



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
KINGDOM OF CAMBODIA
Nation Religion King

ក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ
MINISTRY OF ECONOMY AND FINANCE

N^o 002 MEF/.....

Phnom Penh, December 12, 2012

GOVERNMENT GUARANTEE OF PAYMENTS

To: **Hydro Power Lower Sesan 2 Co., Ltd.**

Address : No. 246, Preah Monivong Blvd., Sangkat Boeung Raing, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia.

Facsimile : +855 23 426 415

Attention : Chairman, Hydro Power Lower Sesan 2 Co., Ltd.

We refer to:

- (A) Delegation of Full Power No. 120 D.F.P. dated 13 November 2012 by Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister of the Kingdom of Cambodia. (Please see Attachment 1).
- (B) The Implementation Agreement ("IA") dated 26 November 2012, entered between the Royal Government of Cambodia ("RGC") represented by Minister of Ministry of Industry, Mines and Energy ("MIME") and Hydro Power Lower Sesan 2 Co., Ltd. (the "Company").
- (C) ELECTRICITÉ DU CAMBODGE, a wholly state-owned limited liability enterprise incorporated by Royal Decree No. CHS/RD/0396/10 of the RGC dated 9 March 1996, with its principal office located at Street 19, Wat Phnom, Daun Penh District, Phnom Penh, in the Kingdom of Cambodia, including its successors and permitted assignees ("EDC") has entered into a Power Purchase Agreement ("PPA") with the Company dated 26 November 2012.
- (D) The Royal Government of Cambodia agreed to provide: (i) a guarantee on power purchase in the event of non-payment by EDC, and (ii) a guarantee on the payment on the termination in accordance with the PPA and/or IA and in the event that the Company is unable to operate the Project arising from the Political Force Majeure Events.
- (E) It is a requirement of the Implementation Agreement in accordance with its Section 5.3, the Minister of Economy and Finance on behalf of Royal Government of Cambodia (the "Guarantor") has agreed to enter into this Guarantee of the payment obligations of EDC/MIME under the PPA and IA.

We hereby guarantee that:

1. The Guarantor hereby irrevocably and unconditionally guarantees and promises to pay to the Company any and every sum of money which is due and owed by MIME or EDC to Company under the IA or PPA that MIME or EDC has failed to pay in accordance with the terms of the IA or PPA (the "Guarantee").
 2. This Guarantee shall be a continuing security and accordingly, shall extend to cover the balance due to the Company at any time from MIME or EDC under the IA or PPA, notwithstanding any notice of termination or the liquidation or other incapacity or any change in Royal Decree concerning MIME or EDC or in the name or style thereof or any settlement of account or other matter whatsoever.
 3. Before taking steps to enforce this Guarantee and demand payment from the Guarantor, the Company shall be obliged only to make demand in writing for payment from MIME or EDC. After sixty (60) days from the date of the invoice(s) as specified in Section 8.7.1 of the PPA or any payment demand from the Company to MIME being received by EDC or MIME, the Company may notify the Guarantor in writing that payment from MIME or EDC is overdue and make a demand for payment from the Guarantor under this Guarantee, and the Guarantor shall make payment within thirty (30) Days. The Guarantor's late payment hereunder shall bear interest at an annual rate of LIBOR plus 3% (three percent). And no demand made by the Company hereunder shall prejudice or restrict the right of the Company to make further or other demands against any other unpaid invoice(s).
- All sums payable by the Guarantor under this Guarantee shall be fully paid to the bank account designated by the Company in the Kingdom of Cambodia in US Dollars to the Company.
4. Any demand for payment made pursuant to this Guarantee shall be made by courier or in person by a duly authorized officer of the Company at the Guarantor's offices and shall be accompanied by a certificate signed by a duly authorized officer of the Company stating, without the obligation to substantiate, that:

"We hereby certify that:

- (1) Hydro Power Lower Sesan 2 Co., Ltd. (the "Company") is making this demand on the Ministry of Economy and Finance (the "Guarantor") in the amount of U.S. Dollars ----- [insert amount] in accordance with Section 1 of the Guarantee dated ----- between the Guarantor and the Company;
- (2) The amount specified above is due and payable by EDC/MIME under the PPA/IA between the Company and EDC/MIME and no part of the amount specified above is the subject of a dispute between the EDC/MIME and the Company;
- (3) Demand in writing for payment from MIME/EDC has been made;
- (4) Such amount, on the date hereof, remains unpaid by MIME/EDC."

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5. The Guarantor represents and warrants that, as of the date hereof:
- The Guarantor has full power, authority, and legal right to incur the obligation, to execute and deliver, and to perform and observe the terms and provisions of this Guarantee.
 - This Guarantee constitutes legal, valid, binding, and enforceable obligations of the Guarantor in accordance with its terms.
 - All necessary action has been taken, and all approvals required have been obtained, under the Laws of the Kingdom of Cambodia to authorize the execution, delivery, and performance of this Guarantee.
 - The obligations and covenants of the Guarantor in this Guarantee constitute unconditional obligations of the Guarantor, for the performance of which the full faith and credit of the Guarantor is pledged.
 - The Guarantor unconditionally and irrevocably agrees that the execution, delivery, and performance by it of this Guarantee constitute commercial acts rather than public or governmental acts and such Guarantee constitutes its unconditional and irrevocable direct obligation.
 - Should any proceedings be brought against the Guarantor or its assets in any jurisdiction in relation to this Agreement, no immunity from such proceedings shall be claimed by or on its behalf or with respect to its assets which it now has or may acquire in the future.
6. This Guarantee shall remain in full force and effect from the Construction Commencement Date until the termination of the term of the IA or PPA and for so long thereafter as any amount owed to the Company by EDC in connection with such term is or may be outstanding.
7. No failure or delay by the Company to exercise any right or remedy under this Guarantee shall constitute a waiver of that right or remedy. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by the Company shall be effective unless it is in writing. The rights and remedies of the Company provided by this Guarantee are cumulative and not exclusive of any rights or remedies provided by law.
8. All notices or other communications (together "Notices") to be given or made hereunder shall be in writing, shall be addressed for the attention of the person indicated below and shall be delivered personally or by courier. All Notices shall be deemed delivered:
- (a) when presented personally, or
 - (b) upon the day of duly recorded and receipted delivery by a recognized international document courier, addressed to the receiving Party, at the address indicated below

(or such other address as such Party may have specified by notice delivered to the delivering Party at its address or facsimile number specified below).

The address for service of Notice shall be:

For the Guarantor:

Attention : Minister, Ministry of Economy and Finance
Address : Ministry of Economy and Finance
Street No. 92, Sangkat Wat Phnom, Khan Daun Penh,
Phnom Penh, Kingdom of Cambodia
Facsimile : +855 23 427 798

For the Company:

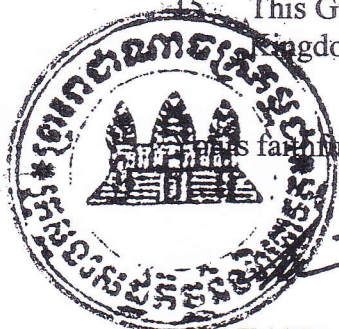
Attention : Chairman, Hydro Power Lower Sesan 2 Co., Ltd
Address : No. 246, Preah Monivong Blvd., Sangkat Boeung Raing,
Khan Daun Penh, Phnom Penh, Kingdom of Cambodia.
Facsimile : +855 23 426 415.

or such other addresses as either Party may have notified to the other Party.

9. The Guarantor shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of the Company, and the Company shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of the Guarantor. Notwithstanding the provision of the immediately preceding sentence, for the purpose of development or permanent financing of the Project, the Company may assign or create a security interest over its rights and interests in and to this Guarantee in favor of the Lenders. This Guarantee shall be binding upon and inure to the benefit of the Guarantor and the Company and the respective successors and permitted assignees of each Party.
10. The rights and obligations of the Guarantor and the Company under or pursuant to this Guarantee shall be governed by and construed according to the Laws of England, which shall also be the procedural law governing any arbitration.
11. If there is any dispute or difference of any kind whatsoever arising out of or in connection with this Guarantee, the Guarantor and the Company shall attempt for a period of thirty (30) days after the receipt by one Party of a notice from the other Party of the existence of the dispute to settle such dispute through mutual amicable discussions. Should such dispute can't be resolved through mutual amicable discussions, then it shall be submitted to the Singapore International Arbitration Center for arbitration in accordance with the arbitration rules of the Singapore International Arbitration Center. And if there are discrepancies between this clause and the rules of the Singapore International Arbitration Center, this clause shall govern. The award rendered shall be in writing and shall be final, conclusive and binding upon the Guarantor and the Company and award thereon may be entered in any Cambodian court having jurisdiction for its enforcement. Such Parties shall execute and perform the award and each Party hereby irrevocably waives any right it may have to contest the validity of such award or the jurisdiction of the arbitration tribunal to hear any

reference to arbitration to which this Guarantee applies. Any payment under arbitration award shall be payable in U.S. Dollars. The costs of arbitration shall be borne by the losing Party, unless otherwise determined by the arbitration tribunal. The Party that is responsible to pay an arbitration award shall pay interest at a rate of LIBOR plus 3% (three percent) to the other Party in receipt of such arbitration award from the due date for the payment of such award until the date of payment of such award.

12. The capitalized terms used but not defined in this Guarantee shall have the meanings given to them in the Power Purchase Agreement.
13. If one or more provisions contained in this Guarantee is held or found to be invalid, illegal, or unenforceable in any respect, the provision(s) shall be given effect to the extent permitted by law and the invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Guarantee.
Subject to mutual agreement, no set-off, counterclaim, reduction, or diminution of any obligation that the Guarantor has or may have against the Company shall be available to the Guarantor against the Company in connection with any obligation of the Guarantor to the Company under this Guarantee.
14. This Guarantee shall expire upon the termination of the IA and PPA if no claim has been made and remains outstanding hereunder and any written demand made to us by the Company hereunder must therefore be received by us before that time.
15. This Guarantee shall become in full force and effect on its ratification by legislatures of the Kingdom of Cambodia.



is faithfully,

KEAT CHHON
Deputy Prime Minister,
Minister, Ministry of Economy & Finance

CC :

- Ministry of Royal Palace
- Secretariat of Senate
- Secretariat of National Assembly
- Council for the Development of Cambodia (CDC)
- Office of Council of Ministers
- Ministry of Foreign Affairs and International Cooperation
- Ministry of Industry, Mines, and Energy
- Cabinet of Samdech Akka Moha Sena Padei Techo, Prime Minister
- Electricite du Cambodge (EDC)
- File

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