractors or subcontractors or to the extent such Claims arise out of, or are in any manner connected with, any breach of this Agreement by such Indemnifying **Party**.

21.1.2 The Indemnified **Party** shall notify the Indemnifying **Party** as soon as reasonably practicable of any such Claims in respect of which it is or may be entitled to indemnification provided however that failure to give such notice shall not relieve the Indemnifying **Party** of its obligations hereunder except to the extent such Indemnifying **Party** is materially prejudiced by such failure. The Indemnifying **Party** shall be entitled, at its option and expense and with counsel of its selection, to assume and control the defence of any such Claims in respect of, resulting from, relating to, or arising out of, any matter for which it is obligated to indemnify the Indemnified **Party** hereunder provided that (i) the Indemnified **Party** at its own expense may participate and appear on an equal footing with the Indemnifying **Party** in the defence of any such Claims, (ii) the Indemnified **Party** may undertake and control such defence in the event of the material failure of the Indemnifying **Party** to undertake and control the same and (iii) the Indemnified **Party** shall not concede or settle or compromise

any Claim without the prior written approval of the Indemnifying **Party** (which approval shall not be unreasonably withheld).

- 21.1.3 If the defendants in respect of any such Claim include both the Indemnifying **Party** and the Indemnified **Party**, and the Indemnified **Party** reasonably concludes that there may be defences available to it and/or other indemnified Persons which are different from or additional to those available to the Indemnifying **Party**, the Indemnified **Party** or other indemnified Persons shall have the right to select separate counsel to assert such legal defences and to otherwise participate in the defence of such action on behalf of such Indemnified **Party** or other indemnified Persons. The Indemnified **Party** shall be entitled to settle or compromise any such Claim without the prior written consent of the Indemnifying **Party** provided that if the Indemnifying **Party** agrees in writing to indemnify the Indemnified **Party**, the Indemnified **Party** may not settle or compromise any such Claim without the consent of the Indemnifying **Party**.
- 21.1.4 If an Indemnified **Party** settles or compromises any Claim in respect of which it would otherwise be entitled to be indemnified by the Indemnifying **Party** without the prior written consent of the Indemnifying **Party** when such consent is required by this Agreement, the Indemnifying **Party** shall be excused from any obligation to indemnify the Indemnified **Party** making such settlement or compromise unless such consent was unreasonably withheld.
- 21.2 **Joint Negligence.** In the event injury or damage results from the joint or concurrent negligent or intentional acts or omissions of the **Parties**, each **Party** shall be liable under this indemnification in proportion to its relative degree of fault.
- 21.3 **Limitations of Liability, Remedies and Damages.** Each **Party** acknowledges and agrees that in no event shall any partner, shareholder, owner, officer, director, employee, or Affiliate of either **Party** be personally liable to the other **Party** for any payments, obligations, or performance due under this Agreement or any breach or failure of performance of either **Party**, and the sole recourse for payment or performance of the obligations under this Agreement shall be against the **Seller** or **BEL** and each of their respective assets and not against any other Person (except for such liability as is expressly assumed by an assignee pursuant to an assignment of this Agreement in accordance with the terms hereof).

22. DEFAULTS AND TERMINATION

22.1 Event of Default

22.1.1 The occurrence of any one of the following events or circumstances shall constitute an Event of Default by **BEL**, unless it is caused by (i) a material breach of this Agreement by the **Seller** or (ii) a Force Majeure Event which is continuing provided that any failure by **BEL** to make a payment hereunder at the time and in the place specified therefor shall constitute a material breach of this Agreement notwithstanding that a Force Majeure Event is continuing:

- (a) **BEL** fails to make payments for amounts due under this Agreement to the **Seller** at the time and in the place specified therefor unless such payment is received by the **Seller** within thirty (30) Business Days after delivery of written demand for such payment from the **Seller**;
- (b) **BEL** fails to comply with any material provision of this Agreement (other than the obligation to pay money when due in accordance with paragraph (a) above), and such failure is continuing for one hundred twenty (120) days after the day on which the **Seller** has delivered written notice thereof to **BEL**;
- (c) **BEL**: (i) admits in writing its inability to pay its debts as such debts become due; (ii) makes a general assignment or an arrangement or composition with or for the benefit of its creditors; or (iii) fails to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it under any bankruptcy or similar Law;
- (d) any proceeding or case is commenced, without the application or consent of **BEL**, in any court of competent jurisdiction, seeking: (i) **BEL**'s liquidation, reorganization of its debts, dissolution or winding-up, or the composition or readjustment of its debts; (ii) the appointment of a receiver, custodian, liquidator or the like of **BEL** or of all or any substantial part of its assets; or (iii) similar relief in respect of **BEL** under any Law relating to bankruptcy, insolvency, reorganization of its debts, winding-up, composition or adjustment of debt provided that it shall not constitute an event of default if such proceeding or case is based on a frivolous and vexatious claim or any other claim in circumstances where such claim is being contested in good faith and by appropriate action and the same, if capable of remedy, is remedied within ninety (90) days from commencement;
- (e) **BEL** makes an assignment in violation of Article 25 (Assignment);

- (f) Any representation made by **BEL** under Article 19.2 (*Representations and Warranties of BEL*) is untrue in any material respect when made.

22.1.2 The occurrence of any one of the following events or circumstances shall constitute an Event of Default by the **Seller**, unless it is caused by (i) a material breach of this Agreement by **BEL** or (ii) a Force Majeure Event which is continuing provided that any failure by the **Seller** to make a payment hereunder at the time and in the place specified therefor shall constitute a material breach of this Agreement notwithstanding that a Force Majeure Event is continuing:

- (a) the **Seller** fails to make payments for amounts due under this Agreement to **BEL** if applicable at the time and in the place specified therefor unless such payment is received by **BEL** within thirty (30) Business Days after delivery of written demand for such payment from **BEL**;
- (b) the **Seller** fails to comply with any material provision of this Agreement (other than the obligation to pay money when due in accordance with paragraph (a) above and those specific breaches for which damages are otherwise specified herein), and such failure is continuing for one hundred twenty (120) days after the day on which **BEL** has delivered written notice thereof to the **Seller**;
- (c) the **Seller**: (i) admits in writing its inability to pay its debts as such debts become due; (ii) makes a general assignment or an arrangement or composition with or for the benefit of its creditors; or (iii) fails to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it under any bankruptcy or similar Law;
- (d) any proceeding or case is commenced, without the application or consent of the **Seller**, in any court of competent jurisdiction, seeking: (i) the **Seller's** liquidation, reorganization of its debts, dissolution or winding-up, or the composition or readjustment of its debts; (ii) the appointment of a receiver, custodian, liquidator or the like of the **Seller** or of all or any substantial part of its assets; or (iii) similar relief in respect of the **Seller** under any Law relating to bankruptcy, insolvency, reorganization of its debts, winding-up, composition or adjustment of debt provided that it shall not constitute an event of default if such proceeding or case is based on a frivolous and vexatious claim or any other claim in circumstances where such claim is being contested in good faith and by appropriate action and the same, if capable of remedy, is remedied within ninety (90) days from commencement;
- (e) the **Seller** shall make an assignment in violation of Article 25 (*Assignment*);

- (f) any representation made by the **Seller** under Article 19.1 (*Representations and Warranties of the Seller*) shall be false in any material respect when made.

22.1.3 **Remedies for Default**

Without prejudice to the non-defaulting **Party's** rights under Article 22.2 (*Termination*), upon the occurrence and during the continuation of an Event of Default, the non-defaulting **Party**, at its election and in addition to such other rights or remedies as the non-defaulting **Party** may have hereunder, at law or in equity, may (but shall not be obliged to) serve notice requiring the defaulting **Party** to demonstrate, to the satisfaction of the non-defaulting **Party**, that reasonable measures have been planned or implemented to remedy such Event of Default.

- 22.1.4 At all times during the continuance of an Event of Default where the **Seller** is the defaulting **Party** and maintains actual possession and control of the Facility, the **Seller** shall use its reasonable efforts to operate and maintain the Facility otherwise in compliance with this Agreement.

- 22.1.5 Subject to any terms and conditions approved by the **PUC** in consultation with **BEL** and the **Seller**, during the continuance of an Event of Default at any time after the day which falls one hundred and eighty (180) days after **BEL** has delivered a notice of Event of Default to the **Seller** or such earlier day as may be agreed between the **Seller** and **BEL**, **BEL** or its designee shall temporarily undertake the operation and maintenance of the Facility to maintain system stability. Subject to the approval of the **PUC**, the **Seller** and **BEL** shall jointly develop a procedure, including evaluation of the qualifications of **BEL's** designee, to fulfil this requirement.

22.2 **Termination**

Upon the occurrence of an Event of Default and subject to the written permission or approval of the **PUC**, the non-defaulting **Party** may serve notice establishing a date (the "**Early Termination Date**") on which this Agreement shall terminate, which date shall be no earlier than thirty (30) Business Days after the non-defaulting **Party** delivers a notice of termination to the defaulting **Party**, and if the defaulting **Party** fails to remedy the default to the reasonable satisfaction of the non-defaulting **Party** within such period of thirty (30) Business Days this Agreement shall terminate on the Early Termination Date.

22.3 Termination Payment

Upon termination established by the Early Termination Date, the non-defaulting **Party** shall, in good faith, calculate its direct termination costs resulting from the termination of this Agreement (the “**Termination Payment**”) and shall notify the defaulting **Party** of the amount of the Termination Payment and, if the defaulting **Party** agrees with that amount, the defaulting **Party** shall pay such Termination Payment, together with any Default Interest that shall accrue from the Early Termination Date until the date the Termination Payment is made, within fifteen (15) Business Days after receipt of such notice. If the defaulting **Party** disputes the non-defaulting **Party**’s calculation of the Termination Payment, the issue shall be decided according to Article 23 (*Resolution of Disputes*), and any Termination Payment determined thereby shall be due and payable within fifteen (15) Business Days after such determination.

22.4 Obligations upon Termination

Upon expiration or termination of this Agreement, the **Parties** shall have no further obligations or liabilities hereunder except for those obligations and liabilities that (a) arose prior to such termination, or (b) expressly survive such termination pursuant to this agreement.

22.5 Continuing Obligations

During the continuance of an Event of Default neither **Party** shall be relieved of any of its obligations or liabilities under this Agreement, including **BEL**’s obligations to take or pay for Net Energy Output until this Agreement is terminated in accordance with Article 22.2 (*Termination*).

23. RESOLUTION OF DISPUTES

23.1 Mutual Discussion

All disputes including any dispute in relation to a failure by the Committee of Operation to reach agreement on any issue shall, to the extent possible, be settled in the first instance through good faith discussions between designated senior officers of the **Parties**. If a dispute cannot be settled by discussions between designated representatives of the **Parties** within thirty (30) days from the commencement of such dispute (which commencement shall be deemed to occur upon delivery of notice from one **Party** to the other of the dispute), the dispute resolution procedure set forth in this Article 23 of this Agreement shall be used to settle the matter.

23.2 Escalation/Arbitration

- 23.2.1 If a dispute cannot be settled in accordance with Article 23.1 (*Mutual Discussion*), such dispute shall be referred to the **PUC**; provided that either **Party** may request that the **PUC** refer the dispute to arbitration under the arbitration laws of Belize as in effect on the date of such referral.
- 23.2.2 The referral to the **PUC** and any request for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after one year from when the aggrieved **Party** knew or should have known of the controversy, claim, dispute or breach.
- 23.2.3 Where the **PUC** agrees to refer the dispute to arbitration under the arbitration laws of Belize as in effect on the date of such referral, the following sections of this Article shall be applicable. In agreeing to refer a dispute to arbitration, the **PUC** may designate a deadline for a resolution to be reached.
- 23.2.4 This agreement to arbitrate shall be specifically enforceable. The arbitration shall be conducted in Belize City.

23.3 Selection of Arbitrators

The matter shall be referred to a panel of arbitrators comprised of a nominee from each **Party** with an Umpire to be selected by the two (2) nominated appointees. Each **Party** shall select an arbitrator within ten (10) days of commencement of the arbitration and the two (2) designated arbitrators shall select the Umpire within twenty (20) days of their selection. If the two (2) arbitrators cannot agree on selection of an Umpire within twenty (20) days of their appointment, the **Parties** shall select the Umpire in accordance with the terms of this agreement. In the event that the **Parties** are unable to select an Umpire then an Umpire shall be appointed by the Supreme Court upon the summary application of the **Parties** or either of them. The Umpire shall preside over the proceedings and in the event of a difference of opinion in the panel the majority decision shall prevail. Subject to the foregoing provisions, the arbitration laws of Belize shall govern the arbitration proceedings.

23.4 Enforcement of Award

- 23.4.1 The arbitrators shall have no authority to award punitive, consequential, special, or indirect damages. The arbitrators shall not be entitled to issue injunctive and other equitable relief. The arbitrators shall award interest from the time of the breach to the time of award at the Default Interest rate.
- 23.4.2 By execution and delivery of this Agreement, each **Party** hereby accepts and consents to the application of the arbitration laws of Belize and the jurisdiction

of the Belize Courts for the purpose of enforcement of any award against itself and its property and waives for itself and in respect of its property, all defences it may have as to or based on jurisdiction, improper venue or *forum non conveniens*. Each **Party** hereby irrevocably consents to the service of process or other papers by the use of any of the methods and to the addresses set out for the giving of notices in Article 26 hereof. Nothing herein shall affect the right of each **Party** to serve such process or papers in any other manner permitted by Law.

23.5 **Performance during Arbitration**

During the pendency of an arbitration, each **Party** shall continue to perform its obligations hereunder (unless such **Party** is otherwise entitled to suspend its performance hereunder or terminate this Agreement in accordance with the terms hereof), and neither **Party** shall refer or attempt to refer the matter in dispute to a court or other tribunal in any jurisdiction, except as provided in this Article 23 (*Resolution of Disputes*).

23.6 **Final and Binding**

Subject to Article 23.7 below and the concurrence of the **PUC**, awards made by the arbitral tribunal shall be final and binding on the **Parties**.

23.7 Notwithstanding Article 23.6 (*Final and Binding*) either **Party** may appeal to the Supreme Court of Belize against the arbitration award (the “**Award**”) within 21 days of the delivery of thereof upon the grounds of either “**Error of Law**” or “**Serious Irregularity**” as defined below:

“**Error of Law**” means an erroneous interpretation or application of a point of Law (or points of Law) which caused the decision to be wrong to the prejudice of the appealing **Party**;

“**Serious Irregularity**” means an irregularity of one or more of the following kinds which the Court considers has caused or will cause substantial injustice to the appellant:

- the tribunal exceeded its powers;
- the tribunal failed to conduct the proceedings in accordance with the procedure agreed by the **Parties**;
- the tribunal failed to deal with all the issues that were put to it;
- the Award is ambiguous or uncertain;
- the Award was obtained by fraud or the way in which it was procured being contrary to public policy;

an irregularity in the conduct of the proceedings or in the Award which is admitted by the tribunal.

23.8 The cost of arbitration shall be borne by the **Party** that loses the arbitration. The Laws of Belize shall govern the validity, interpretation, construction, performance and enforcement of the arbitration provisions contained in this Article 23 (Resolution of Disputes).

23.9 Alternative Resolution

In the event that the provisions of this Article 23 (Resolution of Disputes) are unenforceable and a judicial proceeding is necessary under applicable Law to resolve a dispute, the **Parties** hereby submit to the jurisdiction of the courts of Belize.

24. TRANSFER OF BEL'S OBLIGATIONS TO ITS SUCCESSOR

24.1 Expiration of BEL's License

In the event that **BEL's** License shall expire and not be renewed or shall be revoked and a Successor Company takes over responsibility for operation of the Transmission Grid and supply of Electrical Energy, whether or not such an event shall constitute a Force Majeure Event, **BEL** shall:

- (a) at the requirement of the **PUC**, facilitate the transfer to the Successor Company of the rights and obligations of **BEL** under this Agreement with the exception of any outstanding payment obligations;
- (b) at the requirement of the **PUC** as part of the transfer of the Transmission Grid assets, transfer the ownership to the Successor Company of the Energy Metering Facilities and any other equipment installed by **BEL** either at the Facility or elsewhere to allow Electrical Energy to be dispatched and transmitted from the Facility to the Transmission Grid;
- (c) in the event that a temporary operator is nominated to operate the Transmission Grid prior to the appointment of a Successor Company, allow such temporary operator access to and use of the Interconnection Facilities, Energy Metering Facilities and any other equipment installed by **BEL** either at the Facility or elsewhere to allow Electrical Energy to be Dispatched by the Facility to the Transmission Grid;
- (d) in the event that a Governmental Authority shall take control or ownership of the assets prior to appointment of a Successor Company or for any reason whatsoever, allow access to and use by the Governmental Authority or transfer

ownership to the Governmental Authority as part of the Transmission Grid assets, the Energy Metering Facilities and any other equipment installed by **BEL** either at the Facility or elsewhere to allow Electrical Energy to be dispatched and transmitted from the Facility to the Transmission Grid.

25. **ASSIGNMENT**

25.1 **Right to Assign and Transfer**

25.1.1 The **Seller** may not assign its rights nor transfer its rights and obligations under this Agreement without the prior written consent of **PUC**.

25.1.2 **BEL** shall not assign its rights nor transfer its rights and obligations under this Agreement without the prior written consent of the **PUC**.

26. **NOTICES**

26.1 **Communications in Writing**

Any communication to be made under or in connection with this Agreement shall (unless otherwise stated) be made in writing or other mutually acceptable means and (unless otherwise stated) may be made by fax or letter.

26.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each **Party** for any communication or document to be made or delivered under or in connection with this Agreement is:

In the case of the **Seller**:

Chief Executive Officer
SS Energy Limited
21 San Vincent Street, North Piscini
Belmopan City, Cayo District, Belize
E-mail: jrodriguez@santandersugar.com

With Copy to:
Arguelles and Co.
Attorneys-at-Law, Suite 401, The Matalon
Belize City, Belize
E-mail: belizelawyer@hotmail.com

And

In the case of **BEL**:

Senior Manager of Energy Supply
Belize Electricity Limited
2½ Miles Philip Goldson Highway
Belize City, Belize
Email: ernesto.gomez@bel.com.bz

or any substitute address, e-mail, fax number or department or officer as either **Party** may notify to the other by not less than five (5) Business Days' notice in writing.

26.3 **Delivery**

Any communication or document made or delivered by one **Party** to another under or in connection with this Agreement will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or two (2) Business Days after being deposited in the post postage prepaid and registered in an envelope addressed to it at that address.
- (c) if by way of email, one (1) Business Day after being sent.

27. **MISCELLANEOUS PROVISIONS**

27.1 **Variations in Writing.** All additions, amendments or variations to this Agreement shall be binding only if approved by the **PUC**, be in writing and signed by duly authorised representatives of both **Parties**.

27.2 **Entire Agreement.** This Agreement and all Exhibits thereto together represent the entire agreement between the **Parties** in relation to the subject matter thereof and supersede any and all previous agreements or arrangements between the **Parties** (whether oral or written), provided that the Agreement may be amended by mutual agreement with the approval of the **PUC** or according to any Order or Directive issued on the **Parties** or either **Party** by the **PUC**.

27.3 **Severability.** If any term or provision of this Agreement or the application thereof to any Person or circumstance is held in a final, non-appealable judgment to be illegal, invalid or unenforceable under any present or future applicable Law, (a) such term or provision shall be fully severable, (b) this Agreement shall be construed and enforced

as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance here from.

27.4 **Waivers**

27.4.1 No waiver by either **Party** of any default by the other in the performance of any of the provisions of this Agreement shall (a) operate or be construed as a waiver of any other or further default whether of a like or different character or (b) be effective unless in writing duly executed by an authorised representative of such **Party**.

27.4.2 The failure by either **Party** to insist on any occasion upon the strict performance of the terms, conditions or provisions of this Agreement or any time or other indulgence being granted by one **Party** to the other shall not be construed as a waiver thereof.

27.5 **Confidentiality**

27.5.1 All information (whether written, oral or from visual inspection), hereinafter referred to as the “**Information**,” furnished (whether before or after the Execution Date) by a director, officer, partner, employee, affiliate, controlling person, representative (including financial advisors, attorneys and accountants) or agent of either **Party**, hereinafter referred to as “**Protected Persons**,” to a director, officer, partner, employee, affiliate, controlling person, representative (including financial advisors, attorneys and accountants) or agent of the other **Party** pursuant to this Agreement, shall not be disclosed in any manner by the receiving **Party** to any third **Party** without the prior written consent of the other **Party** and shall be utilized by the receiving **Party** solely in connection with the purposes of this Agreement.

27.5.2 Information shall not include information which (i) is or becomes publicly available other than as a result of disclosure by the receiving **Party**, (ii) is or becomes available to the receiving **Party** from another source which is not prohibited from disclosing such information to the receiving **Party** by a legal, contractual, or fiduciary obligation of a Protected Person and becomes available to the receiving **Party** on a non-confidential basis, (iii) is currently in the possession of the receiving **Party** and is not subject to a confidentiality obligation, or (iv) is required by applicable Law, Regulation or Governmental Approval to be publicly disclosed by the receiving **Party** **provided that**, to the extent reasonably possible, the disclosing **Party** shall give prior notice to the other **Party** of such disclosure and, if so requested by such other **Party**, shall use all reasonable efforts to oppose or resist the required disclosure, as

appropriate under the circumstances, or otherwise to make such disclosure pursuant to a protective order or other similar arrangement for confidentiality.

27.5.3 Notwithstanding the above, either **Party** may reveal Information to actual and prospective Financing **Parties**, actual and prospective equity investors, suppliers and potential suppliers of equipment to the Facility, advisers (including legal advisers), mediators, arbitrators, judges and other third **Parties** if, in the sole opinion of the relevant **Party**, such disclosure may be necessary or desirable in order for that **Party** duly to perform its obligations under this Agreement and/or the Loan Documents so long as such Persons (a) need to know the Information for purposes of evaluating this Agreement or the transactions contemplated thereby, (b) are informed of the confidential nature of the Information and (c) agree to act in accordance with the terms of this Article 27.5 (Confidentiality). If the Information provided to the receiving **Party** is no longer necessary for purposes of this Agreement, the receiving **Party** will, upon request from the other **Party**, promptly destroy all copies of written Information in the receiving **Party's** possession and confirm such destruction in writing to the other **Party**, or return, at the receiving **Party's** expense, all copies of the written Information in the receiving **Party's** possession to the other **Party**.

27.6 **Successors and Assigns**. This Agreement shall inure to the benefit of, and be binding upon, the **Parties** hereto and their respective successors and permitted assigns.

27.7 **Limitation of Liability by a Party**

27.7.1 Notwithstanding any other provision of this Agreement and for the avoidance of any doubt, for breach of any provision of this Agreement for which an express remedy or liquidated damages are provided, such express remedy or liquidated damages shall be the sole and exclusive remedy of the non-breaching **Party** in respect of that breach under this Agreement, at law or in equity and the breaching **Party's** liability shall be limited as set forth in such provision and all other remedies and damages at law or in equity are hereby waived by the non-breaching **Party**.

27.7.2 If no remedy or measure of damages is expressly provided herein, the breaching **Party's** liability shall be limited to direct actual damages. Such direct actual damages shall be the sole and exclusive remedy of the non-breaching **Party** and all other remedies and damages at law or in equity are hereby waived by the non-breaching **Party**. Notwithstanding any other provision herein, neither **Party** shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise.

- 27.7.3 The **Parties** agree that any express remedies and liquidated damages shall be without regard to the cause or causes of any breaches related thereto, including the negligence of any **Party**, whether such negligence be sole, joint or concurrent, active or passive. To the extent liquidated damages are required to be paid hereunder, the **Parties** acknowledge that actual damages are difficult, inconvenient or impossible to determine.
- 27.8 **Third Parties.** This Agreement is intended solely for the benefit of the **Parties**. Nothing in this Agreement shall be construed to create any right, duty or liability in favour of, or standard of care with reference to, any other Person (other than an assignee of any **Party**).
- 27.9 **Headings.** The headings contained in this Agreement are solely for the convenience of the **Parties** and should not be used or relied upon in any manner in the construction or interpretation of this Agreement.
- 27.10 **Survival.** The expiration or termination of this Agreement shall be without prejudice to all rights and obligations of the **Parties** accrued under this Agreement prior to the date of such expiration or termination. For the avoidance of doubt and notwithstanding any other provision of this Agreement, accrued rights and undischarged obligations under this Agreement capable of surviving its termination or expiration shall survive the Agreement, including (without limitation), the rights and obligations set forth in *Articles 1 (Definitions and Interpretation), 4.1 (Term), 21 (Indemnification and Liability), 22 (Defaults and Termination), 23 (Resolution of Disputes), 24 (Transfer of BEL's Obligations to its Successor), 26 (Notices); 27.5 (Confidentiality); 27.7 (Limitation of Liability by a Party); 27.11 (Governing Law).*
- 27.11 **Governing Law.** This Agreement and the rights and obligations of the **Parties** under or pursuant to this Agreement shall be governed by and construed in accordance with the Laws of Belize. The language of this Agreement is the English language. Notwithstanding anything to the contrary herein, this Agreement is particularly subject to the Public Utilities Commission Act and the Electricity Act, as amended from time to time, and any Byelaws or Regulations made by the Minister or the **PUC** with the approval of the Minister, or any relevant Orders or Directives made and issued by the **PUC**; and the **Parties** are further subject to any Licenses granted by the **PUC**.
- 27.12 **Relationship of the Parties.** This Agreement shall not make either of the **Parties** partners or joint ventures one with the other, nor make either the agent of the other. Neither **Party** shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other **Party**.
- 27.13 **Good Faith.** Under this Agreement, each **Party** shall have the duty to act in good faith.

27.14 **Taxes and Change in Law**

27.14.1 In the event that any change in Law following the Execution Date shall increase the costs of financing, operation or maintenance of the Facility to the **Seller** or reduce the revenue to the **Seller**, the **Seller** may apply to the **PUC** or other Governmental Authority responsible for regulation of the electricity tariffs for an upward revision of the Contract Price. Such application shall be accompanied by a fully detailed justification, detailing the impacts of the changes in Law

27.14.2 Variations to the level of personal or corporate taxation implemented by any Government Authority as part of its normal fiscal policy shall not constitute a change in Law. However changes to the application of taxes and duties, introduction of new taxes and duties or changes to the level or application of concessions granted in respect of tax and duty exemptions and other fiscal incentives shall constitute a change in Law.

27.15 **Announcements**. Except as otherwise required by Law, for so long as this Agreement is in effect, neither the **Seller** nor **BEL** shall, nor shall they permit any of their Affiliates to, issue or cause the publication of any press release or other public announcement with respect to the transactions contemplated by this Agreement without the prior written consent of the other **Party**, which consent may be withheld in such **Party's** sole discretion.

IN WITNESS WHEREOF, BEL and the Seller have caused their respective Common Seals to

be hereto affixed on the day and the year first above written.

THE COMMON SEAL of)
BELIZE ELECTRICITY LIMITED)
was hereunto affixed and this instrument)
was delivered in the presence of)

OFFICER

DIRECTOR

WITNESS

THE COMMON SEAL of)
SS ENERGY LIMITED)
was hereunto affixed and this instrument)
was delivered in the presence of)

OFFICER

OFFICER

WITNESS