



KARACHI WATER AND SEWERAGE CORPORATION GOVERNMENT OF SINDH

**DESIGN, FINANCE, BUILD, REHABILITATE, OPERATE, MAINTAIN AND TRANSFER OF THE
KARACHI HUB WATER CANAL UNDER PUBLIC-PRIVATE PARTNERSHIP MODE**

THIS DOCUMENT INCLUDES:

VOLUME I	BIDDING PROCEDURE
VOLUME II	TECHNICAL SPECIFICATIONS
VOLUME III	CONCESSION AGREEMENT AND APPENDICES
VOLUME IV	EFU AGREEMENT

FOR BID PREPARATION/ SUBMISSION



[CLICK HERE TO DOWNLOAD
BIDDING FORM F2 – FINANCIAL FORMS
\(MICROSOFT EXCEL FILE\)](#)

MARCH 18, 2024

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KARACHI WATER AND SEWERAGE CORPORATION

REQUEST FOR PROPOSALS

FOR

**AWARD OF CONCESSION
IN RESPECT OF THE**

KARACHI HUB WATER CANAL

18 MARCH 2024

LETTER OF INVITATION

Karachi Water and Sewerage Corporation (“**KW&SC**”) intends to engage a private party on PPP mode to design, finance, build, rehabilitate, operate, maintain and transfer the infrastructure of Karachi Hub Water Canal and associated facilities to ensure long term water supply of 454,609 m³/Day to the city of Karachi while minimizing water losses and maintaining quality of water supply. The Project is expected to have a major development impact as the first competitively procured water supply project in Pakistan. For details on Project background, scope of work and specifications, please refer to Volume II (*Technical Specifications*) of the Request for Proposals (“**RFP**”).

Capitalized terms used herein and not otherwise defined shall have the meaning given to them in Volume I (Bidding Procedure) of the RFP.

KW&SC hereby invites the Interested Parties to participate in the Bidding Process and to submit their Bids for the Project in accordance with the requirements of the Applicable Evaluation Documents.

Bidders are required to submit only one (1) Bid, comprising of one (1) original Technical Proposal (along with four (4) hard copies of the Technical Proposal) and one (1) original Financial Proposal, with one (1) soft copy of the Technical Proposal and the Financial Proposal, separately (on CDs/ DVDs/ USBs) and other supporting documents (as applicable), as identified in the RFP, no later than **12:00 hours PST** by the Bid Submission Date at the submission address, as indicated in the Data Sheet.

The Technical Proposals will be opened on the Bid Submission Date at **13:00 hours PST** in the presence of the representatives of the Bidders who may wish to attend. After completion of evaluation of the Technical Proposals, Bidders who have submitted responsive Technical Proposals in terms of the Applicable Evaluation Documents shall be invited to attend the opening of the Financial Proposals. The date, time, and location of the opening of Financial Proposals shall be advised in writing to all technically qualified Bidders by KW&SC.

All Bidders are required to furnish, as part of their Technical Proposals a Bid Security, equivalent to PKR 350,000,000/- (Pakistani Rupees Three Hundred Fifty Million only). The Bid Security shall be an irrevocable, unconditional and on-demand bank guarantee in the form attached as Bidding Form T11 (*Form of Bid Security*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, issued in accordance with the requirements set out in the Instructions to Bidders.

It is mandatory for the Bids to be prepared using the standard formats for Technical Proposals and Financial Proposals, as provided in the RFP. Bids that are not prepared on the prescribed formats may not be considered for evaluation. If any information required in the prescribed forms is found missing, or written elsewhere, no credit will be given during evaluation and may lead to rejection of the Bid.

KW&SC may amend the RFP by issuing an addendum or a corrigendum (as the case may be) as per the requirements specified in the RFP, at any time prior to the Bid Submission Date.

Subject to the provisions of the Applicable Evaluation Documents, KW&SC reserves the right to cancel the Bidding Process at any time.

KW&SC / GoS reserves all rights (which are exercisable by KW&SC / GoS in its sole and absolute

discretion) to:

- (a) suspend, cancel, discontinue, modify, extend or reinstate the Bidding Process;
- (b) accept or reject any Bid or disqualify any or all Bidders;
- (c) modify all or any dates stated in the RFP; or
- (d) amend the RFP, scope of Project or make clarifications thereof,

at any time without any obligation to inform any Interested Party or the Bidder of the grounds, justification, or reason for such action and without liability.

Interested Parties may acquire the RFP before the Bid Submission Date, either: (a) physically, by submitting a written application at the address provided below, specifying their full name, address and contact details; or (b) electronically, by downloading from the websites of SPPRA and / or PPP Unit, and intimating KW&SC in writing through a letter or via email, its full name, address and contact details.

Designation: Project Director - Karachi Hub Water Canal Project.

Address: Room No. 26, First Floor, Block B, Office of The Karachi Water & Sewerage Corporation, 9th Mile, Karsaz, Karachi, Pakistan.

Phone No.: 0092 21 9924 5130

0092 21 9922 2193

Email: kwsc@ifc.org & info.p3proc@gmail.com

Websites: **KW&SC** – <https://www.kwsb.gos.pk>
SPPRA – <https://ppms.pprasinhd.gov.pk/PPMS/>
PPP Unit – <https://www.pppunitsindh.gov.pk/>

Sincerely,

PROJECT DIRECTOR
KARACHI HUB WATER CANAL PROJECT
KARACHI WATER AND SEWERAGE CORPORATION

IMPORTANT NOTICE

The RFP, together with all volumes, attachments, forms, annexures and appendices, attached thereto, is issued by KW&SC and is provided to the recipients solely for use in preparing and submitting the Bids.

Bids submitted in response to the RFP by the Bidders shall be upon full understanding and agreement of all terms of the RFP and such submission shall be deemed as an acceptance to all the terms and conditions stated in the RFP.

No GoS Party makes any representations (express or implied) or warranties as to the accuracy or completeness of the information contained in the RFP, or in any other document or information made available to a person in connection with the Project (including the Bidding Process); and the same shall have no liability for the RFP or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of the Project. No GoS Party shall be liable to reimburse or compensate any recipient for any costs, fees, damages or expenses incurred by the recipient in evaluating or acting upon the RFP or otherwise in connection with the Project.

The RFP shall neither constitute a solicitation to invest, or otherwise participate, in the Project (including the Bidding Process), nor shall it constitute a guarantee or commitment of any manner on the part of any GoS Party that the Project will be awarded or otherwise proceed. KW&SC (including GoS) reserves the right, in its full discretion, to modify the RFP and/or the Project requirements at any time to the fullest extent permitted by applicable Laws and shall not be liable to reimburse or compensate the recipient for any costs, taxes, expenses or damages incurred by the recipient in such an event.

KW&SC may amend the RFP by issuing an addendum or a corrigendum (as the case may be) as per the requirements specified in the RFP, at any time prior to the Bid Submission Date.

Subject to the provisions of the Applicable Evaluation Documents, KW&SC reserves the right to cancel the Bidding Process at any time.

The interpretation of any aspect of the RFP will be made solely by KW&SC / GoS and shall be final and binding on all the Interested Parties and the Bidders.

Capitalized terms used herein and not otherwise defined shall have the meaning given to them in Volume I (Bidding Procedure) of the RFP.

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- **VOLUME II – TECHNICAL SPECIFICATIONS**
- **VOLUME III – CONCESSION AGREEMENT AND APPENDICES**
- **VOLUME IV – EFU AGREEMENT**

**VOLUME I:
BIDDING PROCEDURE**

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PART 1
INSTRUCTIONS TO BIDDERS

GLOSSARY

Unless otherwise specified / defined, all capitalized terms used herein shall bear the meanings set out below. References to any law, rule or regulation shall include any amendments, modifications or any re-enactment thereof.

The headings in the Instructions to Bidders, including the table of contents, are for convenience of reference only and not for purposes of construction or interpretation of the Instructions to Bidders.

TERM	DEFINITION
Acceptable Bank	Has the meaning given to it the Concession Agreement.
Acceptance of Notification of Award	Has the meaning given to it in Sub-Section 7.3.3 of the Instructions to Bidders.
Affiliate	<p>With respect to a person (being the Bidder or, where the Bidder is a Consortium, each Consortium Member), means:</p> <ul style="list-style-type: none"> (a) any company or entity that directly or indirectly Controls or is Controlled by, or is under common Control with such person; (b) any director, senior executive or manager either of such person or of any company or entity referred to in paragraph (a) above; (c) any consultant, agent or representative supporting such person in connection with the Project (including the Bidding Process for the Project); and / or (d) any other person with an aggregate ultimate beneficial interest in at least five percent (5%) of the share capital or ownership interest in such person (howsoever held).
Applicable Evaluation Documents	Collectively: (a) the Sindh PPP Act; (b) the SPPRA Act; (c) the SPPRA Rules; (d) the SPPRA Guidelines; (e) any applicable order, instruction, guideline, regulations or instrument issued under the Sindh PPP Act, the SPPRA Act and / or the SPPRA Rules; and (f) the RFP.
Approved EPC Contractor	The contractor selected from the qualified Proposed EPC Contractors, approved in terms of Sub-Section 6.5 (<i>Evaluation Criteria</i>) of the Instructions to Bidders, to undertake the Mobilisation Activities and the C&O Activities.
Apostille Convention	The Convention Abolishing the Requirement of Legalisation for Foreign Public Documents concluded on 5 October 1961.
Availability Payment	Has the meaning given to it in the Concession Agreement.
Basic Eligibility Criteria	The criteria set out in Annexure A (<i>Basic Eligibility Criteria</i>) of Part

	4 (<i>Annexures</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
Best Evaluated Bid	A Bid which is determined to be the ' <i>best evaluated bid</i> ' for the award of Concession in terms of the requirements of the Applicable Evaluation Documents.
Bid	The proposal (constituting the Technical Proposal and Financial Proposal) submitted by a Bidder in response to the RFP, which is prepared and submitted in accordance with the RFP.
Bidder	The Interested Party that has submitted a Bid in response to the RFP, either as a single entity or a Consortium.
Bidding Forms	The forms provided in Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, that are required to be submitted with the Technical Proposals and the Financial Proposals, respectively.
Bidding Process	The international competitive bidding process being conducted pursuant to the Applicable Evaluation Documents, for the selection of the Successful Bidder for the award of the Concession for the Project.
Bid Price	The price quoted by a Bidder in its Financial Proposal, calculated as per the formula set out in Section II (<i>Financial Evaluation Criteria</i>) of Annexure B (<i>Evaluation Criteria</i>) of Part 4 (<i>Annexures</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
Bid Security	Has the meaning given to it in Sub-Section 4.7.1 of the Instructions to Bidders.
Bid Submission Date	The last date for submission of Bids as specified in the Data Sheet, as may be extended by KW&SC in accordance with the requirements of the Applicable Evaluation Documents.
Bid Validity Period	The period of one hundred twenty (120) days starting from the Bid Submission Date, as may be extended in accordance with the requirements of the Applicable Evaluation Documents.
Business Day	Any day that is not declared a public holiday in Karachi, Pakistan, during which banks are generally open for business in Karachi, Pakistan.
C&O Activities	Has the meaning given to it in the Concession Agreement.
C&O Performance Security	The irrevocable, unconditional and on-demand bank guarantee, in favour of GoS, in an amount equal to Pakistani Rupees One Billion Nine Hundred Million only (PKR 1,900,000,000/-) issued by an Acceptable Bank as per the requirements of the RFP and in the form set out in Annexure C (<i>Form of the C&O Performance Security</i>) of

	Part 4 (<i>Annexures</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
C&O Performance Security Expiry Date	Has the meaning given to it in the Concession Agreement.
Class B Equity Subscription Account	Has the meaning given to it in the EFU Agreement.
Commencement Conditions Precedent	Has the meaning given to it in the Concession Agreement.
Commencement Date	Has the meaning given to it in the Concession Agreement.
Company	The SPV to be established and incorporated under the laws of Pakistan by the Successful Bidder, for the purposes of undertaking the Project.
Concession	Has the meaning given to it in the Concession Agreement.
Concession Agreement	The agreement titled “Concession Agreement” attached in Volume III (<i>Concession Agreement and Appendices</i>) of the RFP, including all appendices thereto.
Concession Documents	Collectively: (a) the Concession Agreement; (b) the License Agreement; (c) the EFU Agreement; and (d) such other instrument executed in relation to the Project, which has been designated by KW&SC / GoS as a Concession Document.
Concession Period	Has the meaning given to it in the Concession Agreement.
Consortium	A Bidder comprised of two (2) or more Consortium Members, formed to submit the Bid, in accordance with the requirements of the Applicable Evaluation Documents.
Consortium Authorized Representative	The Consortium Member, appointed as the authorized representative of a Consortium in terms of the requirements of the RFP.
Consortium Members	Each member of a Consortium, including the Lead Developer.
Consortium Undertaking	Has the meaning given to it in Sub-Section 2.1.2.3 of the Instructions to Bidders.
Control	The: <ul style="list-style-type: none"> (a) ownership or control (whether directly or otherwise) of more than 50% of the equity share capital, voting capital, or the like, of the controlled entity; or (b) ownership of equity share capital, voting capital, or the like, by contract or otherwise, conferring control of or power to: (i)

	<p>control the composition of, or power to appoint more than fifty percent (50%) of the members of the board of directors, board of management, or other equivalent or analogous body of the controlled entity; or (ii) appoint the key managers of such entity,</p> <p>and “Controls” “Controlling” or “Controlled” shall be construed accordingly.</p>
Data Sheet	The data sheet provided in Section 9 (<i>Data Sheet</i>) of the Instructions to Bidders.
EFU Agreement	The agreement titled “Equity Funding and Utilization Agreement” attached in Volume IV (<i>EFU Agreement</i>) of the RFP, including all appendices thereto.
Eligible Country	All countries of the world with whom Islamic Republic of Pakistan has commercial/trade relations and those which are not Sanctioned Countries.
EPC Contractor Criteria	The criteria for the evaluation of Proposed EPC Contractors set out in Annexure A (<i>Basic Eligibility Criteria</i>) of Part 4 (Annexures) of Volume I (Bidding Procedure) of the RFP.
Equity IRR	The Equity IRR (USD) and the Equity IRR (PKR), as applicable, as set out in Bidding Form F2-G (<i>Termination Payments</i>) of Bidding Form F2 (<i>Financial Forms</i>) of Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
Final Expiry Date	Has the meaning given to it in the Concession Agreement.
Financial Proposal	The financial proposal (including all forms, documents and information required in terms of the RFP and submitted therewith), submitted by a Bidder as part of its Bid pursuant to the RFP.
Foreign Currency Funding Amount	Has the meaning given to it Sub-Section 8.7 (<i>Foreign Debt Indexation</i>) of the Instructions to Bidders.
Foreign Debt Amount	Has the meaning given to it Sub-Section 8.7 (<i>Foreign Debt Indexation</i>) of the Instructions to Bidders.
Foreign Equity Amount	Has the meaning given to it Sub-Section 8.7 (<i>Foreign Debt Indexation</i>) of the Instructions to Bidders.

Foreign Sponsor	Has the meaning given to it Sub-Section 8.5 (<i>Requirements with respect to Foreign Exchange Indexation</i>) of the Instructions to Bidders.
GoS	The Local Government & Housing Town Planning Department, Government of Sindh.
GoS Account One	Has the meaning given to it in the Concession Agreement.
GoS Equity Amount	The amount requested by the Bidder in its Financial Proposal from the GoS, not exceeding PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only), and which amount shall in no circumstances be more than forty-nine (49%) percent of the paid-up share capital of the Company, to be funded in terms of the EFU Agreement.
GoS Funding Amount	Has the meaning given to it in the EFU Agreement.
GoS Party(ies)	Collectively, the KW&SC, the Government of Sindh and the TFEC, including their consultants, advisors, employees, personnel or agents and in the case of the Government of Sindh, also includes GoS, all ministries, department, attached department, autonomous body of Government of Sindh, local government or any organization or corporation owned or controlled by the Government of Sindh.
GoS Payment Account	Has the meaning given to it in the Concession Agreement.
GoS Payment Account Required Balance	Has the meaning given to it in the Concession Agreement.
GoS Termination SBLC	Has the meaning given to it in the Concession Agreement.
Head Regulator	The bifurcation point, at the end of the WAPDA canal from where water is distributed into the KWC and the Lasbela canal, as more specifically described in Volume II (<i>Technical Specifications</i>) of the RFP.
IDA	International Development Association, the World Bank Group.
IFC	International Finance Corporation, the World Bank Group.
IFC Advisory Fee	The fee of an amount of PKR equivalent of USD 500,000/- (United States Dollars Five Hundred Thousand Only) or an amount (in USD) equivalent to one point five percent (1.5%) of the Total Project Cost indicated by the Successful Bidder, whichever is higher, accrued as a result of IFC's services rendered to KW&SC and the GoS in respect of the Project, to be paid by the Successful Bidder to IFC.

	Note: The exchange rate for PKR equivalent amount of the IFC Advisory Fee shall be based on the exchange rate published by State Bank of Pakistan one (01) day prior to the issuance of the invoice. Such Invoice shall be issued after the date of issuance of Notification of Award.
Independent Appointees	Has the meaning given to it in the Concession Agreement.
Instructions to Bidders	The Instructions to Bidders set out in Part 1 (<i>Instructions to Bidders</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
Integrity Pact	Has the meaning given to it in Sub-Section 8.3 (<i>Integrity Pact</i>) of the Instructions to Bidders.
Interested Party	A person (including a company, firm, body corporate or other legal entity, but not an individual), either as a single entity or a consortium formed by two or more persons, who has purchased the RFP from KW&SC.
Karachi Hub Water Canal or KWC	Has the meaning given to the terms “ <i>Karachi Water Canal System</i> ” or “ <i>KWC</i> ” in the Concession Agreement.
KW&SC	Karachi Water and Sewerage Corporation, established under the KW&SC Act.
KW&SC Act	The Karachi Water and Sewerage Corporation Act, 2023.
Laws	Has the meaning given to it in the Concession Agreement.
Lead Developer	The Bidder, as a single entity, or in case of a Consortium, the relevant Consortium Member, as identified in the Technical Proposal, fulfilling the Lead Developer Criteria.
Lead Developer Criteria	The criteria for the evaluation of Lead Developer set out in Annexure A (<i>Basic Eligibility Criteria</i>) of Part 4 (Annexures) of Volume I (<i>Bidding Procedure</i>) of the RFP.
License Agreement	Has the meaning given to it in the Concession Agreement.
M³	Cubic meters.
MIGA	Multilateral Investment Guarantee Agency, the World Bank Group.
Mobilisation Activities	Has the meaning given to it in the Concession Agreement.
Notification of Award	The notification of award to be issued by KW&SC to the Successful Bidder as per Sub-Section 7.3.1 of the Instructions to Bidders.

NPV of Service Payments	The net present value of Service Payments, quoted by a Bidder in its Financial Proposal, calculated as per the methodology set out in Section II (<i>Financial Evaluation Criteria</i>) of Annexure B (<i>Evaluation Criteria</i>) of Part 4 (<i>Annexures</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP.
O&M Activities	Has the meaning given to it in the Concession Agreement.
O&M Contractor	Has the meaning given to it in the Concession Agreement.
O&M Contractor Criteria	Has the meaning given to it in the Concession Agreement.
Output Payment	Has the meaning given to it in the Concession Agreement.
PKR	Pakistani Rupees, the lawful currency of the Islamic Republic of Pakistan.
PPP	Public Private Partnership.
PPP Unit	The PPP Unit established under Section 6 (<i>Public-Private Partnership Unit</i>) of the Sindh PPP Act.
Pre-Bid Meetings	The meetings / conferences relating to the queries raised and clarifications sought by the prospective Bidders held on the dates specified in the Data Sheet.
Project	Has the meaning given to it in the Concession Agreement.
Project Activities	Has the meaning given to it in the Concession Agreement.
Project Commercial Operations Date	Has the meaning given to it in the Concession Agreement.
Proposed EPC Contractors	The contractors proposed by a Bidder (not exceeding three (3)) in terms of Sub-Section 2.1.8 of the Instructions to Bidders, which will be evaluated under the RFP; and may include a Bidder (or a Consortium Member, in case the Bidder is a Consortium) itself in case the Bidder (or a Consortium Member, in case the Bidder is a Consortium) intends to undertake the construction works for the Project.
PST	Pakistan Standard Time.
RFP	The Request for Proposals document issued by KW&SC in relation to the Project, containing the documents specified in Sub-Section 3.1.1 of the Instructions to Bidders, and includes any amendments and / or

	modifications thereto.
Sanctioned Country(ies)	Has the meaning given to it in the Concession Agreement.
SBP	The State Bank of Pakistan.
SBP Debit Authority	Has the meaning given to it in the Concession Agreement.
Service Payments	Has the meaning given to it in the Concession Agreement.
Sindh PPP Act	The Sindh Public Private Partnership Act, 2010.
SOE	Has the meaning given to it in Sub-Section 2.1.4.
Solar Plant	Has the meaning given to it in the Concession Agreement.
Sovereign	Has the meaning given to it in Sub-Section 2.1.4.
SPPRA	The Sindh Public Procurement Regulatory Authority, established under the SPPRA Act.
SPPRA Act	The Sindh Public Procurement Act, 2009.
SPPRA Guidelines	The guidelines issued by SPPRA for procurement of works.
SPPRA Rules	The Sindh Public Procurement Rules, 2010.
SPV	Special purpose vehicle, being a company incorporated under the applicable Laws.
Successful Bidder	The Bidder whose Bid has been determined to be the Best Evaluated Bid.
Technical Proposal	The technical proposal (including all forms, documents and information required in terms of the RFP and submitted therewith), submitted by a Bidder as part of its Bid pursuant to the RFP.
TFEC	The technical and financial evaluation committee formed in accordance with the applicable Laws for the purposes of the Project.
Total Project Cost	The cost specified by a Bidder in Bidding Form F1 (<i>Letter of Financial Proposal</i>) of Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, submitted as part of the Financial Proposal.
USD	United States Dollars, the lawful currency of the United States of America.
WAPDA	The Pakistan Water and Power Development Authority.

1. GENERAL

1.1 INTRODUCTION

KW&SC intends to engage a private party on PPP mode, to undertake the Project to ensure long term water supply of 454,609 m³/day to the city of Karachi while minimizing water losses and maintaining quality supply. The Project is expected to have a major development impact, as the first competitively procured water supply project in Pakistan.

For details in relation to Project background and scope of work, please refer to **VOLUME II (TECHNICAL SPECIFICATIONS)** of the RFP.

The Concession Agreement establishes the rights and obligations of KW&SC, the GoS and the Company (as the concessionaire) and will be executed among KW&SC, the GoS and the Company in accordance with the requirements of the RFP. The Company will be required to execute Mobilisation Activities as a condition to the commencement of the Concession Period. The Concession Period shall commence on the Commencement Date (i.e., the date on which it is certified that the Commencement Conditions Precedent have been satisfied, deferred or waived in accordance with the Concession Agreement) and end on the Final Expiry Date (i.e., fifteen (15) years from the Project Commercial Operations Date, unless terminated earlier, in accordance with the Concession Agreement).

The Successful Bidder / Company shall be responsible for developing and implementing the financing structure for the Project, including the financing and commercial arrangements in accordance with the requirements of the RFP. Supports available to the Successful Bidder / Company from GoS for the Project have been specified in the Concession Documents.

Subject to the requirements of the applicable Concession Documents, the GoS shall:

- (a) establish the GoS Equity Account and fund the same with the GoS Funding Amount, in accordance with the mechanism specified in the EFU Agreement;
- (b) establish the GoS Payment Account and pre-fund the same with the GoS Payment Account Required Balance, in accordance with the mechanism specified in the Concession Agreement; and
- (c) issue the SBP Debit Authority, authorising the SBP to debit the GoS Account One; and shall have the option of replacing the GoS Account One with the GoS Termination SBLC, each for the purposes and as per the mechanism specified in the Concession Agreement.

The GoS Equity Amount shall not exceed PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only) and shall be funded by the GoS, in accordance with the EFU Agreement. The injection of GoS Equity Amount as specified by the Successful Bidder in Bidding Form F1 (*Letter of Financial Proposal*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP should not result in the GoS holding more than forty-nine percent (49%) of the paid-up share capital of the Company.

Successful Bidder / Company shall be required to comply with the shareholding requirements, including share transfer restrictions, as set out in the EFU Agreement.

The Service Payments to be paid to the Company shall comprise: (a) following the Commencement Date, the Output Payment; and (b) following the Project Commercial Operations Date: (i) the Availability Payment; and (ii) the Output Payment, in each case payable in accordance with the Concession Agreement. Determination of Service Payment including applicable indexation and deduction are detailed in appendix 8 of the Concession Agreement.

The Company will be responsible for handing over the KWC to KW&SC in a good working condition, as determined by the Independent Appointees, at the end of the Concession Period (or earlier termination of the Concession Agreement), as specified in the Concession Agreement, without any further compensation to the Company at the time of such transfer. The transfer of KWC shall be subject to an inspection and correction process in order to ensure that KWC is handed over in accordance with the terms and conditions set out in the Concession Agreement.

All risks and obligations of KW&SC, the GoS and the Successful Bidder / Company shall be in accordance with the RFP (including the Concession Documents) and the Bidders shall be deemed to have full and complete understanding of the risks relating to the Project and their allocation, as set out in the RFP (including the Concession Documents).

By submitting the Bid, the Bidder acknowledges the acceptance of all tax-related obligations. The Service Payments are inclusive of all taxes. For the sake of clarity, the Company shall be required to pay all the taxes, duties, levies, stamp duties, rents, and other charges payable to any local government, provincial or federal government (as applicable) without any grossing-up obligation or liability on part of the GoS/KW&SC.

Before submitting the Bids, the Bidders should carefully examine all the information provided in the RFP (including the Concession Documents).

1.2 OVERVIEW OF THE BIDDING PROCESS

Pursuant to the Applicable Evaluation Documents, the Bidding Process is based on “*single stage two envelope*” bidding procedure. A Bidder whose Bid is determined to be the Best Evaluated Bid, shall be awarded the Concession. The Successful Bidder shall be required to incorporate the Company which shall be the concessionaire for the purposes of the Project.

Note that IFC’s advisory team has been engaged by KW&SC for the purposes of the structuring and tendering of the Project, including the Bidding Process.

1.3 INDICATIVE SCHEDULE

The indicative timelines in relation to the Bidding Process for the Project (as may be amended by KW&SC in its discretion) are as follows:

Activity	Date (Tentative)
Issuance of RFP	18 March 2024
First Pre-Bid Meeting	02 April 2024
Second Pre-Bid Meeting	18 April 2024
Bid Submission Date & Opening of Technical Proposals	20 May 2024
Opening of Financial Proposals	20 June 2024
Announcement of Bid Evaluation Results	09 July 2024
Issuance of Notification of Award to Successful Bidder	25 July 2024
Signing of the Concession Agreement & EFU Agreement	13 August 2024

* In the event of any public holiday occurring on the above-mentioned dates, the immediately succeeding Business Day will be considered as the day on which the respective milestone shall take place.

2. ELIGIBLE BIDDERS

2.1 GENERAL REQUIREMENTS

2.1.1 Bids may be submitted by a single entity or a Consortium. In order to demonstrate their eligibility to participate in the Bidding Process, Bidders are required to submit all information / documentation required as per the Basic Eligibility Criteria.

2.1.2 In case a Bid is submitted by a Consortium:

2.1.2.1 such Bidder shall submit details of the Consortium Member who will be the Lead Developer, fulfilling the Lead Developer Criteria;

2.1.2.2 each Consortium Member will be required to hold a minimum of ten percent (10%) equity / ownership interest in the Company, in accordance with the Concession Agreement;

2.1.2.3 such Bidder shall submit an undertaking as part of its Technical Proposal, in the form and substance attached as Bidding Form T5 (*Form of Consortium Undertaking*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP (the “**Consortium Undertaking**”) to be executed by each Consortium Member through its authorized representative;

2.1.2.4 a power of attorney of the Consortium Member, in the form and substance attached as Part I (*Form of Power of Attorney for Appointment of Authorised Representative by Single Entity Bidder / Consortium Member*) of Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, vesting authority in its authorised representative to sign and submit the relevant documents to be submitted as part of the Bid (and any other document required in terms of the RFP) on behalf of itself, along with a copy of authorization (such as in the form of a board resolution) in favour of the person issuing the power of attorney; and

- 2.1.2.5 each Consortium Member (through its authorised representative) shall authorize the Consortium Authorized Representative to represent and irrevocably bind the Consortium Members in all matters in connection with the Bidding Process, and in case the Consortium is awarded the Project, finalize the Concession Documents. Such authority shall be in the form of a power of attorney executed by its authorised representative, in the form and substance attached as Part II (*Form of Power of Attorney for Appointment of Consortium Authorised Representative*) of Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, appointing the Consortium Authorized Representative and vesting authority in the Consortium Authorized Representative to sign and submit the Bid (and any other document required in terms of the RFP) on behalf of each Consortium Member.
- 2.1.3 In case a Bid is submitted by a single entity, such Bidder shall be:
- 2.1.3.1 deemed to be the Lead Developer, and shall be required to fulfil the Lead Developer Criteria; and
- 2.1.3.2 appoint its authorized representative pursuant to a power of attorney (in the form and substance attached as Part I (*Form of Power of Attorney for Appointment of Authorised Representative by Single Entity Bidder / Consortium Representative*) of Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, vesting authority in the authorised representative to sign and submit the Bid (and any other document or information required in terms of the RFP) on behalf of the Bidder, along with a copy of authorization (such as in the form of a board resolution) in favour of the person issuing the power of attorney.
- 2.1.4 A Bidder (including a Consortium Member) shall not have a conflict of interest as per the requirements specified in the Basic Eligibility Criteria. All Bidders (including any Consortium Members) found to have a conflict of interest shall be disqualified. KW&SC / TFEC will take appropriate actions to manage such conflicts of interest which may include rejecting the Bid if it is determined that a conflict of interest may affect the integrity of the Bidding Process.
- A Bidder (including a Consortium Member) may be considered to be in a conflict of interest with one or more Bidders, if, *inter alia*, such Bidder / Consortium Member, including its subsidiaries, participates in more than one (1) Bid, either individually or as a Consortium Member or as a Proposed EPC Contractor. This will result in the disqualification of all Bids in which such Bidder (including such Consortium Member) is involved.
- Bidders (including Consortium Members) shall not be considered to be in a conflict of interest with another Bidder, if such Bidders (including Consortium Members) are the subsidiaries of a common parent company or one Bidder (including a Consortium Member) is the parent company of the other Bidder (including a Consortium Member), provided that the following conditions are satisfied:
- (i) such parent company is a sovereign state (“**Sovereign**”) or a sovereign state-owned enterprise (“**SOE**”);

- (ii) the Sovereign, SOE and the relevant subsidiaries of the Sovereign and / or SOE participating in the Bidding Process conduct their business operations on an independent basis, are independent legal persons, have independent management and boards and are free from each other's financial obligations including independent auditing and accounting; and
- (iii) such Bidder (including a Consortium Member) has provided a legal opinion duly issued by a reputable, qualified legal counsel in its jurisdiction of incorporation confirming (i) and (ii) above.

The circumstances provided above which may constitute a conflict of interest are not exhaustive, and the KW&SC and TFEC shall be the sole determinant of whether a conflict of interest situation has arisen.

- 2.1.5 A Bidder (or a Consortium Member) which has been declared ineligible or blacklisted by any of its employers, any Federal or Provincial governmental or non-governmental department / agency in Pakistan, or any other provincial government / governments of any foreign countries or their governmental bodies and / or international organizations (e.g. World Bank, Asian Development Bank, United Nations, International Monetary Fund etc.) at the Bid Submission Date, shall not be considered.
- 2.1.6 Each Bidder (including a Consortium Member) shall indemnify the GoS Parties fully in respect of any damage, cost, penalty or expense of any kind incurred by such person arising from a Bidder's or its representative's (including a Consortium Member's or its representative's) breach of its obligations under the RFP.
- 2.1.7 The Successful Bidder shall be required to comply with the requirements regarding shareholding matters including share transfer restrictions as set out in the EFU Agreement.
- 2.1.8 A Bidder may undertake the works and / or services for the Project as contemplated in the RFP (including the Concession Documents), either itself or may sub-contract the same in accordance with the requirements set out in the RFP (including the Concession Documents). For any part of the scope of works and / or services for the Project, which the Bidder intends to sub-contract, the Bidder shall give details of the name and nationality of the Proposed EPC Contractor, including the entities which are part of the Proposed EPC Contractor. Proposed EPC Contractor can be a single entity or may comprise a consortium comprising of more than one entity. In addition, the Bidder shall include in its Bid, information establishing compliance of the EPC Contractor Criteria. Bidders are allowed to list at least one (1) and up to three (3) Proposed EPC Contractors for each item of the works and / or services to whom the relevant Project Activities are proposed to be sub-contracted. In case a Bidder (or a Consortium Member, where the Bidder is a Consortium) intends to undertake the relevant engineering, procurement and construction works for the Project itself along with the Proposed EPC Contractor, such Bidder (or a Consortium Member, where the Bidder is a Consortium) will also be considered part of the Proposed EPC Contractor, to the extent of the relevant works. Such Bidder (or a Consortium Member, where the Bidder is a Consortium) will be required to provide relevant information / details as per the EPC Contractor Criteria for the relevant part.
- 2.1.9 The Bidder shall be responsible for ensuring that any Proposed EPC Contractor (including its

representative(s)) complies with the requirements of the RFP (including the applicable Concession Documents) and the Laws. The engagement of Approved EPC Contractor for the Project shall not absolve a Bidder (including the Company) from its obligations under the RFP (including the applicable Concession Documents) and the Laws.

- 2.1.10 The Bidders shall ensure that if a Proposed EPC Contractor is a consortium, such consortium shall enter into or has entered into a single turnkey EPC arrangement with the Bidder for undertaking the relevant construction works for the Project.
- 2.1.11 In case the Proposed EPC Contractor has formed a consortium, the relevant Bidder shall be required to identify the lead member of such consortium, and the Bidder shall ensure that the lead member of the consortium formed by the Proposed EPC Contractor shall be liable to the Bidder with respect to its obligations in respect of the activities proposed to be undertaken by the Proposed EPC Contractor for the Project, in case of award of the Project.
- 2.1.12 A Proposed EPC Contractor can be part of more than one (1) Bid.
- 2.1.13 A Bidder is not allowed to participate as a Proposed EPC Contractor for another Bidder.
- 2.1.14 Each Bidder shall be responsible for ensuring that the information relating to its Bid is kept confidential prior to its submission.
- 2.1.15 The Approved EPC Contractor may also be proposed as an O&M Contractor after the signing of the Concession Agreement, in terms thereof, provided the Approved EPC Contractor meets the relevant O&M Contractor Criteria.

3. RFP DOCUMENT

3.1 CONTENTS OF THE RFP

3.1.1 The RFP comprises the documents stated below and should be read in conjunction with any addendum and / or corrigendum issued in accordance with Sub-Section 3.4 (*Amendment of RFP*) of the Instructions to Bidders.

(A) VOLUME I – BIDDING PROCEDURE

- (a) Part 1 – Instructions to Bidders.
- (b) Part 2 – Bidding Forms.
- (c) Part 3 – Bidding Documentary Requirements.
- (d) Part 4 – Annexures
 - (i) Basic Eligibility Criteria (Annexure A).
 - (ii) Evaluation Criteria (Annexure B).
 - (iii) Form of C&O Performance Security (Annexure C).

(B) VOLUME II – TECHNICAL SPECIFICATIONS

(C) VOLUME III – CONCESSION AGREEMENT AND APPENDICES

(D) VOLUME IV – EFU AGREEMENT

3.1.2 The Bidding Forms comprise the forms stated below and should be read in conjunction with any addendum (or corrigendum) to the RFP issued in accordance with Sub-Section 3.4 (*Amendment of RFP*) of the Instructions to Bidders:

(A) For the Technical Proposal:

- (a) Bidding Form T1 – Letter of Technical Proposal;
- (b) Bidding Form T2 – Form of Integrity Pact;
- (c) Bidding Form T3 – Basic Information Form;
- (d) Bidding Form T4 – Form of Power of Attorney;
- (e) Bidding Form T5 – Form of Consortium Undertaking;
- (f) Bidding Form T6 – Form of Affidavit by Bidder;
- (g) Bidding Form T7 – Lead Developer Criteria Evidence Form Sheet;
- (h) Bidding Form T8 – Bidder / Consortium Member Net Worth Form;
- (i) Bidding Form T9 – Project References of Proposed EPC Contractor;
- (j) Bidding Form T10 – Proposed EPC Contractor Net Worth Form;
- (k) Bidding Form T11 – Form of Bid Security;
- (l) Bidding Form T12 – Form of Litigation History;
- (m) Bidding Form T13 – Technical Project Methodology / Approach;
- (n) Bidding Form T14 – Implementation Schedule;
- (o) Bidding Form T15 – Organization & Staffing;
- (p) Bidding Form T16 – Quality Control Practices & Procedures; and
- (q) Bidding Form T17 – Health & Safety Plan and Procedures.

(B) For the Financial Proposal

- (a) Bidding Form F1 – Letter of Financial Proposal; and
- (b) Bidding Form F2 – Financial Forms.

3.2 COMPLETENESS OF RFP

- 3.2.1 No GoS Party shall be responsible for the completeness of the documents comprising the RFP and its addenda / corrigenda, if a Bidder has not obtained the same directly from the source(s) stated by KW&SC in the Letter of Invitation.
- 3.2.2 Bidders are expected to carefully examine all instructions, forms and terms in the RFP and to furnish all information or documentation required pursuant to the RFP. Failure to comply with the requirements of Bid submission set out in the RFP will be at the Bidders' own risk and may result in the rejection of the Bid. Pursuant to Sub-Section 6.4 (*Determination of Responsiveness of Bids*) of the Instructions to Bidders, Bids which are not responsive to the requirements of the RFP shall be rejected.

3.3 CLARIFICATIONS OF RFP

- 3.3.1 A Bidder requiring any clarification pertaining to the RFP shall contact KW&SC in writing, at the address or through email provided in the Data Sheet or raise its enquiries during the Pre-Bid Meetings. KW&SC will respond in writing to any request for clarification provided that such request is received no later than five (5) calendar days prior to the Bid Submission Date. The response shall be uploaded on the websites of KW&SC, PPP Unit and SPPRA including a description of the inquiry but without identifying its source. Should KW&SC deem it necessary to amend the RFP as a result of a request for clarification, it shall do so following the procedure under Sub-Section 3.4 (*Amendment of RFP*) of the Instructions to Bidders. No markup of the RFP (including the Concession Documents and / or other documents / instruments attached to the RFP) shall be accepted. Bidders may submit comments or seek clarifications on the RFP, which may be considered by KW&SC / TFEC.
- 3.3.2 The Bidder's designated representative(s) shall be invited to attend the Pre-Bid Meetings at the date, time and venue indicated in Data Sheet. The Pre-Bid Meetings may be conducted virtually via the web link provided by KW&SC to all Bidders. The purpose of the Pre-Bid Meetings will be to clarify issues and to answer questions of the Bidders on any matter relating to the RFP. Queries to be discussed during the Pre-Bid Meetings should be submitted seven (7) calendar days prior to the date of relevant Pre-Bid Meeting. In addition to the queries discussed during the Pre-Bid meetings, Bidders may submit additional queries to KW&SC within the time period as specified in Sub-Section 3.3.1 of the Instructions to Bidders and KW&SC shall respond to such queries in writing as specified in Sub-Section 3.3.1 of the Instructions to Bidders. Non-attendance at the Pre-Bid Meetings will not be a cause for disqualification of a Bidder. In addition to the Pre-Bid Meetings, on a written request of any Bidder, provided that the same are submitted fifteen (15) calendar days prior to the Bid Submission Date, KW&SC may hold discussions on the RFP separately with such Bidder on such questions and clarifications submitted in writing to KW&SC. Any proposed changes or responses to such clarifications and questions shall be provided to all Bidders.
- 3.3.3 No later than fifteen (15) calendar days prior to the Bid Submission Date, Interested Parties may

visit and examine the site(s), where the works and services in relation to the Project are to be performed and undertaken, and its surroundings, and obtain for themselves at their own expense and responsibility all information that may be necessary for preparing the Bid and entering into the Concession Documents and other relevant instruments as per the RFP. The costs and permission(s) (if any) for the purposes of visiting such site(s) shall be at the Interested Party's own expense and liability. Interested Parties shall be required to seek prior written permission of KW&SC for visiting such site(s), provided that such permission is sought one (1) week prior to the planned visit date.

KW&SC may invite the Interested Parties for a site visit to be conducted by KW&SC at a date and time as may be communicated during the first Pre-Bid Meeting by KW&SC.

Site visit(s) shall be conducted only upon the express condition that the Interested Party, its personnel and agents will release and indemnify the GoS Parties (including KW&SC) from and against all liabilities in respect thereof, and will be responsible for injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of such visit.

3.4 AMENDMENT OF RFP

3.4.1 At any time prior to the Bid Submission Date, KW&SC may amend the RFP by issuing an addendum / corrigendum.

3.4.2 Any addendum / corrigendum issued shall be considered part of the RFP. Such addendum / corrigendum shall be communicated to the potential Bidders and shall be published on the respective websites of KW&SC, PPP Unit and the SPPRA.

3.4.3 KW&SC may, at its discretion, extend the Bid Submission Date in accordance with Sub-Section 5.2.4 of the Instructions to Bidders, if it considers that as a result of issuance of any addendum / corrigendum, additional time will be required by the Interested Parties for preparation of their Bids.

4. PREPARATION OF BIDS

4.1 COSTS FOR BIDS

Bidders shall bear all costs associated with the preparation and submission of their Bids, including, without limitation, all costs and expenses relating to preparation of responses to any clarifications sought by KW&SC in accordance with Sub-Section 6.1.1 of the Instructions to Bidders. KW&SC shall in no case be responsible or liable for such costs, regardless of the conduct or outcome of the Bidding Process.

4.2 LANGUAGE OF THE BIDS

The Bid, and all correspondence and documents related to the Bid and the Bidding Process between the Bidder and KW&SC shall be written in the English language. In case any document / information furnished by the Bidder is in a language other than English, it will need to be accompanied by an English translation (duly notarized by notary public and: (i) attested by Pakistan Embassy / Consulate and, once brought into Pakistan, should be attested by Ministry of

Foreign Affairs, Pakistan; or (ii) subject to applicable laws of the country where English translation is issued, authenticated by an apostille under the Apostille Convention) of its pertinent passages for the purposes of interpretation of the Bid. In case of any discrepancy, the English translation shall prevail.

4.3 DOCUMENTS COMPRISING THE BID

4.3.1 The Bid shall comprise a Technical Proposal, containing the documents listed in Sub-Section 4.4 (*Technical Proposal*) of the Instructions to Bidders, and a Financial Proposal, containing the documents listed in Sub-Section 4.5 (*Financial Proposal*) of the Instructions to Bidders, each submitted simultaneously in separately sealed envelopes clearly marked “TECHNICAL PROPOSAL” and “FINANCIAL PROPOSAL” respectively, in accordance with manner provided herein.

4.3.2 Bidders are expected to carefully examine the RFP when preparing their Bids and use only the Bidding Forms specified in Sub-Section 3.1.2 of the Instructions to Bidders. Bidding Forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested. Any material deviations / omissions / reservations from the formats provided in the RFP shall not be accepted and may form basis for the rejection of the Bid. Material deficiencies, in the sole opinion of KW&SC / TFEC, in providing the information requested may result in rejection of a Bid.

4.3.3 In case a document required to be submitted as part of the Technical Proposal, is submitted with the Financial Proposal; or a document required to be submitted with the Financial Proposal, is submitted with the Technical Proposal, it shall not be considered for evaluation and such document shall be considered as not submitted by the Bidder.

4.4 TECHNICAL PROPOSAL

4.4.1 The Technical Proposal shall demonstrate the Bidder’s unconditional acceptance of the complete scope of works and services under the RFP. Any material omission, reservation, deviation or condition attached in the Technical Proposal may cause the Bid to be rejected as non-responsive. Under no circumstances will KW&SC / TFEC consider / accept a conditional Technical Proposal.

4.4.2 The Technical Proposal submitted by the Bidder shall include the following information:

- (a) signed and filled out ‘Letter of Technical Proposal’, as set out in Bidding Form T1 (*Letter of Technical Proposal*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
- (b) Integrity Pact, as set out in Bidding Form T2 (*Form of Integrity Pact*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, in accordance with Sub-Section 8.3 (*Integrity Pact*) of the Instructions to Bidders;
- (c) information as per the Bidding Form T3 (*Basic Information Form*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
- (d) authorization in the form of a power of attorney on behalf of the Bidder, and in case of a

Consortium, each Consortium Member, authorizing its representative to sign the relevant documents as per the requirements of the RFP, on its behalf, in the format attached as Part I (*Form of Power of Attorney for Appointment of Authorised Representative by Single Entity Bidder / Consortium Member*) of Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;

- (e) in case the Bidder is a Consortium, a power of attorney, to be executed by the authorized representatives of the Consortium Members, in favour of the Consortium Authorized Representative, to authorize it to represent and bind all Consortium Members, in the form and substance attached as Part II (*Form of Power of Attorney for Appointment of Consortium Authorised Representative*) of Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
- (f) Consortium Undertaking, to be issued by the authorized representatives of the Consortium Members, in the form and substance as set out in Bidding Form T5 (*Form of Consortium Undertaking*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
- (g) an affidavit from the Bidder (in case of Consortium, each Consortium Member), in the form and substance as set out in Bidding Form T6 (*Form of Affidavit by Bidder*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
- (h) name of the Consortium Member who will be the Lead Developer in the Consortium, fulfilling the Lead Developer Criteria, along with a clear statement of relevant Lead Developer Criteria it aims to qualify under, as per Bidding Form T7 (*Lead Developer Criteria Evidence Form Sheet*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, with a summary of the supporting evidence. For each project submitted by the Lead Developer as evidence of meeting the Lead Developer Criteria, the Lead Developer shall provide:
 - (i) as per Bidding Form T7 (*Lead Developer Criteria Evidence Form Sheet*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, details regarding the project: (A) name; (B) location; (C) description along with capacity and project components; (D) commercial operations date; and (E) direct or indirect shareholding in the relevant project with the name of the special purpose vehicle and its ultimate parent company or companies;
 - (ii) verifiable and independently and objectively produced documentary evidence confirming the information in section (i) above, which should include, without limitation:
 - (A) work order or project completion certificate clearly indicating: (I) name of the project and Lead Developer; (II) role and scope of the work; (III) shareholding percentage and shareholding term (construction and operations period); and (IV) project construction cost. Such evidence (containing information mentioned in (I) to (IV) above) to be provided through: (i) project completion certificate issued by the relevant

governmental counterparty; **OR** (ii) a letter issued by the project company supported by relevant project agreements signed with government counterparty such as contract or work order; and

- (B) either: (I) evidence of the required direct or indirect shareholding, a statement from an auditor confirming the Lead Developer's shareholding in the project / plant; or (II) project company's audited financial statements covering the construction and operating period reflecting such direct or indirect shareholding of the Lead Developer in the project company;
- (i) information with regards to net worth of the Bidder (each Consortium Member, in case the Bidder is a Consortium) in the form set out in Bidding Form T8 (*Bidder / Consortium Member Net Worth Form*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, along with relevant information as required in terms of Sub-Sections 6.5.5 and 6.5.6 of the Instructions to Bidders, evidencing compliance with the Net Worth Requirements applicable to the Bidder (including a Consortium Member, in case the Bidder is a Consortium), as set out in the Basic Eligibility Criteria;
 - (j) list of Proposed EPC Contractors in accordance with Sub-Section 2.1.8 of the Instructions to Bidders, along with the following documents / information evidencing compliance with the EPC Contractor Criteria. For Proposed EPC Contractors (or a Bidder (including a Consortium Member), in case the Bidder (or the relevant Consortium Member) intends to undertake the relevant engineering, procurement and construction works for the Project itself):
 - (i) completion certificates, or relevant evidence issued by an employer or a relevant third-party which engaged the Proposed EPC Contractor (or a Bidder (including a Consortium Member), as applicable) for the relevant works / project, indicating that the relevant works / project undertaken by the Proposed EPC Contractor (or a Bidder (including a Consortium Member), as applicable) have been completed, and with respect to each of the completed works / projects in the last fifteen (15) years, the information in the format provided in Bidding Form T9 (*Project References of Proposed EPC Contractor*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, clearly indicating the name of the Proposed EPC Contractor (or a Bidder (including a Consortium Member), as applicable), scope of engineering, procurement and construction works undertaken by such Proposed EPC Contractor (or a Bidder (including a Consortium Member) as applicable), in each case evidencing compliance with EPC Contractor Criteria; and
 - (ii) information as per as per Bidding Form T10 (*Proposed EPC Contractor Net Worth Form*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, specifying the net worth of the Proposed EPC Contractor, along with relevant information as required in terms of Sub-Sections 6.5.5 and 6.5.6 of the Instructions to Bidders, evidencing compliance with the Net Worth Requirements applicable to the Proposed EPC Contractors, as set out in the Basic Eligibility Criteria;

- (iii) A detailed description of the Proposed EPC Contractor (including each member of the Proposed EPC Contractor, in case the Proposed EPC Contractor is a consortium) containing:
 - (I) legal name;
 - (II) complete head office contact information, including mailing address, telephone and fax numbers, and an e-mail address;
 - (III) incorporation details, including corporate charter and articles of incorporation. If the Proposed EPC Contractor is an unincorporated legal entity, then the proof of that legal entity's existence must be provided,
- (iv) in case the Proposed EPC Contractor has formed a consortium, details of the consortium arrangements;
- (v) letters by the Proposed EPC Contractors, setting out: (i) the intention of the Proposed EPC Contractors to undertake the Project as per the requirements of the RFP, in case of award; and (ii) authorization in favour of the Bidder to submit the Proposed EPC Contractor's information and documentation required in terms of the RFP as part of its Bid,

Bidders shall ensure that persons signing the documents for an on behalf of the Proposed EPC Contractors as required in terms of the RFP, have valid authorizations from the relevant Proposed EPC Contractors and the said documents are issued by such persons as per the requirements of the applicable Laws. KW&SC shall not be held liable, in the event it is determined by any forum or entity, that a document of the Proposed EPC Contractor submitted by the Bidder as part of its Bid, is without valid legal authority and such document shall not be accepted for evaluation;

- (k) following Bidding Forms, specified in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, each prepared as per the requirements specified therein:
 - (i) Bidding Form T13 (*Technical Project Methodology / Approach*);
 - (ii) Bidding Form T14 (*Implementation Schedule*);
 - (iii) Bidding Form T15 (*Organization & Staffing*);
 - (iv) Bidding Form T16 (*Quality Control Practices & Procedures*);
 - (v) Bidding Form T17 (*Health & Safety Plan and Procedures*);
- (l) Bid Security, as set out in Bidding Form T11 (*Form of Bid Security*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, in accordance with Section 4.7 (*Bid Security*) of the Instructions to Bidders; and
- (m) any other documents required under the RFP.

4.5 FINANCIAL PROPOSAL

- 4.5.1 In preparing the Financial Proposals, Bidders are expected to fully understand the requirements and conditions set out in the RFP, including all contractual obligations of KW&SC, the Company, the Successful Bidder and the GoS under the Concession Documents (as applicable) and the scope of works and services to be performed by the Company (as the concessionaire) in relation to the Project.
- 4.5.2 Any material omission, reservation, deviation or any condition included in the Financial Proposal to the contrary shall cause the Bid to be rejected as non-responsive as per the Applicable Evaluation Documents. Under no circumstances a conditional Financial Proposal will be accepted.
- 4.5.3 The Financial Proposal submitted by the Bidder shall comprise the following:
- (a) signed and filled out Letter of Financial Proposal, as set out in Bidding Form F1 (*Letter of Financial Proposal*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;
 - (b) information as required in the relevant forms as set out in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP. Relevant forms in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP can be downloaded from any of the websites of KW&SC, PPP Unit or SPPRA. Bidders are required to use and fill in the forms available at the aforementioned websites in Microsoft Excel file. Bidders are required to submit such MS Excel file of the relevant forms in the Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, in hard copy (with original Financial Proposal) and electronic copy (in CD/DVD/USB);
 - (c) following information / documentation evidencing the Bidder's ability to finance one hundred percent (100%) of the Project costs, excluding the GoS Equity Amount through a combination of debt and equity, subject to a gearing cap of no more than a debt to equity ratio of 80:20, after accounting for GoS Equity Amount:
 - (i) in the case of Bidders intending to enter into financing arrangements with financial institutions in respect of the Project: (I) a financing term-sheet; or (II) an equivalent internationally recognized document (such as a letter of intent) in case of foreign lenders accompanied with a signed cover letter, issued and signed by the financial institution in the format attached as (or in case of letter of intent, covering the parameters set out in) Bidding Form F2-H (*Financing Term Sheet*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, prepared in accordance with the requirements of the RFP and the Concession Documents; or
 - (ii) in the case of Bidders intending to finance the Project through their own funds, a copy of a board resolution authorizing the Bidders to finance the Project through their own funds;

- (d) Bidders are required to provide a letter from a financial model advisor, setting out the following:
- (i) structural integrity, formulae, accuracy of the workings and outputs from the Bidder's model, consistency of the technical and costing information with the Technical Proposal and the reasonableness of the financial assumptions used in a Bidder's model;
 - (ii) consistency of the Bidder's model with the information submitted by the Bidders as Bidding Form F2 (*Financial Forms*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, including the assumptions specified in Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP;
 - (iii) accuracy of the Equity IRR and debt calculations and its alignment with the figures provided in Bidding Form F2 (*Financial Forms*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, confirming that the Equity IRR has been calculated: (I) at the Company's level; (II) based on the distributions on the cash flows available for distribution from the Service Payments; (III) on an annual basis during the C&O Period and the Operating Period; (IV) on a nominal basis; and (V) on the basis that the rate shall not be modified to reflect a reinvestment rate;
 - (iv) compliance with the maximum debt to equity ratio of 80:20;
 - (v) findings / confirmation of inclusion of the applicable federal, provincial and local taxes, duties, levies and other charges as per the applicable Laws);
 - (vi) the Cost Recovery Charges (see Bidding Form F2-B (*Cost Recovery Charges*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP), i.e., aggregate of Foreign Debt Principal Recovery Charge (FD_P_RC), Foreign Debt Interest Recovery Charge (FD_I_RC), Local Debt Principal Recovery Charge (LD_P_RC), Local Debt Interest Recovery Charge (LD_I_RC), Foreign Equity Recovery Charge (FE_RC), Local Equity Recovery Charge (LE_RC), should be same during the entire Concession Period, without accounting for any indexation as per the applicable Concession Documents;
 - (vii) the determination by the Bidder of Fixed O&M Cost Recovery Charge/FOMRW is structured in such manner that the net present value of the escalated fixed operation and maintenance payment revenue stream over the Operating Period equals the net present value of the escalated fixed operation and maintenance cost stream over the Concession Period, in each case applying a discount rate as mentioned in Section 1.3 (*Determination of the NPV of Service Payment*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, taking into account the proposed figures for Projected Available Net Water Output, as per Bidding Form F2-A (*Projected Available NWO*) of Bidding Form F2 (*Financial*

Forms) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP;

- (viii) the determination by the Bidder of Variable O&M Cost Recovery Charge / VOMRW is structured in such manner that the net present value of the escalated variable operation and maintenance payment revenue stream over the Concession Period equals the net present value of the escalated variable operation and maintenance cost stream over the Concession Period, in each case applying a discount rate as per in Section 1.3 (*Determination of the NPV of Service Payment*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, taking into account the proposed figures for Net Water Output, as per Bidding Form F2-E (*Output Payment*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP; and
- (ix) compliance with section 8.5 (*Requirement with Respect to Foreign Exchange Indexation*) of the Instructions to Bidders.

The Bidders shall ensure that the financial model advisor issuing the aforesaid letter is: (i) in case an audit firm operating in Pakistan, it is an auditor listed on SBP list Category A; or (ii) in case not an audit firm operating in Pakistan, it is a reputable and recognized financial or transaction advisory firm in Pakistan; or (iii) a reputable and recognized international audit firm or financial or transaction advisory firm. Bidders should ensure that the firm selected as financial model advisor has experience of developing / auditing financial model in at least two (2) project financed infrastructure projects or public private partnership projects that have achieved financial close in the last ten (10) years;

- (e) a financial model in Microsoft Excel spreadsheet form, consistent with the Technical Proposal, setting out all the amounts in PKR and includes all the information required in terms of the Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP; and
- (f) any other document required in the RFP.

4.6 CURRENCIES OF BID AND PAYMENT

- 4.6.1 All Bids and other supporting documents shall state all monetary amounts in Pakistan Rupees (PKR).

4.7 BID SECURITY

- 4.7.1 The Bidder shall furnish, as part of the Technical Proposal, a Bid Security equivalent to PKR 350,000,000/- (Pakistani Rupees Three Hundred Fifty Million only) (the “**Bid Security**”).
- 4.7.2 The Bid Security shall be an irrevocable, unconditional and on-demand bank guarantee in the form attached as Bidding Form T11 (*Form of Bid Security*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP.
- 4.7.3 The Bid Security shall be issued and maintained in PKR by an Acceptable Bank.

- 4.7.4 The Bid Security shall be valid until twenty-eight (28) days following the Bid Validity Period, as may be extended in accordance with Sub-Section 4.8.2 of the Instructions to Bidders. If the C&O Performance Security has not been issued by the Successful Bidder thirty (30) days prior to the expiry of the Bid Security, then the Successful Bidder shall extend the Bid Security until such date as notified by KW&SC.
- 4.7.5 Any Bid not accompanied by a compliant Bid Security (as exclusively determined by KW&SC / TFEC), shall be rejected as non-responsive and the Bidder shall not be allowed to submit Bid Security at a later stage. The Bid Security issued by a foreign bank and not counter-guaranteed / confirmed from a local bank in Pakistan shall result in the rejection of the Bid.
- 4.7.6 Bidders are required to submit with their original Technical Proposals the original Bid Security. A Bid may be rejected if a photocopy of original Bid Security is attached with the original Technical Proposal and such Bid will not be further evaluated.
- 4.7.7 The Bid Security of the unsuccessful Bidders shall be returned earlier of: (a) the expiry of the Bid Validity Period; or (b) once the Successful Bidder furnishes the C&O Performance Security pursuant to Sub-Section 7.5 (*C&O Performance Security*) of the Instructions to Bidder.
- 4.7.8 The Bid Security of the Successful Bidder shall be returned as soon as reasonably possible once the Successful Bidder has furnished the required C&O Performance Security and the Company has signed the Concession Agreement.
- 4.7.9 The Bid Security shall be forfeited:
- (I) if a Bidder:
 - (a) withdraws its Bid during the Bid Validity Period (except as provided in Sub-Section 5.4.4 of the Instructions to Bidders);
 - (b) is found to be engaged in any corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (c) does not accept the arithmetical corrections of its Bid in accordance with Sub-Section 6.3.2 of the Instructions to Bidders; and / or
 - (d) fails to fulfil its obligations under the RFP in terms thereof.
 - (II) if the Successful Bidder or the Company, as applicable:
 - (a) fails to sign the Concession Agreement and the EFU Agreement, in accordance with Sub-Section 7.6 (*Signing of Concession Agreement and EFU Agreement*) of the Instructions to Bidders;
 - (b) fails to furnish C&O Performance Security pursuant to Sub-Section 7.5 (*C&O Performance Security*) of the Instructions to Bidders;
 - (c) fails to pay the IFC Advisory Fee within the timeline set out in the Instructions to Bidders; and / or

(d) fails to comply with the requirements set out in the Notification of Award.

4.7.10 The Bid Security is required to protect KW&SC and the GoS against the risk of Bidder's conduct which would warrant the Bid Security's forfeiture, pursuant to Sub-Section 4.7.9 of the Instructions to Bidders.

4.8 BID VALIDITY

4.8.1 Bids shall remain valid for the Bid Validity Period, as may be extended by KW&SC in accordance with Sub-Section 4.8.2 of the Instructions to Bidders. A Bid valid for a shorter period shall be rejected as non-compliant in accordance with the Applicable Evaluation Documents.

4.8.2 In exceptional circumstances, prior to the expiration of the Bid Validity Period, KW&SC may request all Bidders to extend the period of validity of their Bids. Any such request by KW&SC with respect to the extension of the Bid Validity Period and the response by the Bidders, shall be in writing. The Bid Security requested in accordance with Sub-Section 4.7 (*Bid Security*) of the Instructions to Bidders, shall also be extended accordingly for a corresponding further period not exceeding the original Bid Validity Period. Extension of Bid Security may be requested upon the extension of Bid Validity Period. A Bidder may refuse the request, following which such Bidder's Bid will be disqualified and its Bid Security returned without forfeiture. A Bidder accepting the request shall not be required or permitted to modify its Bid.

4.9 MANNER OF SIGNING OF BID

4.9.1 The Bidder shall prepare one (1) original of the Technical Proposal and one (1) original of the Financial Proposal comprising the Bid as described in Sub-Section 4.3 (*Documents Comprising the Bid*) of the Instructions to Bidders, and clearly mark each as "ORIGINAL – TECHNICAL PROPOSAL" and "ORIGINAL – FINANCIAL PROPOSAL", respectively, in addition to the marking stipulated in Sub-Section 4.3 (*Documents Comprising the Bid*) of the Instructions to Bidders. The Bidder shall submit as "COPY" four (4) hard copies of the Technical Proposal, printable softcopies (PDF), and editable softcopies (Microsoft Word, Microsoft Excel etc., as may be relevant) of the Technical Proposal and the Financial Proposal. The CDs / DVDs / USBs should be clearly marked "Technical Proposal" and "Financial Proposal" and placed in their respective envelopes containing the Technical Proposal and the Financial Proposal marked as "ELECTRONIC COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

4.9.2 The original and all relevant copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Bidder. This authorization shall consist of a written power of attorney, as set out in Bidding Form T4 (*Form of Power of Attorney*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, as per the requirements set out in the Instructions to Bidders. This authorization must contain the name and position held by each person signing the authorization and name and position of the authorised signatory.

4.9.3 The hard copy of each Bid should be bound in the hard book binding form to avoid the possibility of removal or insertion of page(s). All pages of the original Bid must be initialled and stamped by the Bidder's authorized representative. All the pages must be numbered starting from the first page to the last. Any Bid not substantially adhering to these requirements may be rejected.

- 4.9.4 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the authorized representative signing the Bid.
- 4.9.5 KW&SC / TFEC reserves the right to reject a Bid which does not meet the requirements in Sub-Section 4.9 (*Manner of Signing of Bid*) of the Instructions to Bidders.

5. SUBMISSION AND OPENING OF BIDS

5.1 SEALING, MARKING AND SUBMISSION OF BIDS

- 5.1.1 In accordance with Sub-Section 4.9.1 of the Instructions to Bidders, each Bid shall be in a separate envelope indicating the Bid as original or copy clearly marked as “ORIGINAL” and “COPY”, as appropriate. The Technical Proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL” and the Financial Proposal in the sealed envelope clearly marked “FINANCIAL PROPOSAL”. These two envelopes, in turn, shall be sealed in an outer envelope bearing the address for Bid submission indicated in the Data Sheet. The envelope shall be clearly marked: “DO NOT OPEN, EXCEPT IN PRESENCE OF TFEC”.

The outer envelope of the Technical Proposal shall bear a warning not to open the envelope before the Bid Submission Date. The outer envelope of the Financial Proposal shall bear a warning not to open the envelope before the Technical Proposal has been evaluated. Any Bidder (including a Consortium Member) who submits or participates in more than one (1) Bid shall be disqualified. The inner and outer envelopes of the Technical Proposal and the Financial Proposal shall bear the name of the Bidder and be addressed to KW&SC and shall the mention the name of the Project i.e., “*Karachi Hub Water Canal Project*”.

- 5.1.2 If all the envelopes are not sealed and marked as required, GoS Parties shall not assume any responsibility for the misplacement or premature opening of the Bid. In case of such misplacement or premature opening of Bid which results in disclosure of any direct or indirect financial information prior to the scheduled opening of the Financial Proposal, the Bid shall be rejected as non-responsive.
- 5.1.3 All Bidding Forms forming part of the Technical Proposal and the Financial Proposal, as specified in the RFP are to be properly completed and signed. No alteration is to be made in the Letter of Financial Proposal, Letter of Technical Proposal or in the Bidding Forms, except in filling up the blanks as directed. If any alteration is made or if these instructions have not been fully complied with, the Bid may be rejected.
- 5.1.4 Bids shall be submitted by the Bidders: (i) through courier / express mail; or (ii) by hand at the address indicated in the Data Sheet.

5.2 DEADLINE FOR SUBMISSION

- 5.2.1 Bids must be received by KW&SC at the address provided in the Data Sheet not later than the Bid Submission Date.
- 5.2.2 No arrangements shall be made by KW&SC with Bidders for collection of the Bids from any delivery point. Bidders shall bear all expenses incurred in the preparation and delivery of Bids.

No claims for refund of any expense shall be entertained.

- 5.2.3 Where delivery of the Bid is by courier / express mail and Bidder wishes to receive an acknowledgment of receipt of such Bid, the Bidder shall make a request for such acknowledgement in a separate letter attached to (but not included in) the sealed Bid.
- 5.2.4 KW&SC may, at its discretion, extend the Bid Submission Date by issuing an addendum in accordance with Sub-Section 3.4 (*Amendment of RFP*) of the Instructions to Bidders, in which case all rights and obligations of KW&SC and the Bidders previously subject to the earlier Bid Submission Date shall thereafter be subject to the extended Bid Submission Date.
- 5.2.5 KW&SC shall not consider any Bid that arrives after the Bid Submission Date. Any Bid or any document received by KW&SC after the Bid Submission Date shall be declared late, rejected, and returned unopened to the Bidder.
- 5.2.6 Delays in the mail, delays of person(s) in transit, or delivery of a Bid to an incorrect location, shall not be accepted as an excuse for failure to deliver a Bid at the proper place and time. It shall be the Bidder's responsibility to determine the manner in which to deliver its Bid in a timely manner.

5.3 MODIFICATION, SUBSTITUTION AND WITHDRAWAL OF BIDS

- 5.3.1 Any Bidder may modify, substitute, or withdraw its Bid after submission provided that written notice, duly signed by authorised representative, for the modification, substitution or withdrawal is received by KW&SC prior to the Bid Submission Date.
- 5.3.2 The notice for modification, substitution or withdrawal of any Bid shall be prepared, sealed, marked and delivered in accordance with the provisions applicable to the original Bid with additional marking of "MODIFICATION" or "SUBSTITUTION" on all envelopes in case of modification or substitution, or "WITHDRAWAL" on the envelope containing the notice, in case of withdrawal.
- 5.3.3 Withdrawal of a Bid during the interval between the Bid Submission Date and the expiration of the Bid Validity Period (or any extension thereof) shall result in forfeiture of the Bid Security pursuant to Sub-Section 4.7.9 of the Instructions to Bidders.
- 5.3.4 Bids requested to be withdrawn in accordance with Sub-Section 5.3.1 of the Instructions to Bidders shall be returned unopened to the requesting Bidder(s).
- 5.3.5 After the Bid Submission Date, no changes to the Concession Documents shall be permitted other than those requested by KW&SC and agreed to by the Bidder, and inclusion of details of the Successful Bidder (to whom the Concession is awarded), and any other information that was incomplete prior to the Bid Submission Date.
- 5.3.6 Bids submitted in response to the RFP by the Bidders shall be upon full understanding and agreement of all terms of the RFP (including the Concession Documents) and such submission shall be deemed as an acceptance to all the terms and conditions stated in the RFP (including the Concession Documents).

5.4 OPENING OF BIDS

- 5.4.1 TFEC shall conduct the opening of Technical Proposals on the same day as the Bid Submission Date at **13:00 hours** (PST) at the address provided in the Data Sheet, in the presence of Bidders' designated representatives who choose to attend.
- 5.4.2 If the Technical Proposal and the Financial Proposal are submitted together in one envelope, other than as specified in the Instructions to Bidders, the entire Bid may be rejected. If any document, required to be submitted with Technical Proposal, is submitted with the Financial Proposal, or if any document required to be submitted with the Financial Proposal is submitted with the Technical Proposal, such document shall not be considered for evaluation and may also form the basis of rejection of a Bid.
- 5.4.3 The Financial Proposals shall remain unopened and will be held in custody of KW&SC until the specified time of their opening, as communicated by KW&SC to the Bidders.
- 5.4.4 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the inner envelope with the corresponding Bid shall not be opened but returned to the Bidder. No Bid shall be withdrawn unless the corresponding withdrawal notice contains a valid authorization by the Bidder to request the withdrawal and is read out during the Bid opening.
- 5.4.5 Second, outer envelopes marked "SUBSTITUTION" shall be opened. The inner envelopes containing the substitute Technical Proposal and / or substitute Financial Proposal shall be exchanged for the corresponding envelopes being substituted, which shall be returned to the Bidder unopened. Only the substituted Technical Proposal, if any, shall be opened, read out, and recorded. Substituted Financial Proposal, if any, will remain unopened in accordance with Sub-Section 5.4.3 of the Instructions to Bidders. No Bid shall be substituted unless a valid authorization by the Bidder to request the substitution is submitted and is read out and recorded during the Bid opening.
- 5.4.6 Next, outer envelopes marked "MODIFICATION" shall be opened. The original Technical Proposal shall be opened, read out, and recorded, followed by the opening, reading out and recording of the modification to the Technical Proposal. Any modification to the Financial Proposal shall remain unopened in accordance with Sub-section 5.4.3 of the Instructions to Bidders. No Bid shall be modified unless a valid authorization by the Bidder to request the modification is submitted and is read out and recorded during the Bid opening.
- 5.4.7 All other envelopes holding the Technical Proposals shall be opened one at a time, and the following read out and recorded:
- (a) the name of the Bidder;
 - (b) the presence and value of the Bid Security;
 - (c) whether there is a modification or substitution; and
 - (d) any other details as KW&SC / TFEC may consider appropriate.

- 5.4.8 Only Technical Proposals read out and recorded during the Bid opening shall be considered for evaluation as per the requirements of the RFP. No Bid shall be rejected at the opening of Technical Proposals except for late Bids, in accordance with Sub-Section 5.2.5 of the Instructions to Bidders.
- 5.4.9 TFEC shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder, presence or absence and the value of Bid Security and whether there is a withdrawal, substitution, or modification. The Bidders' representatives who are present shall be requested to sign the attendance sheet. The omission of a Bidder's signature on the attendance sheet shall not invalidate the contents and effect of the record.
- 5.4.10 At the end of the evaluation of the Technical Proposals, KW&SC shall invite Bidders who have submitted responsive Technical Proposals pursuant to the requirements of the RFP and who have been determined as technically qualified for award of Concession to attend the opening of the Financial Proposals. The date, time, and location of the opening of Financial Proposals shall be advised in writing by KW&SC.
- 5.4.11 KW&SC shall notify in writing at any time prior to the opening of the Financial Proposals, the Bidders who have been rejected on the grounds of their Technical Proposals not being responsive to the requirements of the RFP. Such Bidders shall be required to collect their Financial Proposals unopened from KW&SC on the date notified by KW&SC.
- 5.4.12 TFEC shall conduct the opening of Financial Proposals of all Bidders who have technically qualified, in the presence of Bidders' representatives who choose to attend at the address, date and time specified by KW&SC. The Bidders' representatives who are present shall be requested to sign an attendance sheet evidencing their attendance.
- 5.4.13 Financial Proposals of the Bidders shall be opened one at a time and the following read out and recorded:
- (a) the name of the Bidder;
 - (b) whether there is a modification or substitution;
 - (c) the Bid Price; and
 - (d) any other details as KW&SC / TFEC may consider appropriate.
- 5.4.14 Only the Financial Proposals read out and recorded during the opening of Financial Proposals shall be considered for evaluation. No Financial Proposal shall be rejected at the time of opening of Financial Proposals.
- 5.4.15 TFEC shall prepare a record of the opening of Financial Proposals that shall include, as a minimum: the name of the Bidder and the Bid Price. The Bidders' representatives who are present shall be requested to sign the attendance sheet. The omission of a Bidder's signature on the attendance sheet shall not invalidate the contents and effect of the record. A copy of the attendance sheet shall be distributed to all Bidders.

6. CLARIFICATION AND EVALUATION OF BIDS

6.1 CLARIFICATION OF BIDS

- 6.1.1 To assist in the examination, evaluation and comparison of the Technical Proposals and / or Financial Proposals, KW&SC / TFEC may, at its discretion, ask the Bidders for any clarification, additional information or supporting documentation in respect of any matter associated with the documentation submitted by the Bidders in their Bids. Any such request and the response shall be in writing. Subject to Sub-Section 6.1.3, no change in the price in the Financial Proposals or substance of the Bid shall be sought, offered or permitted except to confirm the correction of arithmetic errors discovered during the evaluation of the Bids, in accordance with Sub-Section 6.3.2 of the Instructions to Bidders.
- 6.1.2 If a Bidder does not provide clarifications of the information requested by the date and time set in KW&SC's / TFEC's request for clarification, its Bid may be rejected.
- 6.1.3 As a result of clarification sought from a Bidder, if applicable, the prices / amounts quoted by such Bidder in the Financial Proposal may be reduced downwards but shall not be increased from the prices / amounts quoted in the Financial Proposals.

6.2 EVALUATION OF BIDS

- 6.2.1 During the evaluation of Bids, the following definitions apply:
- (a) “*Deviation*” is a departure from the requirements specified in the RFP;
 - (b) “*Reservation*” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the RFP; and
 - (c) “*Omission*” is the failure to submit part, or all of the information or documentation required in the RFP.

6.3 PRELIMINARY EXAMINATION OF BIDS

- 6.3.1 Prior to the detailed evaluation of Bids pursuant to Sub-Section 6.4 (*Determination of Responsiveness of Bids*) of the Instructions to Bidders, each Bid shall be examined as follows, and a Bid shall not be considered acceptable if:
- (a) it is received after the Bid Submission Date;
 - (b) it is submitted through fax, email, or any other form of electronic transmission;
 - (c) Bid Security has not been furnished;
 - (d) the Bid is not valid till the Bid Validity Period; and
 - (e) the Bidder does not meet the Basic Eligibility Criteria.

6.3.2 KW&SC / TFEC shall require the Bidder to rectify the arithmetical errors. If there is a discrepancy between:

- (a) the relevant input amount and the output (i.e., total) amount in any Bidding Form, due to any error in calculation, the relevant input amount shall prevail, and the output (i.e., total) amount shall be corrected;
- (b) the words and figures, the amount in words shall prevail.

6.3.3 If the Bidder does not accept the corrected amount of the Bid, its Bid shall be rejected, and its Bid Security shall be forfeited.

6.4 DETERMINATION OF RESPONSIVENESS OF BIDS

6.4.1 KW&SC / TFEC shall determine the responsiveness of each Bid to the RFP. The Technical Proposals that conform to all the terms and conditions of the RFP without material deviations, reservations or omissions shall be declared responsive. A material deviation, reservation or omission is one that:

- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the works and services in relation to the Project as specified in the RFP; or
 - (ii) limit in any substantial way KW&SC's or GoS's rights or the Bidder's or the Company's obligations under the RFP; or
- (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Technical Proposals.

6.4.2 KW&SC's / TFEC's determination of a Bid's responsiveness may be based on the contents of the Bid itself without recourse to extrinsic evidence.

6.4.3 Any minor non-conformity or irregularity in a Technical Proposal that does not constitute a material deviation, reservation or omission may be waived by KW&SC or required by KW&SC to be rectified, provided such waiver or rectification does not prejudice or affect unfairly the competitive position of other responsive Technical Proposals.

6.4.4 Provided that a Bid is substantially responsive, KW&SC / TFEC may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify non-material non-conformities in the Bid related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the Financial Proposal. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

6.4.5 If a Bid is not substantially responsive to the requirements of the RFP, it shall be rejected and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

- 6.4.6 A responsive Financial Proposal is one which meets the requirements of the RFP without any deviation, reservation or omission. No change in the Financial Proposals shall be allowed and shall be evaluated as per the information provided by the Bidders. A non-responsive Financial Proposal may not subsequently be made responsive by correction of the deviation, reservation, or omission.
- 6.4.7 If a Financial Proposal, in the opinion of KW&SC / TFEC, is seriously unbalanced or is seen to unfairly exploit the evaluation mechanism, KW&SC / TFEC may require the relevant Bidder to produce detailed price analysis for any or all items of the Bid, to demonstrate the internal consistency of those prices. After evaluation of the price analysis, taking into consideration the terms of payments, KW&SC / TFEC may require the Bidder to rationalize the costs and / or terms of payments.

6.5 EVALUATION CRITERIA

- 6.5.1 In addition, and subject to the requirements set out in Sub-Section 6.3 (*Preliminary Examination of Bids*) and Sub-Section 6.4 (*Determination of Responsiveness of Bids*) each of the Instructions to Bidders (including the Basic Eligibility Criteria), the Bidders shall be evaluated against the evaluation criteria for the Technical Proposals and the Financial Proposals set out in Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP.
- 6.5.2 The Technical Proposals will be evaluated based on a scoring criteria as laid out in Section I (*Technical Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP. A Bidder whose Technical Proposal scores sixty (60) or more marks in total and at least fifty percent (50%) in any of the categories of the technical evaluation criteria (in KW&SC's / TFEC's determination) set out in Section I (*Technical Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, such Technical Proposal shall be "accepted". Whereas, a Bidder whose Technical Proposal scores less than sixty (60) marks in total or less than fifty percent (50%) in any of the categories of technical evaluation criteria (in KW&SC's / TFEC's determination) set out in Section I (*Technical Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, such Technical Proposal shall be "rejected".
- 6.5.3 The Bid Price, including NPV of Service Payment shall be calculated as per the methodology set out in Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP. The Bid Price shall be clearly stated as a single figure, denominated in PKR, and shall not include any provision for amendment or adjustment (whether for inflation, foreign exchange movements or otherwise).
- 6.5.4 The capabilities of a Bidder (including the Lead Developer) and the Proposed EPC Contractors proposed in a Bid, will be evaluated for acceptability in accordance with the Basic Eligibility Criteria.
- 6.5.5 The net worth requirements applicable to the Bidder (or a Consortium Member, in case the Bidder is a Consortium) and the Proposed EPC Contractors (or in case the Proposed EPC Contractor is a consortium, each consortium member's), as set out in Basic Eligibility Criteria, shall be calculated based on the following parameters, as per the latest audited financial statements:

- (a) “*Net Worth*” shall be calculated as the relevant entity’s “*Total Assets*” minus its: (i) “*Total Liabilities*”; and (ii) “*Revaluation Surplus*” (or similar entry) on a consolidated basis.
- (b) “*Total Assets*” shall be calculated as the total consolidated assets of such entity measured in accordance with either IFRS or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the relevant entity is incorporated.
- (c) “*Total Liabilities*” shall be calculated as the total consolidated liabilities of such entity measured in accordance with either IFRS or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the relevant entity is incorporated.
- (d) “*Revaluation Surplus*” (or similar entry) shall be calculated as the total consolidated figure for any upward changes in the value of the capital / fixed assets of such entity measured in accordance with either IFRS or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the relevant entity is incorporated. It is typically under the ‘*Equity*’ line item in balance sheet.
- (e) Calculations shall be made based:
 - (i) on the relevant entity’s audited consolidated financial statements, duly certified by an independent certified public accountant or auditor, for the three (3) most recent full financial years for which audited financial statements are available as at the Bid Submission Date; or
 - (ii) if: (A) the relevant entity is incorporated in a jurisdiction which does not require the auditing of financial statements; and / or (B) such entity has not in fact had its financial statements audited, on such entity’s non-audited consolidated financial statements, accompanied by a written opinion issued by an independent certified public accountant or auditor certifying the relevant entity’s Net Worth for the three (3) most recent full financial years for which such financial statements are available as at the Bid Submission Date.

Provided that the non-audited financial statements submitted by an entity, which by applicable law is required to prepare audited financial statements, shall not be accepted for the purposes of evaluation.

6.5.6 The Bidder shall provide for itself or, where the Bidder is a Consortium, for each Consortium Member and the Proposed EPC Contractor (and each consortium member, in case the Proposed EPC Contractor is a consortium):

- (a) for entities other than to whom Sub-Section 6.5.5(e)(i) of the Instructions to Bidders applies, audited consolidated financial statements, including a consolidated balance sheet, income statement, statement of cash flows and accompanying notes, for the three (3) most recent full financial years for which such statements are available as at the Bid Submission Date, duly certified by a certified public accountant or auditor; or

- (b) for entities to whom Sub-Section 6.5.5(e)(ii) of the Instructions to Bidders applies, non-audited consolidated financial statements, including a consolidated balance sheet, income statement, statement of cash flows and accompanying notes, for the three (3) most recent full financial years for which such statements are available as at the Bid Submission Date, accompanied by a written opinion issued by an independent certified public accountant or auditor, certifying the relevant entity's Net Worth for the three (3) most recent full financial years for which such financial statements are available as at the Bid Submission Date.

6.5.7 Should all the Proposed EPC Contractors be determined to be non-compliant with the requirements set out in the RFP, the respective Bid shall be rejected.

6.5.8 In case more than one of the Proposed EPC Contractors are determined to be compliant with the requirements set out in the RFP, including the Annexure A (*Basic Eligibility Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, the Bidders shall be allowed to choose any of the compliant Proposed EPC Contractors as the Approved EPC Contractor for the performance of the relevant Project Activities, provided that KW&SC is informed in writing by the Bidder, the name of the Approved EPC Contractor.

6.5.9 In case only one of the Proposed EPC Contractors is determined to be compliant with the requirements set out in the RFP, including the Annexure A (*Basic Eligibility Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP, the Bidders shall nominate such compliant Proposed EPC Contractor as the Approved EPC Contractor for the performance of the relevant Project Activities and the Successful Bidder shall notify KW&SC the name of the Approved EPC Contractor prior to the execution of the Concession Agreement.

6.6 SUCCESSFUL BIDDER

6.6.1 A Bidder whose bid has been determined the Best Evaluated Bid in terms of lowest Bid Price shall be declared the Successful Bidder.

6.6.2 In the event it is determined that two (2) or more Bidders have quoted same lowest Bid Price, KW&SC / TFEC may require such Bidders to re-submit the revised Financial Proposals, subject to the terms and conditions as may be specified by KW&SC / TFEC.

6.7 RIGHT TO VERIFY DOCUMENTS

6.7.1 KW&SC / TFEC retains the right to verify particulars regarding any information, statements and / or documents furnished with a Bid. Any Bidder found to be misrepresenting information may be disqualified at any stage of the Bidding Process and their Bid Security shall be forfeited.

7. AWARD OF CONCESSION

7.1 AWARD CRITERIA

7.1.1 Subject to Sub-Section 7.2 (*KW&SC's Right to Accept / Reject Bids*), KW&SC shall award the Concession to the Bidder whose Bid has been determined to be the Best Evaluated Bid in terms of the requirements of the Applicable Evaluation Documents and subject to the approval of the

PPP Policy Board established under the Sindh PPP Act, provided that such Bidder continues to be eligible in accordance with the requirements set out in the RFP.

7.2 KW&SC'S RIGHT TO ACCEPT / REJECT BIDS

- 7.2.1 No Bid shall be considered to have been accepted, unless such acceptance is confirmed in writing and notified to the Successful Bidder by KW&SC.
- 7.2.2 KW&SC reserves the right to annul the Bidding Process and reject all Bids at any time prior to the issuance of the Notification of Award, without thereby incurring any liability to Bidders or providing any reason for rejection of the Bids. In case of such annulment, all Bids submitted and specifically, the Bid Securities, shall be promptly returned to the Bidders. The decision of KW&SC shall be final and binding.
- 7.2.3 KW&SC shall not be responsible for, or pay for, any expenses or losses which may be incurred by any Bidder in the preparation of, or in connection with, its Bid.
- 7.2.4 Each Bidder fully waives any and all rights to claim in respect of such expenses or losses and agrees to indemnify KW&SC, its affiliates and their advisors fully in respect of any direct or indirect losses, damages, costs or expenses of any kind incurred by any of them.

7.3 NOTIFICATION OF AWARD

- 7.3.1 Prior to expiration of the Bid Validity Period, KW&SC shall notify the Successful Bidder through the Notification of Award that its Bid has been accepted.
- 7.3.2 KW&SC shall, at least three (3) Business Days prior to the issuance of the Notification of Award, publish on the websites of PPP Unit, SPPRA and KW&SC, the results of the Bidding Process in the form of a report.
- 7.3.3 The Successful Bidder shall acknowledge and return the Notification of Award with its acceptance (the “**Acceptance of Notification of Award**”) within seven (7) days of the issuance of Notification of Award, failure of which may constitute sufficient grounds for the annulment of the award and forfeiture of its Bid Security.
- 7.3.4 The Successful Bidder shall be required to pay IFC Advisory Fee, in the manner specified in the Notification of Award, within thirty (30) days of issuance of the relevant invoice by IFC, after the issuance of Acceptance of Notification of Award. In any event the IFC Advisory Fee is to be paid by the Successful Bidder prior to the signing of the Concession Agreement. The IFC Advisory Fee shall be non-refundable.

7.4 FORMATION OF SPV BY THE SUCCESSFUL BIDDER

- 7.4.1 The Successful Bidder shall incorporate a wholly owned SPV (i.e., the Company) that shall be a registered company incorporated in accordance with the Laws of Pakistan exclusively for the implementation of the Project.
- 7.4.2 The Successful Bidder / Company shall be obligated to replace the Bid Security (prior to expiry of the Bid Security) with the C&O Performance Security as per the requirements set out in Sub-

Section 7.5.1 of the Instructions to Bidders.

7.5 C&O PERFORMANCE SECURITY

7.5.1 The Successful Bidder / Company shall, at least five (05) Business Days prior to the date of signing of the Concession Agreement, furnish to GoS satisfactory C&O Performance Security and shall maintain the same in full force and effect until the C&O Performance Security Expiry Date, in accordance with the requirements of the Concession Agreement and the RFP.

7.5.2 Failure of the Successful Bidder to comply with the requirements of Sub-Section 7.5.1 of the Instructions to Bidders shall constitute sufficient grounds for the annulment of the award and forfeiture of its Bid Security. Prior to execution of the Concession Agreement, the C&O Performance Security may be encashed by GoS for the same reasons as the Bid Security and for such other purpose as specified in the RFP. Following execution of the Concession Agreement, the C&O Performance Security shall be encashed in terms of the Concession Agreement.

7.6 SIGNING OF THE CONCESSION AGREEMENT AND EFU AGREEMENT

7.6.1 The Concession Agreement shall be executed between, KW&SC, the GoS and the Company (as the concessionaire), and the EFU Agreement shall be executed between the GoS, the Successful Bidder and the Company, each within thirty (30) days of issuance of the Notification of Award or within such extended timeline as determined by KW&SC in its sole discretion. In case the Concession Agreement and / or the EFU Agreement is not executed within the aforesaid timeline, the Bid Security or the C&O Performance Security (as applicable) shall be forfeited and the award shall be cancelled, if such failure is due to reasons attributable to the Successful Bidder, in the sole determination of KW&SC and / or GoS.

8. OTHER CONSIDERATIONS

8.1 CONFIDENTIALITY

8.1.1 Subject to Sub-Section 8.1.3 of the Instructions to Bidders and Sub-Section 3.3 (*Clarifications of RFP*) of the Instructions to Bidders, no Bidder shall contact any GoS Party on any matter relating to its Bid from the time of Bid Submission Date.

8.1.2 Any attempt by a Bidder to influence any GoS Party in relation to the Bidding Process may result in the rejection of its Bid and encashment of its Bid Security.

8.1.3 Notwithstanding Sub-Section 8.1.2 of the Instructions to Bidders, from the time of Bid opening to the time of award of the Concession, if any Bidder wishes to contact KW&SC / TFEC on any matter related to the Bidding Process (including for the matters set out in Sub-Section 3.3 (*Clarifications of RFP*) of the Instructions to Bidders), it should do so in writing via the modes specified in the Data Sheet.

8.1.4 Information relating to the examination, clarification, evaluation and recommendation for the Bidder shall not be disclosed to any person who is not officially concerned with the Bidding Process or is not a retained professional advisor advising KW&SC and / or the GoS in relation to, or matters arising out of, or concerning the Bidding Process. KW&SC will endeavour to treat

all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. KW&SC may not divulge any such information, unless it is directed to do so by any statutory entity that has the power under law to require its disclosure, is required under the applicable laws in Pakistan, or it is to enforce or assert any right or privilege of KW&SC, a statutory entity and / or the GoS.

- 8.1.5 All information supplied by KW&SC / GoS (through KW&SC) in connection with the RFP, shall be treated as confidential and the Bidders shall not, without the prior written consent of KW&SC, at any time make use of such information for their own purposes or disclose such information to any person (except as may be required by applicable Laws). Subject to the provisions of the RFP, the RFP shall remain the property of KW&SC and is issued solely for the purpose of preparation and submission of the Bid in accordance herewith.
- 8.1.6 The RFP and every part of it and all other information provided by or on behalf of KW&SC must be treated as private and confidential. Bidders shall not disclose the fact that they have been invited to submit a Bid or release details of the RFP other than on a strictly confidential basis to those parties whom they need to consult for the purposes of preparing the Bids.
- 8.1.7 Bidders shall not at any time release any information concerning the RFP and / or their Bid and / or any related documents and / or any discussion with KW&SC in this connection for publication in the press or on radio, television, screen or any other medium without the prior written approval of KW&SC.
- 8.1.8 Each Bidder undertakes to indemnify KW&SC and the GoS and to keep KW&SC and the GoS indemnified against all actions, claims, demands, liability, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection with any breach of the provisions of this Sub-Section 8.1 (*Confidentiality*).
- 8.1.9 Any Bid submitted in response to the RFP is submitted upon a full understanding and agreement of terms of this Sub-Section 8.1 (*Confidentiality*) and therefore the submission of the Bid in response to the RFP would be deemed as an acceptance to the said terms.

8.2 CORRUPT AND FRAUDULENT PRACTICES

- 8.2.1 KW&SC / TFEC will reject a Bid if it determines that a Bidder (including its Affiliate) or a Proposed EPC Contractor has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the Bidding Process and / or shall declare such Bidder or a Proposed EPC Contractor ineligible, either indefinitely or for a stated period of time, to engage with the GoS Parties.
- 8.2.2 “*Corrupt and fraudulent practice*” means either one or any combination of the practices with respect to the Bidding Process and / or the Project given below:
- (a) “**coercive practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;
 - (b) “**collusive practice**” means any arrangement between two or more parties to the

procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency to establish prices at artificial, non-competitive levels for any wrongful gain;

- (c) “**corrupt practice**” means the offering, giving, receiving or soliciting directly or indirectly of anything of value to influence the acts of another party for wrongful gain;
- (d) “**fraudulent practice**” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (e) “**obstructive practice**” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process for the Project, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights.

8.3 INTEGRITY PACT

Each Bidder shall sign and stamp Bidding Form T2 (*Form of Integrity Pact*) of Part 2 (*Bidding Forms*) of the RFP (the “**Integrity Pact**”). Failure to provide such Integrity Pact may cause the Bid to be rejected as non-responsive.

8.4 GRIEVANCE REDRESSAL

Any Bidder being aggrieved by any act or decision of KW&SC / TFEC, may after the issuance of the RFP, lodge a written complaint to the “*complaint redressal committee*” constituted by KW&SC in accordance with the Applicable Evaluation Documents. The mechanism for redressal of grievances of Bidders shall be as per the Applicable Evaluation Documents.

8.5 REQUIREMENTS WITH RESPECT TO FOREIGN EXCHANGE INDEXATION

The foreign exchange indexation (FE_RC as set out in appendix 8 of the Concession Agreement) shall only be applied to lower of: (a) actual equity of the Foreign Sponsor (defined below); and (b) seventy percent (70%) of the total equity (excluding VGF) stated in Bidding Form F2-I (*Sources and Uses*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP and only with respect to the Bidders (including Consortium Members, in case a Bidder is a Consortium) who: (i) are foreign companies incorporated outside Pakistan; (ii) are owned and controlled by foreign shareholders / entities; and (iii) do not have any Pakistani shareholders (whether individual or corporate entity) with more than five percent (5%) shareholding (directly, indirectly, legally or beneficially) in such Bidder or Consortium Member (“**Foreign Sponsor**”).

Each Foreign Sponsor shall be required to submit as part of the Technical Proposal, a legal

opinion from counsel qualified to opine in the jurisdiction of incorporation of the Foreign Sponsor confirming the conditions stated in (i) to (iii) above, and execute an undertaking in the form and substance attached as Bidding Form T6 (*Form of Affidavit by Bidder*) of Part 2 (*Bidding Forms*) of the RFP.

Where a Bidder cannot satisfy the requirements of this Sub-Section 8.5 (*Requirements with Respect to Foreign Exchange Indexation*), for the purposes of Bidding Form F2-B (*Cost Recovery Charges*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, equity should be included in the Local Equity component (LE_RC as set out in appendix 8 of the Concession Agreement).

8.6 FEES, DUTIES AND TAXES

The Company shall be responsible for payment of any stamp duty and other fees, duties and / or taxes that may be applicable with respect to the execution of the relevant documents (including the Concession Documents) in relation to the Project.

8.7 FOREIGN DEBT INDEXATION

The foreign debt and equity exchange indexation (as set out in appendix 8 of the Concession Agreement) shall only be up to USD 35,000,000/- (United States Dollars Thirty-Five Million only) (“**Foreign Currency Funding Amount**”).

Aggregate of: (a) foreign equity stated in Bidding Form F2-I (*Sources and Uses*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, subject to Sub-Section 8.5 (*Requirements with Respect to Foreign Exchange Indexation*) of the Instructions to Bidders (the “**Foreign Equity Amount**”); and (b) foreign debt stated in Bidding Form F2-I (*Sources and Uses*) of Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP (the “**Foreign Debt Amount**”), shall not exceed the Foreign Currency Funding Amount. Bidders are required to ensure that FD_P_RC and FE_RC proposed in their Bids are based on the aforesaid requirement and FD_P_RC corresponds to the Foreign Debt Amount and FE_RC corresponds to the Foreign Equity Amount.

Indexation for FD_P_RC, FE_RC and FD_I_RC are detailed in appendix 8 of the Concession Agreement.

9. DATA SHEET

The following specific data shall supplement the provisions in the Instructions to Bidders.

1.	Address for seeking clarifications on the RFP	<p>Designation: Project Director – Karachi Hub Water Canal Project</p> <p>Address: Room No. 26, 1st Floor, Block B, Office of The Karachi Water & Sewerage Corporation, 9th Mile, Karsaz, Karachi, Pakistan</p> <p>Phone No.: 0092 21 9924 5130</p> <p>Requests for clarifications to be sent to the following email addresses:</p>
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		kwsc@ifc.org . info.p3proc@gmail.com Subject of email to be Att. KWC – RFP ([Name of Bidder]).
2.	First Pre-Bid Meeting	Date: 02 April 2024 Time: 11:00 hours (PST) Venue: Venue for the first Pre-Bid Meeting shall be: International Finance Corporation, 6 th Floor, Bahria Complex 3, M.T. Khan Road, Karachi, Pakistan. <i>Virtual attendance in the first Pre-Bid Meeting shall be permitted. Link for the virtual meeting shall be shared with the Interested Parties prior to the date of the first Pre-Bid Meeting, upon request.</i>
3.	Second Pre-Bid Meeting	Date: 18 April 2024 Time: 14:00 hours (PST) Venue: Venue for the second Pre-Bid Meeting shall be: International Finance Corporation, 6 th Floor, Bahria Complex 3, M.T. Khan Road, Karachi, Pakistan. <i>Virtual attendance in the second Pre-Bid Meeting shall be permitted. Link for the virtual meeting shall be shared with the Interested Parties prior to the date of the second Pre-Bid Meeting, upon request.</i>
4.	Address for submission of Bids	Attention: Staff Officer to Chairman Planning and Development Board, Government of Sindh (on behalf of the Project Director, Karachi Hub Water Canal Project). Address: 2 nd Floor, Tughlaq House, Sindh Secretariat, Shahrah-e-Kamal Atta-Turk Road, Karachi, Pakistan. Telephone: 0092 21 99211922 Cell: 0092 333 319 5734
5.	Address for opening of Bids	Committee Room, Planning and Development Board, Government of Sindh, 2 nd Floor, Tughlaq House, Sindh Secretariat, Shahrah-e-Kamal Atta-Turk Road, Karachi, Pakistan.
6.	Bid Submission Date	20 May 2024

PART 2
BIDDING FORMS

1. BIDDING FORMS

1.1 The Bidding Forms comprise the forms stated below and each relevant form is required to be submitted with the Technical Proposal and the Financial Proposal, as applicable.

1.2 In case a document / Bidding Form required to be submitted as part of the Technical Proposal, is submitted with Financial Proposal; or a document / Bidding Form required to be submitted with Financial Proposal, is submitted with Technical Proposal, it shall not be considered for evaluation and such document / Bidding Form shall be considered as not submitted by the Bidder and may also form the basis of rejection of a Bid.

(A) For the Technical Proposal:

- (a) **BIDDING FORM T1 – LETTER OF TECHNICAL PROPOSAL;**
- (b) **BIDDING FORM T2 – FORM OF INTEGRITY PACT;**
- (c) **BIDDING FORM T3 – BASIC INFORMATION FORM;**
- (d) **BIDDING FORM T4 – FORM OF POWER OF ATTORNEY;**
- (e) **BIDDING FORM T5 – FORM OF CONSORTIUM UNDERTAKING;**
- (f) **BIDDING FORM T6 – FORM OF AFFIDAVIT BY BIDDER;**
- (g) **BIDDING FORM T7 – LEAD DEVELOPER CRITERIA EVIDENCE FORM SHEET;**
- (h) **BIDDING FORM T8 – BIDDER / CONSORTIUM MEMBER NET WORTH FORM;**
- (i) **BIDDING FORM T9 – PROJECT REFERENCES OF PROPOSED EPC CONTRACTOR;**
- (j) **BIDDING FORM T10 – PROPOSED EPC CONTRACTOR NET WORTH FORM;**
- (k) **BIDDING FORM T11 – FORM OF BID SECURITY;**
- (l) **BIDDING FORM T12 – FORM OF LITIGATION HISTORY;**
- (m) **BIDDING FORM T13 – TECHNICAL PROJECT METHODOLOGY / APPROACH;**
- (n) **BIDDING FORM T14 – IMPLEMENTATION SCHEDULE;**
- (o) **BIDDING FORM T15 – ORGANIZATION & STAFFING;**
- (p) **BIDDING FORM T16 – QUALITY CONTROL PRACTICES & PROCEDURES; AND**
- (q) **BIDDING FORM T17 – HEALTH & SAFETY PLAN AND PROCEDURES.**

(B) For the Financial Proposal:

(a) **FORM F1 – LETTER OF FINANCIAL PROPOSAL**

(b) **FORM F2 – FINANCIAL FORMS**

A. TECHNICAL PROPOSAL BIDDING FORMS

BIDDING FORM T1 – LETTER OF TECHNICAL PROPOSAL

[Date]

To: Karachi Water and Sewerage Corporation, Government of Sindh

Project Director – Karachi Hub Water Canal Project
Room No. 26, 1st Floor, Block B,
Office of The Karachi Water & Sewerage Corporation,
9th Mile, Karsaz, Karachi, Pakistan.

Re: Design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”).

Dear [Sir/Madam],

Reference the Request for Proposals document issued on [insert date], by Karachi Water and Sewerage Corporation (“**KW&SC**”), (the “**RFP**”) in relation to the Project.

We, [Name of the Bidder] hereby submit our Technical Proposal in conformity with the requirements of the RFP.

All capitalized terms unless defined herein shall bear the meaning as ascribed thereto in the RFP.

We, agree, confirm, undertake and declare that:

- (a) We have examined and have no reservations to the RFP, including Addenda No(s) [●] / Corrigenda No(s) [●].
- (b) We, [including all Consortium Members,] fully and completely understand and accept the terms of the RFP and hereby undertake to comply with the requirements specified therein.
- (c) We offer to perform and undertake the works and services in respect of the Project in conformity with the RFP (including the Concession Documents) without any omission, reservation and deviation; and we accept and undertake to comply with all requirements in the RFP, including the appendices / annexures attached to the RFP.
- (d) As security for due performance of the undertakings and obligations of this Bid, we submit unconditionally herewith a Bid Security of PKR 350,000,000/- (Pakistani Rupees Three Hundred Fifty Million only) drawn in your favour or made payable to you and valid for a period twenty-eight (28) days beyond the period of validity of Bid. We confirm that the Bid Security has been issued and maintained in accordance with the requirements of the RFP.
- (e) We, [including all Consortium Members,] and the Contractors, as per the requirements of the RFP, respectively:
 - (i) have nationalities of Eligible Countries; and

- (ii) have not been declared ineligible/blacklisted by any of our employers, by any Federal or Provincial governmental or non-governmental department / agency in Pakistan, or any other provincial government / governments of any foreign countries or their governmental bodies and / or International Organizations (e.g., World Bank, Asian Development Bank, United Nations, International Monetary Fund etc.), as at the Bid Submission Date.
- (f) We, [including all Consortium Members], as per the requirements of the RFP, do not have any conflict of interest.
- (g) Neither we, [including all Consortium Members], any Affiliate nor the Proposed EPC Contractors:
 - (i) are included as a debarred person pursuant to the public sanctions list of any multilateral development bank that is party to the Agreement on Mutual Enforcement of Debarment Decisions of 9 April 2010 (www.crossdebarment.org); or
 - (ii) are included on any sanctions lists promulgated by the UN Security Council or its Committees, or any other recognised international sanctions list.
- (h) Our Bid consisting of the Technical Proposal and the Financial Proposal shall be valid for a period of one hundred twenty (120) days from the date fixed for the Bid Submission Date in accordance with the RFP, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (i) We understand that all the volumes, appendices / annexures attached to the RFP are integral parts of the RFP.
- (j) We have reviewed and accepted the form of the Concession Agreement along with the appendices attached thereto (attached as Volume III (*Concession Agreement and Appendices*)) and form of the EFU Agreement (attached as Volume IV (*EFU Agreement*)) to the RFP, and undertake to execute the same within the time period stipulated in Notification of Award.
- (k) [We confirm that we do not have any Pakistani shareholders (whether individual or corporate entity) with more than five percent (5%) shareholding (directly, indirectly, legally or beneficially);]¹
- (l) We hereby:
 - (i) acknowledge and consent to any actual, potential or perceived conflicts of interests arising as a result of the multiple current or prospective roles of IFC, MIGA and IDA in connection with the development, delivery and financing of the Project, or in connection with any pre-existing financial or advisory relationships between an institution of the World Bank Group and a prospective Bidder [(including the Consortium Members)] (or its Affiliate), KW&SC and the GoS;
 - (ii) waive any liability to which any World Bank Group institution might otherwise be

¹ Applicable in case of foreign sponsors.

subject in connection with such actual, potential or perceived conflicts of interest; and

- (iii) consent to the sharing of any information provided to or created by IFC in connection with the proposed financing of the Project among IFC, IDA and MIGA staff members engaged in the proposed financing of the Project.
- (m) We acknowledge that KW&SC (and the GoS) will be relying on the information provided in our Bid and the documents accompanying them to determine the Successful Bidder. We certify that all information provided in our Bid is true and correct and that nothing has been omitted which renders such information misleading.
- (n) We understand that this Bid, together with your written acceptance thereof included in your Notification of Award, shall constitute a binding contract between us, until the Concession Agreement (attached as Volume III (*Concession Agreement and Appendices*) to the RFP) is executed.
- (o) We are not participating or any of our Consortium Members (or any of our Affiliates), as a Bidder in more than one Bid in this Bidding Process in accordance with the requirements of the RFP.
- (p) We understand that KW&SC may cancel the Bidding Process at any time and that KW&SC is not bound either to accept any Bid that it may receive, without incurring any liability to the Bidders.
- (q) We agree to permit KW&SC, the GoS and any persons, representatives or auditors appointed and authorized by KW&SC and / or the GoS to inspect and audit our accounts, records and other documents relating to our Bid.
- (r) All the information submitted along with our Bid, including the enclosed forms and documents, is accurate in all respects.
- (s) We accept the right of KW&SC to: (i) request additional information reasonably required to assess the Bid; (ii) amend the procedures and requirements or make clarifications thereof; and (iii) extend or amend the timelines as stipulated in the RFP.
- (t) All information, representations and other matters of fact communicated (whether in writing or otherwise) to KW&SC by us or on our behalf, in connection with or arising out of the Bid are true, complete and accurate in all respects.
- (u) We hereby declare that all the information and statements made in this Bid are true and accept that any misrepresentation contained in it shall lead to our disqualification, forfeiture of the Bid Security and / or our blacklisting by the KW&SC.
- (v) We, [including all Consortium Members,] have made our own investigations and research and have satisfied ourselves in respect of all matters (whether actual or contingent) relating to the Bid and the Project.
- (w) We undertake, if our Bid is accepted, to furnish the C&O Performance Security as per the requirements of the RFP.

- (x) We do hereby declare that the Bid is made without any collusion, comparison of figures or arrangement with any other person or persons making a Bid for the Project.
- (y) We understand that the RFP has been issued by KW&SC for the Project; and undertake and confirm that if our Bid is accepted, we and the SPV (to be incorporated by us, in case the Project is awarded to us), as applicable, shall execute the Concession Agreement (including other applicable Concession Documents) (attached as Volume III (*Concession Agreement and Appendices*)) and the EFU Agreement (attached as Volume IV (*EFU Agreement*)) to the RFP and all other instruments as may be required to be executed in relation to the Project as per the requirements of the RFP.
- (z) We acknowledge that in case the Project is awarded to us, we shall be liable to pay IFC Advisory Fee in the manner specified in the Notification of Award, within thirty (30) days of issuance of the relevant invoice by IFC, after the issuance of Acceptance of Notification of Award.

Name

In the capacity of

Signed

..... (Seal)...

Duly authorized to sign the Bid for and on behalf of: (*Insert Name of the Bidder/names of all Consortium Members*)

Date

Witness 1:

Witness 2:

Signature: _____

Signature: _____

Name: _____

Name: _____

Date: _____

Date: _____

CNIC/Passport No.: _____

CNIC/Passport No.: _____

BIDDING FORM T2 – FORM OF INTEGRITY PACT

Dated _____

[*name of Bidder*] (the “**Bidder**”) hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from Government of Sindh, Karachi Water and Sewerage Corporation, any administrative subdivision or agency thereof or any other entity owned or controlled by Government of Sindh (collectively to be hereinafter referred to as the “**GoS**”) through any corrupt business practice.

Without limiting the generality of the foregoing, [*name of Bidder*] represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder’s fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoS, except that which has been expressly declared pursuant hereto.

[*name of Bidder*] certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with GoS and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[*name of Bidder*] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other rights and remedies available to GoS under any law, contract or other instrument, be voidable at the option of GoS.

Notwithstanding any rights and remedies exercised by GoS in this regard, [*name of Bidder*] agrees to indemnify GoS for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoS in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by [*name of Bidder*] as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoS.

[Name of Agency: Karachi Water & Sewerage Corporation]²

Signature:

Name of Bidder: _____

Signature:

² Signatures of KW&SC shall be affixed after receipt of Proposals.

BIDDING FORM T3 – BASIC INFORMATION FORM

BIDDER'S INFORMATION

Name of Bidder (Single Entity) / Lead Developer:

Type: (Corporation, Partnership, etc.)

Incorporation No. (if applicable):

Address:

Telephone number:

E-mail address:

Area(s) of business:

Shareholders' Names & CNIC / Passport Nos.:

Consortium Authorized Representative Consortium Members' information:

Name of Consortium Member:

Type: (Corporation, Partnership, etc.)

Incorporation No. (if applicable):

Address:

Telephone number:

E-mail address:

Area(s) of business:

Shareholders' Names & CNIC / Passport Nos.:

Other Consortium Members' information:

Name of Consortium Member:

Type: (Corporation, Partnership, etc.)

Incorporation No. (if applicable):

Address:

Telephone number:

E-mail address:

Area(s) of business:

Shareholders' Names & CNIC / Passport Nos.:

BIDDING FORM T4 – FORM OF POWER OF ATTORNEY

Part I – Form of Power of Attorney for Appointment of Authorised Representative by Single Entity Bidder / Consortium Member

Notes:

- *To be issued by a Bidder (as a single entity) / Consortium Member, appointing and authorizing an individual as its authorised representative to, inter alia, sign the required documents on its behalf in relation to the RFP.*
- *The Power of Attorney is to be executed on a stamp paper of PKR 200/-; or if executed overseas, to be adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 200/-*
- *The Power of Attorney is to be notarised by the notary public.*
- *The Power of Attorney executed and issued overseas will have to be:*
 - (i) *attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed. In case an individual in Pakistan is being appointed as an attorney pursuant to the Power of Attorney, the Power of Attorney, once brought into Pakistan, will also be required to be attested by Ministry of Foreign Affairs, Pakistan; or*
 - (ii) *subject to applicable laws of the country where Power of Attorney is executed, authenticated by an apostille under the Apostille Convention.*
- *The Power of Attorney shall be witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.*

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, WE, [(insert name of the Bidder (in case the Bidder is a single entity) / insert name of Consortium Member (in case the Bidder is a Consortium) and address of the registered office)], as the [[Bidder] / [Consortium Member of the consortium comprising of [insert name of each Consortium Member]]]³, do hereby irrevocably designate, nominate, appoint and authorise Mr. / Ms. [(Name)], son / daughter / wife of [(Name)] holding [CNIC / Passport] Number [insert number] and presently residing at [insert current residence details], as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) (with power to sub-delegate) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to the requirements of the request for proposals document issued on [insert date] (the “**RFP**”) by Karachi Water and Sewerage Corporation (“**KW&SC**”) in relation to design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”), including but not limited to signing and submission of all documents and providing information / responses to KW&SC in respect of the RFP / our bid, representing us in all matters before KW&SC, and generally dealing with KW&SC (and the GoS), and / or any other governmental agencies or any person, in all matters in connection with or relating to or arising out of our bid and for the Project.

³ Insert as applicable.

We hereby ratify all prior and future acts, deeds and things lawfully done by the Attorney in relation to the RFP (including with respect to the submission of our bid in response to the RFP) pursuant to this Power of Attorney and we hereby agree that all prior and / or future acts, deeds and things done by the Attorney in relation to the RFP (including with respect to the submission of our bid in response to the RFP, including any additional information required by KW&SC to assess our bid) shall, and shall always be, deemed to have been done by us.

SIGNATURE OF ATTORNEY

Name of Attorney: _____

CNIC / Passport Number of Attorney: _____

Title / Designation of Attorney: _____

Address of Attorney: _____

Capitalized terms used herein and not otherwise defined shall bear the meaning ascribed thereto in the RFP.

IN WITNESS WHEREOF WE THE ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____ 20____.

Name: _____ [*Insert name of the person executing this Power of Attorney on behalf of the Bidder / Consortium Member*]

Title / Designation: _____ [*Insert title / designation of the person executing this Power of Attorney on behalf of the Bidder / Consortium Member*]

Address: [*Insert address of the person executing this Power of Attorney on behalf of the Bidder / Consortium Member*]

For: _____ [*insert name of Bidder / Consortium Member*]

(Signature)

WITNESSES:

Witness 1:

.....
Name: _____
CNIC / Passport Number: _____
Address: _____

Witness 2:

.....
Name: _____
CNIC / Passport Number: _____
Address: _____

Part II – Form of Power of Attorney for Appointment of Consortium Authorised Representative

Notes:

- *To be issued by each Consortium Member, appointing and authorising the Consortium Authorised Representative to, inter alia, bind it in all matters connected with the Project, including submission of bid in response to the RFP, on behalf of the Consortium.*
- *The Power of Attorney is to be executed on a stamp paper of PKR 200/-; or if executed overseas, to be adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 200/-*
- *The Power of Attorney is to be notarised by the notary public.*
- *The Power of Attorney executed and issued overseas will have to be;*
 - (i) *attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed; or*
 - (ii) *subject to applicable laws of the country where Power of Attorney is executed, authenticated by an apostille under the Apostille Convention.*
- *The Power of Attorney shall be witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.*

POWER OF ATTORNEY

Reference: The request for proposals document issued on [insert date] (the “**RFP**”) by Karachi Water and Sewerage Corporation (“**KW&SC**”) in relation to design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”).

WHEREAS, [insert name of each Consortium Member including the Consortium Authorised Representative] (each hereinafter referred to individually as a “**Consortium Member**” and collectively as “**Consortium Members**”) have formed a consortium (the “**Consortium**”) in accordance with the requirements of the RFP.

KNOW ALL BY THESE PRESENTS, WE, [insert name of the Consortium Member executing this power of attorney], having our registered office at [insert registered office address], being a Consortium Member, do hereby irrevocably designate, nominate, appoint and authorise [insert name of the Consortium Authorised Representative], having its registered office at [insert registered office address of the Consortium Authorised Representative], being one of the Consortium Members, as our true and lawful attorney and of the Consortium (hereinafter referred to as the “**Consortium Authorised Representative**”) through its authorised representative, and hereby irrevocably authorise the Consortium Authorised Representative (with power to sub-delegate) to conduct all business for and on behalf of us and the Consortium during the Bidding Process being conducted by KW&SC and to do on our behalf and on

behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the Project, including but not limited to signing and submission of all applications and other documents and writings, participate in conferences / meetings, respond to queries, submit information / documents, sign and execute contracts and undertakings and generally to represent the Consortium in all its dealings with KW&SC (and the GoS), and / or any other governmental agencies or any person, in all matters in connection with or relating to or arising out of our bid and for the Project.

We hereby ratify all prior and future acts, deeds and things lawfully done by the Consortium Authorised Representative or its authorised representative in relation to the RFP (including with respect to the submission of our bid in response to the RFP, including any additional information required by KW&SC to assess our bid) pursuant to this Power of Attorney and we hereby agree that all prior and / or future acts, deeds and things done by the Consortium Authorised Representative or its authorised representative in relation to the RFP (including with respect to the submission of our bid in response to the RFP) shall, and shall always be, deemed to have been done by us.

ACKNOWLEDGED AND ACCEPTED BY THE CONSORTIUM AUTHORISED REPRESENTATIVE

_____ [to be signed by the Authorised Representative of the Consortium Authorised Representative]

Name of Authorised Representative of the Consortium Authorised Representative:

Name of Consortium Authorised Representative: _____

Address of Consortium Authorised Representative: _____

Capitalized terms used herein and not otherwise defined shall bear the meaning ascribed thereto in the RFP.

IN WITNESS WHEREOF WE THE ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____ 20____.

Name: _____ [Insert name of the person executing this Power of Attorney on behalf of the Consortium Member]

Title / Designation: _____ [Insert title / designation of the person executing this Power of Attorney on behalf of the Consortium Member]

Address: [Insert address of the person executing this Power of Attorney on behalf of the Consortium Member]

For: _____ [insert name of the Consortium Member]

(Signature)

WITNESSES:

Witness 1:

.....
Name: _____
CNIC / Passport Number: _____
Address: _____

Witness 2:

.....
Name: _____
CNIC / Passport Number: _____
Address: _____

BIDDING FORM T5 – FORM OF CONSORTIUM UNDERTAKING

Note: See Bidding Documentary Requirements set out in Part 3 (Bidding Documentary Requirements) of Volume I (Bidding Procedure) of the RFP.

To be executed and issued by Consortium Members through their authorized representative appointed pursuant to the power of attorney set out in Bidding Form T4 (Form of Power of Attorney) of Part 2 (Bidding Forms) of Volume I (Bidding Procedure) of the RFP.

This Undertaking shall be witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.

[Date]

Re: Design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”).

Reference the Request for Proposals document issued on [insert date], by Karachi Water and Sewerage Corporation, (the “**RFP**”) in relation to the Project.

CONSORTIUM UNDERTAKING

(this “**Undertaking**”)

We, _____, _____ and _____ (each hereinafter referred to individually as a “**Consortium Member**” and collectively as “**Consortium Members**”) have formed a consortium (the “**Consortium**”) in accordance with the requirements of the RFP and hereby issue this Undertaking as per the requirements of the RFP.

We, the Consortium Members, do hereby solemnly represent, declare, covenant, undertake and submit that:

- (a) the Lead Developer i.e., [insert name of the Lead Developer], meets the Lead Developer Criteria and shall be liable in respect of the obligations of the Consortium Members in relation to the Project;
- (b) the Consortium Authorized Representative i.e., [insert name], shall have the authority to conduct all business for and on behalf of the Consortium during the Bidding Process, and in the event the Consortium is awarded the Concession for the Project, during signing of the Concession Documents;
- (c) we have read the Concession Documents and shall execute the same as per the requirements of the RFP;
- (d) we shall incorporate a SPV for the purposes of execution of the relevant agreements and for undertaking the Project, as per the requirements of the RFP and the applicable Laws;

- (e) the Consortium Members shall be jointly and severally liable in respect of their obligations in relation to the Project;
- (f) [we do not have any Pakistani shareholders (whether individual or corporate entity) with more than five percent (5%) shareholding (directly, indirectly, legally or beneficially);]⁴
- (g) each Consortium Member shall hold the minimum net worth, as follows:

[insert net worth of each Consortium Member]

- (h) for the purposes of the Project, the shareholding of the SPV shall be as follows:

ROLE	NAME OF ENTITY	EQUITY SHARE/PERCENTAGE INTEREST IN THE SPV
Lead Developer		
Consortium Member		
Consortium Member		

Capitalized terms used herein and not otherwise defined shall bear the meaning ascribed thereto in the RFP.

IN WITNESS WHEREOF, we, the Consortium Members (through our respective authorised representatives), have signed this Undertaking on this _____ day of _____ 20____

For: _____ *[insert name of Consortium Member]*

(Signature)

Name: _____ *[Insert name of the person executing this Undertaking on behalf of the Consortium Member]*

Title / Designation: _____ *[Insert title / designation of the person executing this Undertaking on behalf of the Consortium Member]*

Address: *[Insert address of the person executing this Undertaking on behalf of the Consortium Member]*

For: _____ *[insert name of Consortium Member]*

(Signature)

⁴ Applicable in case of foreign sponsors.

Name: _____ [Insert name of the person executing this Undertaking on behalf of the Consortium Member]

Title / Designation: _____ [Insert title / designation of the person executing this Undertaking on behalf of the Consortium Member]

Address: [Insert address of the person executing this Undertaking on behalf of the Consortium Member]

For: _____ [insert name of Consortium Member]

(Signature)

Name: _____ [Insert name of the person executing this Undertaking on behalf of the Consortium Member]

Title / Designation: _____ [Insert title / designation of the person executing this Undertaking on behalf of the Consortium Member]

Address: [Insert address of the person executing this Undertaking on behalf of the Consortium Member]

WITNESSES:

WITNESS 1:

WITNESS 2:

.....

.....

NAME:

NAME:

CNIC / PASSPORT NUMBER:

CNIC / PASSPORT NUMBER:

ADDRESS:

ADDRESS:

(To be executed by the authorized representatives of all the Consortium Members)

BIDDING FORM T6 – FORMAT OF AFFIDAVIT BY BIDDER

Notes for Execution of Affidavit

- *This Affidavit is to be executed by the authorised representative of the Bidder / each Consortium Member.*
- *The Affidavit is to be executed on a stamp paper of PKR 100/-; or if executed overseas, to be adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 100/-.*
- *If executed in Pakistan, the Affidavit shall be notarised by the notary public and certified by the Oath Commissioner.*
- *For an Affidavit executed and issued overseas, the same will have to be notarized by notary public and:*
 - (i) *attested by the Pakistani Embassy / Consulate in the country where the Affidavit is executed; or*
 - (ii) *subject to applicable laws of the country where Affidavit is executed, authenticated by an apostille under the Apostille Convention*
- *This Affidavit shall be witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.*
- *See Bidding Documentary Requirements set out in Part 3 (Bidding Documentary Requirements) of Volume I (Bidding Procedure) of the RFP.*

Please find below the form and substance of the Affidavit.

Affidavit

(this “**Affidavit**”)

Date: _____

Re: Design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”).

Reference the Request for Proposals document issued on [insert date], by Karachi Water and Sewerage Corporation, (the “**RFP**”) in relation to the Project.

- (1) I, [in case of company, insert name of the authorized person and its designation] of [insert name of company] / [in case of sole proprietor, insert name of sole proprietor and its CNIC or Passport No.] of [insert name of sole proprietorship, if any] / [in case of partnership, insert name of authorized person and its CNIC or Passport No.] of [insert name of partnership, if any] (the “**Entity**”), a [in case of company / partnership, insert nature of company / partnership (if any)] duly organised and existing under the laws of [Pakistan] [insert country of incorporation] with

its registered office located at [*insert registered address*], do hereby solemnly affirm, declare and state that:

- (i) the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) is not ineligible / blacklisted (due to reasons, including but not limited to corrupt practices and poor performance) by any Federal or Provincial governmental or non-governmental department / agency in Pakistan, or any other provincial government / governments of any foreign countries or their governmental bodies and / or International Organizations (e.g. World Bank, Asian Development Bank, United Nations, International Monetary Fund etc.) at the date of submission of this Affidavit;
- (ii) the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) and any of its Affiliate are not included:
 - (a) as a debarred person pursuant to the public sanctions list of any multilateral development bank that is party to the Agreement on Mutual Enforcement of Debarment Decisions of 9 April 2010 (www.crossdebarment.org); or
 - (b) on any sanctions lists promulgated by the UN Security Council or its Committees, or any other recognised international sanctions list;
- (iii) no action, suit or other legal proceeding or governmental investigation is pending against the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) or any of its respective officers, directors or employees, or that any of the foregoing has received any notice thereof, which questions the validity and execution of this Affidavit or the representations provided in this Affidavit;
- (iv) the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) has no tax liabilities or liabilities in respect of judgments awarded by any court or similar proceedings in the period of three (3) years prior to the date of this Affidavit, save in each case to the extent that it has made suitable accounting provision for such liabilities in accordance with applicable accounting regulations;
- (v) the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) has not directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the award of any contract, project or transaction;
- (vi) the Entity (including the Proposed EPC Contractor(s), proposed in its Bid) and any of its Affiliates are not in bankruptcy or liquidation proceedings or receivership, or wound up, or their affairs are not being administered by a court or a judicial officer, or their business activities have not been suspended or they are not the subject of legal proceedings of any of the foregoing and have a reasonable expectation of being able to discharge all financial liabilities as they fall due;
- (vii) [the Entity is legally and financially autonomous and operates under commercial law]⁵;

⁵Only relevant for the government owned legal enterprise or institution.

- (viii) [there is no pending litigation which represents more than 50% of the Entity's net worth]⁶;
 - (ix) the Entity has not failed to sign a contract with any procuring authority following award, due to reasons solely attributable to it;
 - (x) there is no conflict of interest or potential conflict of interest arising from prior or existing contracts or relationships which could materially affect potential involvement of the Entity in the Project and to comply with the obligations set out in the RFP or with respect to the Project; and
 - (xi) neither the Entity (including any Proposed EPC Contractor), nor I have concealed any information that might hinder the Bidding Process for the Project.
- (2) That whatever stated above is true and correct to the best of my knowledge and belief and nothing has been concealed thereto.

All capitalized terms unless defined herein shall bear the meaning as ascribed thereto in the RFP.

[Deponent

Verified on oath at _____ on this ____ day of _____, 20__ that the contents of the above Affidavit are true and correct to the best of my knowledge and belief.]⁷

Deponent

Witnesses:

1. _____

2. _____

Name: _____

Name: _____

Address: _____

Address: _____

CNIC No.: _____

CNIC No.: _____

⁶If applicable.

⁷ Bidders to note that in case this Affidavit is executed outside Pakistan, such verification will not be required.

BIDDING FORM T7 – LEAD DEVELOPER CRITERIA EVIDENCE FORM SHEET

Name of Bidder			
Name of Lead Developer			

Technical Criterion <i>(Satisfaction of only one Technical Criterion is required)</i>	[Yes/No]	[Name of the Lead Developer satisfying the criteria]	[Percentage of shareholding of Lead Developer in the concessionaire]	<p>At least one (1) project in infrastructure sector with direct or indirect shareholding in the project equal to or greater than twenty-five percent (25%) at financial close, throughout construction period and one (1) year of operations (prior to the Bid Submission Date).</p> <p>Note: Government entity as a counterparty; and Minimum project construction cost must be USD 20,000,000/-</p>
	[Yes/No]	[Name of Lead Developer satisfying the criteria]	[Percentage of shareholding of Lead Developer in the concessionaire]	<p>At least one (1) project in water sector with direct or indirect shareholding in the project equal to or greater than ten percent (10%) at financial close, throughout construction period and one (1) year of operations (prior to the Bid Submission Date).</p> <p>Note: Government entity as a counterparty; and Minimum project construction cost must be USD 20,000,000/-</p>
	[Yes/No]	[Name of Lead Developer satisfying the criteria]		<p>At least one (1) project completed in the infrastructure sector (excluding residential and commercial buildings) (prior to the Bid Submission Date).</p> <p>Note: Minimum project construction cost must be USD 40,000,000/-</p> <p>AND</p> <p>At least one (1) project awarded to it</p>

				<i>individually or as part of a consortium, on public private partnership basis (prior to the Bid Submission Date).</i>
--	--	--	--	---

Name of plant/project	Location and country of project	Description (overview) of the project /plant along with project/plant components	Role of the Bidder / Lead Developer	Date of plant/project commercial operation / Completion Date	Project Award Date⁸
<i>[one line per plant /project]</i>					

Percentage of Direct or indirect ownership in the relevant project	Term of ownership (construction period and number of operating years)	Government counterpart, organization and individual for reference. Address/ Telephone & Email (if available)	Capacity of plant /project	Project cost (USD)⁹
<i>[one line per plant /project]</i>				

⁸ Applicable where experience regarding “At least one (1) project completed in the infrastructure sector (excluding residential and commercial buildings) (prior to the Bid Submission Date) AND At least one (1) project awarded to it individually or as part of a consortium, on public private partnership basis (prior to the Bid Submission Date),” is provided.

⁹ **Note:** For project cost other than USD, the project cost in USD, for the purposes of completing this form, will be calculated either i) using the December month-end exchange rate for the relevant year the project was completed/commissioned or ii) in case evidence of relevant completion month is provided, using the month-end exchange rate of the relevant month in which the project was completed / commissioned, as specified in the ‘Month-End Ex Rates in USD’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided.

BIDDING FORM T8 – BIDDER / CONSORTIUM MEMBER NET WORTH FORM

BIDDER / CONSORTIUM MEMBER NET WORTH FORM¹⁰						
	2023		2022		2021	
Currency	In currency of the financial statements [insert name of currency] Million	In PKR Million	In currency of the financial statements [insert name of currency] Million	In PKR Million	In currency of the financial statements [insert name of currency] Million	In PKR Million
Exchange rate (in comparison to financial statements currency)		[Financial statement currency to PKR]		[Financial statement currency to PKR]		[Financial statement currency to PKR]
Total Assets (for three most recent full financial years)						
Total Liabilities (for three most recent full financial years)						
Revaluation Surplus (or similar entry)						
Net Worth						

¹⁰ **Note:** For financial statements in currencies other than PKR, the financial statements in PKR, for the purposes of completing this form, will be calculated either using the December month-end or June month-end (depending on financial year ending month) exchange rate for the relevant year as specified in the relevant 'Month-End Ex Rates in PKR' tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided.

BIDDING FORM T9 – PROJECT REFERENCES OF PROPOSED EPC CONTRACTOR

Bidders shall attach to this form information that describes the Proposed EPC Contractor’s background and experience in similar works. A summary table shall be provided for each project or reference, and relevant documents shall be attached herein as evidence (completion certificates, technical reports, etc.).

Note: Please do not include projects under development or under construction or projects executed more than 15 years ago.

Suitable relevant project experience with specific details of the Proposed EPC Contractor	One (1) water supply or sanitation project which includes a pipeline of 5 km with minimum diameter of 900 mm; or one (1) oil supply project which includes a pipeline of 5 km with minimum diameter of 600 mm; or one (1) gas supply project which includes a pipeline of 05 km with minimum diameter of 900 mm	One (1) water supply project which includes canal new execution or rehabilitation, with more than 10 km length and with a design flow of at least 50 MGD or one (1) large dam following the ICOLD (International Commission of Large Dams) definition, or one (1) hydropower project of 25 MW or more, that includes a spillway chute, a forebay or diversion structures	One (1) water pumping station installation, new execution or rehabilitation, with a design flow of at least 50 MGD	One (1) water filtration or sewage treatment or wastewater treatment or desalination plant, new execution or rehabilitation, having a design flow of at least 50 MGD	In case solar PV plant is proposed in the Technical Proposal, one (1) solar PV plant, with a minimum capacity of 5 MW
<i>[Insert name of the Project]</i>	[Y/N]	[Y/N]	[Y/N]	[Y/N]	[Y/N]

[Insert name of the Project]	[Y/N]	[Y/N]	[Y/N]	[Y/N]	[Y/N]
------------------------------	-------	-------	-------	-------	-------

PROJECT DETAILS

Name of plant/project	Location and country of project	Description (overview) of the project /plant along with project/plant components	Scope of work undertaken by the Proposed EPC Contractor	Date of plant/project commercial operation	Ownership in plant/project (if applicable)
[one line per plant /project]					

Name of Developer counterparty, organization and / or individual for reference.	Capacity of plant /project		Name of project company	Value of contract (USD) ¹¹		Duration of construction period
[one line per plant /project]						

¹¹ **Note:** For conversion of values in USD, the exchange rate will be calculated using the December month-end exchange rates for the year of project completion as specified in the ‘Month-End Ex for the relevant year of the project commercial operations. Rates in ‘US \$’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided.

BIDDING FORM T10 – PROPOSED EPC CONTRACTOR NET WORTH FORM

NET WORTH REQUIREMENTS OF PROPOSED EPC CONTRACTOR¹²						
	2023		2022		2021	
Currency	In currency of the financial statements [insert name of currency] Million	In USD Million	In currency of the financial statements [insert name of currency] Million	In USD Million	In currency of the financial statements [insert name of currency] Million	In USD Million
Exchange rate (in comparison to financial statements currency)		[Financial statement currency to USD]		[Financial statement currency to USD]		[Financial statement currency to USD]
Total Assets (for three most recent full financial years)						
Total Liabilities (for three most recent full financial years)						
Revaluation Surplus (or similar entry)						

¹² For financial statements in currencies other than USD, the financial statements in USD, for the purposes of completing Form T19 (*Net Worth Requirements of Proposed EPC Contractor*), will be calculated using the **December month-end** exchange rates for the relevant year as specified in the ‘Month-End Ex. Rates in USD’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided.

Net Worth						
-----------	--	--	--	--	--	--

BIDDING FORM T11 – FORM OF BID SECURITY

BANK GUARANTEE

Guarantee No. _____

(hereinafter referred to as the “**Bank Guarantee**”)

Executed on _____

Expiry date _____

Name of Guarantor (Bank) with address: _____

[Name of Principal (Bidder) with address:]¹³ _____

Guaranteed Amount (express in words and figures): _____

Date of Bid _____

The above premised, we (the “**Guarantor Bank**”) hereby undertake irrevocably and unconditionally on demand to pay to the Karachi Water & Sewerage Corporation (“**KW&SC**”), without any notice, reference or recourse to the Bidder or to any other entity or without any recourse or reference to any document, agreement, instrument or deed, any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

PKR 350,000,000/- (Pakistani Rupees Three Hundred Fifty Million only)

(the “**Guaranteed Amount**”)

at sight and immediately upon the receipt of the KW&SC’s first written demand (the “**Demand**”) at the Guarantor Bank’s offices located at [●] or through SWIFT instructions transmitted by KW&SC’s bank on behalf of KW&SC, to the Guarantor Bank, or through fax sent by KW&SC at the Guarantor Bank’s fax number i.e., [●], such Demand stating:

- (a) that the Bidder is in breach of its obligations towards KW&SC; and
- (b) the total amounts demanded.

¹³ Bidders to note that the Bid Security may be issued by any Consortium Member.

A Demand shall only be honoured by us: (i) in the case of a written Demand, if it is made by and bears the signature of an authorised officer or other representative of KW&SC; or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by KW&SC's bank on behalf of KW&SC; or (iii) in the case of a Demand made through fax, it is made by and bears the signature of an authorised officer or other representative of KW&SC.

We, the Guarantor Bank, shall unconditionally honour a Demand hereunder made in compliance with this Bank Guarantee at sight and immediately on the date of receipt of your Demand, as stated earlier, and shall transfer the amount specified in the Demand to the bank account, as notified in the Demand, in immediately available and freely transferable funds in the currency of this Bank Guarantee, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Guarantee shall come into force and shall become automatically effective upon its issuance.

Such demand must be received by us on or before the [●] (the “**Expiry Date**”), when this Bank Guarantee shall expire and shall be returned to us.

Upon expiry, this Bank Guarantee shall be returned to the Bidder without undue delay. Multiple Demands may be made by KW&SC under this Bank Guarantee, but our aggregate liability will be restricted up to the Guaranteed Amount.

We hereby agree that any amendment, renewal, extension, modification, compromise, release or discharge by mutual agreement by KW&SC, the Bidder or any other entity of any document, agreement, instrument or deed shall not in any way impair or affect our liabilities hereunder and maybe undertaken without notice to us and without the necessity for any additional endorsement, consent or guarantee by us.

This Bank Guarantee for its validity period shall not be affected in any manner by any change in our constitution or of the Bidder's constitution or of their successors and assignees and this Bank Guarantee shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

All references to any contract, agreement, deed or other instruments or documents are by way of reference only and shall not affect our obligations to make payment under the terms of this Bank Guarantee.

If one or more of the provisions of this Bank Guarantee are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Bank Guarantee.

The Guarantor Bank hereby declares and confirms that under its constitution and applicable laws and regulations, it has the necessary power and authority, and all necessary authorizations, approvals and consents thereunder to enter into, execute, deliver and perform the obligations it has undertaken under this Bank Guarantee, which obligations are valid and legally binding on and enforceable against the Guarantor Bank under the laws of Pakistan.

Further, the Guarantor Bank hereby declares and confirms that the signatory(ies) to this Guarantee is/are its duly authorized officer(s) to execute this Guarantee.

This Bank Guarantee and all rights and obligations arising from this Bank Guarantee shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein.

The issuance of this Bank Guarantee is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Bank Guarantee is issued.

This Bank Guarantee is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758. To the extent that there is any inconsistency between the terms of this Bank Guarantee and the Uniform Rules for Demand Guarantees, ICC Publication No. 758, the terms of this Bank Guarantee shall prevail.

Name:

Designation:

BIDDING FORM T12 – LITIGATION HISTORY

PENDING LITIGATION			
<p>No pending litigation: (A fully settled dispute or litigation is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted).</p> <p>Pending litigation: (All pending litigation not representing more than 50% of the Bidder’s net worth as per the audited financial statements for the year 2023).</p>			
YEAR OF COMMENCEMENT OF LITIGATION	LITIGATION AMOUNT AS PERCENTAGE OF NET WORTH (%)	DETAILS	TOTAL CONTRACT AMOUNT (PKR)¹⁴
		Contract Identification: Name of Employer: Address of Employer: Matter in dispute: Amount in dispute (PKR) ¹⁵ :	

¹⁴ For financial statements in currencies other than PKR, the financial statements in PKR, for the purposes of completing this form, will be calculated either using the December month-end or June month-end (depending on financial year ending month) exchange rate for the relevant year as specified in the relevant ‘Month-End Ex Rates in PKR’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided

¹⁵ For financial statements in currencies other than PKR, the financial statements in PKR, for the purposes of completing this form, will be calculated either using the December month-end or June month-end (depending on financial year ending month) exchange rate for the relevant year as specified in the relevant ‘Month-End Ex Rates in PKR’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls. For currencies not mentioned in the file, Bidders are advised to contact GoS/KW&SC and relevant conversion rates shall be provided

BIDDING FORM T13 – TECHNICAL PROJECT METHODOLOGY / APPROACH

This form must respond to the entire scope of work for the Project described in Volume II (*Technical Specifications*) of the RFP.

The Bidder must attach its approach paper as Bidding Form T13 (*Technical Project Methodology / Approach*). The approach paper should not be longer than 25 pages.

Understanding of the scope of works:

The Bidder must explain its understanding of the objectives and requirements of the Project, highlight the issues of importance, and explain the technical approach it would adopt to address such issues.

Proposed technical approach / methodology:

The Bidder must outline the proposed technical approach / methodology to design, carry out the construction works of the Project during C&O Period and the expected benefits during O&M phase.

The approach paper should articulate how the Bidder will achieve the stated objectives for the Project and how compliance with requirements set out in the RFP (including Volume II (*Technical Specifications*)).

Technical evaluation of the key equipment expected for each component of the Project. Redundancy approach:

The Bidder must identify the key equipment expected for each component, and explain the procurement strategy, showing a good understanding of the risks and impacts in the project schedule.

The approach paper should explain the methodologies and technologies which are to be adopted and demonstrate the compatibility of those with the proposed approach, making it clear that only proven and reliable technologies will be used for the implementation of the Project.

Risk management approach and proposed mitigation actions:

The risk management techniques that the bidder is planning to implement should be presented to indicate how the project's risks will be managed.

The bidder must submit an initial draft of the project risk matrix, where the high-level risk envisioned at present will be presented in an organized manner, together with the mitigation proposals that the bidder is planning to implement.

Value engineering approach:

The bidder will present their technical solution in the previous section: Proposed technical approach / methodology. In the present section, the bidder will present the value engineering approach / methodology

to be implemented during the design phase, defining roles and responsibilities of key staff assigned for that specific purpose.

Project Management approach; reporting during C&O Period:

The detailed organization chart will be presented in other section, but the governance structure between the Project Company, the EPC contractor and the O&M contractor will be presented here in detail during the C&O Period, detailing as much as possible the Testing and Commissioning phase.

BIDDING FORM T14 – IMPLEMENTATION SCHEDULE

The Bidders are required to submit a detailed estimated implementation schedule of the proposed works to be attached as Bidding Form T14 (*Implementation Schedule*). The implementation schedule should detail, as minimum, the main planning and delivery components of the Project from inception up to the construction completion, highlighting the different phases of Design, Procurement, Construction and Testing and Commissioning, considering all aspects of the Project including long lead time items, time related to approvals, etc., each in accordance with the requirements of the RFP (including the Concession Agreement). The implementation schedule should also clearly indicate the Project’s critical path. Compliance with the timelines set out in Appendix 2 (*Implementation Schedule*) of the Concession Agreement shall be required to be ensured while preparing this Bidding Form T14 (*Implementation Schedule*).

The implementation schedule will be presented as a Gantt chart and should not be longer than 2 pages (A3) in pdf. Any narrative presented should not be longer than 2 pages.

Name of Bidder: _____

Signature:

[Seal]

BIDDING FORM T15 – ORGANIZATION & STAFFING

The Bidders should propose the structure and composition of their team i.e., the main disciplines involved, the key staff member / expert responsible for each discipline, and the proposed managerial, technical and support staff and site staff. The roles and responsibilities of each key staff member / expert should be set out as job descriptions. In the case of an association / joint venture / consortium, it should, indicate how the duties and responsibilities are to be shared.

The Bidder shall provide a minimum of 6 curriculum vitae (CVs) for the key personnel to be engaged for the Project, in the format attached attachment 1 to this Bidding Form T15 (*Organization & Staffing*).

The position of Team Leader is mandatory in the organization chart. The structure and composition of the team will be defined by the Bidder, including as many positions as considered necessary.

For evaluation purposes it will be considered:

- (a) The proposed key staff member / expert responsible organization chart is consistent with the project necessities, considering both technical and managerial positions.
- (b) For evaluation purposes, the CV of the Team Leader will be considered, as well as other 5 CVs that the Bidder decides to present among the key staff to be assigned to the Project.

Team Leader	Minimum Experience required: 15 years.
	Experience < 20 years [3 Marks]
	Experience > 20 years [5 Marks]
Other positions Up to 5	Minimum Experience required: 10 years [3 Marks] per position.

An example of other positions to be considered for key managerial and technical roles are Construction Manager, Design Manager, Hydraulic Engineer, Electrical Engineer, Mechanical Engineer, Structural Engineer, Quality Manager, Health and Safety Manager, etc.

The Organization & Staffing paper should not be longer than 5 pages, excluding the CVs.

Each CV should not be longer than 2 pages.

Name of Bidder: _____

Signature:
[Seal]

Attachment 1 – Format of Curriculum Vitae (CV) for Proposed Staff

1. Proposed Position: [*only one candidate shall be nominated for each position*]
2. Name of Staff: [*insert full name*]
3. Date of Birth:
4. Nationality:
5. Educational Qualification: [*Summarize college / university and other specialized education of staff member, giving names of schools, dates attended, and degrees obtained*]
6. Membership of Professional Bodies (if and as applicable):
7. Other Training (if any): [*indicate significant training since degrees under 5 – Education obtained*]
8. Languages: [*for each language indicate proficiency: good, fair, or poor in speaking, reading and writing*]
9. Employment Record: [*Starting with present position, list in reversed order, and every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, position held*]

From [Year]: To [Year]:

Employer:

Location:

Position held:

Details of Tasks Assigned & Activities Performed:

10. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualification and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

[Signature]

Date: [Day/Month/Year]

BIDDING FORM T16 – QUALITY CONTROL PRACTICES AND PROCEDURES

The quality control practices and procedures which will ensure compliance with the Project requirements and international best practices, should be attached as Bidding Form T16 (*Quality Control Practices and Procedures*).

Bidders should briefly outline their procedures in relation to the Project and attach any relevant documentation such as ISO 9001 certification, etc.

The quality control practices and procedures paper should not be longer than 5 pages.

BIDDING FORM T17 – HEALTH & SAFETY PLAN AND PROCEDURES

Bidders are required to develop an outline health & safety plan which is specific to the Project and details the approach and procedures to be implemented as part of the Project to ensure the overall health and safety compliance with international best practices and other applicable laws, including the Environmental and Social Standards (as specified in the Concession Agreement) applied throughout the Project lifecycle.

The health & safety plan should also include an outline methodology of risk assessments, health & safety audits, safety check lists and confirmation that all necessary allowances have been made for these procedures and the required personal protective and other equipment, training, inductions and control, etc.

Bidders should briefly outline their procedures in relation to the Project and attach any relevant documentation such as OSHAS 18001 certification, etc.

The Bidder must attach details regarding health and safety plan and procedure as Bidding Form T17 (*Health & Safety Plan and Procedures*), which should not be longer than 5 pages.

B. FINANCIAL PROPOSAL BIDDING FORMS

BIDDING FORM F1 – LETTER OF FINANCIAL PROPOSAL

[Date]

To: Karachi Water and Sewerage Corporation, Government of Sindh

Project Director – Karachi Hub Water Canal Project
Room No. 26, 1st Floor, Block B,
Office of The Karachi Water & Sewerage Corporation,
9th Mile, Karsaz, Karachi, Pakistan.

Re: Design, finance, build, rehabilitate, operate, maintain and transfer of the Karachi Hub Water Canal (the “**Project**”).

Dear [Sir/Madam],

Reference the Request for Proposals document issued on [insert date], by Karachi Water and Sewerage Corporation (“**KW&SC**”), (the “**RFP**”) in relation to the Project.

We, [Name of the Bidder] hereby submit our Financial Proposal in conformity with the requirements of the RFP.

All capitalized terms unless defined herein shall bear the meaning as ascribed thereto in the RFP.

We, agree, confirm, undertake and declare that:

- (a) We have examined and have no reservations to the RFP, including Addenda No(s) [●] / Corrigenda No(s) [●].
- (b) We, [including all Consortium Members,] fully and completely understand and accept the terms of the RFP and hereby undertake to comply with the requirements specified therein.
- (c) Our Bid Price, comprising of NPV of Service Payments and GoS Equity Amount, inclusive of all federal, provincial and local duties, levies and taxes is **PKR [insert amount in figures]/- (Pakistani Rupees [insert amount in words] only)**, where NPV of Service Payments is **PKR [insert amount in figures]/- (Pakistani Rupees [insert amount in words] only)** and GoS Equity Amount is **PKR [insert amount in figures]/- (Pakistani Rupees [insert amount in words] only)**.
- (d) The Total Project Cost¹⁶ based on our Financial Proposal (read with our Technical Proposal) is **PKR [insert amount in figures]/- (Pakistani Rupees [insert amount in words] only)** and **USD [insert amount in figures]/- (United States Dollars [insert amount in words] only)**.
- (e) We offer to perform and undertake the works and services in respect of the Project in conformity with the RFP, including the Concession Documents, without any omission, reservation and

¹⁶ Total Project cost should be equal to the sources of funding including GoS Equity Amount, local and foreign equity (including sponsor loan) and local and foreign debt. The Total Project Cost should be consistent with the figure stated in Bidding Form F2-I (Sources and Uses).

deviation; and we accept and undertake to comply with all requirements in the RFP including the appendices / annexures attached to the RFP.

- (f) We, [including all Consortium Members,] and the Contractors, as per the requirements of the RFP:
 - (i) have nationalities of Eligible Countries; and
 - (ii) have not been declared ineligible/blacklisted by any of our employers, by any Federal or Provincial governmental or non-governmental department / agency in Pakistan, [or any other provincial government / governments of any foreign countries or their governmental bodies and / or International Organizations (e.g., World Bank, Asian Development Bank, United Nations, International Monetary Fund etc.)], as at the Bid Submission Date.
- (g) We, [including all Consortium Members], as per the requirements of the RFP, do not have any conflict of interest.
- (h) Neither we, [including all Consortium Members, any Affiliate], nor the Contractors:
 - (i) are included as a debarred person pursuant to the public sanctions list of any multilateral development bank that is party to the Agreement on Mutual Enforcement of Debarment Decisions of 9 April 2010 (www.crossdebarment.org); or
 - (ii) are included on any sanctions lists promulgated by the UN Security Council or its Committees, or any other recognised international sanctions list,
- (i) Our Bid consisting of the Technical Proposal and the Financial Proposal shall be valid for a period of one hundred twenty (120) days from the date fixed for the Bid Submission Date in accordance with the RFP, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (j) We understand that all the volumes, appendices / annexures attached to the RFP are integral parts of the RFP.
- (k) We have reviewed and accepted the form of the Concession Agreement along with the Appendices attached thereto (attached as Volume III (*Concession Agreement and Appendices*)) and form of the EFU Agreement along with the appendices attached thereto (attached as Volume IV (*EFU Agreement*)) to the RFP and undertake to execute the same within the time period stipulated in Notification of Award.
- (l) We hereby:
 - (i) acknowledge and consent to any actual, potential or perceived conflicts of interests arising as a result of the multiple current or prospective roles of IFC, MIGA and IDA in connection with the development, delivery and financing of the Project, or in connection with any pre-existing financial or advisory relationships between an institution of the World Bank Group and a prospective Bidder [(including the Consortium Members)] (or its Affiliate), KW&SC and the GoS;

- (ii) waive any liability to which any World Bank Group institution might otherwise be subject in connection with such actual, potential or perceived conflicts of interest; and
 - (iii) consent to the sharing of any information provided to or created by IFC in connection with the proposed financing of the Project among IFC, IDA and MIGA staff members engaged in the proposed financing of the Project.
- (m) We acknowledge that KW&SC (and the GoS) will be relying on the information provided in our Bid and the documents accompanying them to determine the Successful Bidder. We certify that all information provided in our Bid is true and correct and that nothing has been omitted which renders such information misleading.
- (n) We understand that this Bid, together with your written acceptance thereof included in your Notification of Award, shall constitute a binding contract between us, until the Concession Agreement (attached as Volume III (*Concession Agreement and Appendices*) to the RFP) is executed.
- (o) We are not participating, as a Bidder in more than one Bid in this Bidding Process in accordance with the requirements of the RFP.
- (p) We understand that KW&SC may cancel the Bidding Process at any time and that KW&SC is not bound either to accept any Bid that it may receive, without incurring any liability to the Bidders.
- (q) We agree to permit KW&SC, the GoS and any persons, representatives or auditors appointed and authorized by KW&SC and / or the GoS to inspect and audit our accounts, records and other documents relating to our Bid.
- (r) All the information submitted along with our Bid, including the enclosed forms and documents, is accurate in all respects.
- (s) We accept the right of KW&SC to: (i) request additional information reasonably required to assess the Bid; (ii) amend the procedures and requirements or make clarifications thereof; and (iii) extend or amend the timelines as stipulated in the RFP.
- (t) All information, representations and other matters of fact communicated (whether in writing or otherwise) to KW&SC by us or on our behalf, in connection with or arising out of the Bid are true, complete and accurate in all respects.
- (u) We hereby declare that all the information and statements made in this Bid are true and accept that any misrepresentation contained in it shall lead to our disqualification, forfeiture of the Bid Security and / or our blacklisting by the KW&SC.
- (v) We, [including all Consortium Members,] have made our own investigations and research and have satisfied ourselves in respect of all matters (whether actual or contingent) relating to the Bid and the Project.

- (w) We undertake, if our Bid is accepted, to furnish the C&O Performance Security as per the requirements of the RFP.
- (x) We do hereby declare that the Bid is made without any collusion, comparison of figures or arrangement with any other person or persons making a Bid for the Project.
- (y) We understand that the RFP has been issued by KW&SC for the Project; and undertake and confirm that if our Bid is accepted, we and the SPV (to be incorporated by us, in case the Project is awarded to us), as applicable, shall execute the Concession Agreement (including other applicable Concession Documents) (attached as Volume III (*Concession Agreement and Appendices*)) and the EFU Agreement (attached as Volume IV (*EFU Agreement*)) to the RFP and all other instruments as may be required to be executed in relation to the Project as per the requirements of the RFP.
- (z) We acknowledge that in case the Project is awarded to us, we shall be liable to pay IFC Advisory Fee in the manner specified in the Notification of Award, within thirty (30) days of issuance of the relevant invoice by IFC, after the issuance of Acceptance of Notification of Award.
- (aa) We confirm that the financial model advisor, who has issued the letter required in terms of Sub-Section 4.5.3(d) of the Instructions to Bidders, and attached with our Financial Proposal, meets the criteria for financial model advisor as specified in Sub-Section 4.5.3(d) of the Instructions to Bidders.

Name

In the capacity of

Signed

..... (Seal)...

Duly authorized to sign the Bid for and on behalf of: (*Insert Name of the Bidder/names of all Consortium Members*)

Date

Witness # 1:

Witness # 2:

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____

CNIC/Passport No.: _____

CNIC/Passport No.: _____

BIDDING FORM F2 – FINANCIAL FORMS

Bidding Form F2 (*Financial Forms*) comprises of the following forms:

- (A) Bidding Form F2-A – Projected Available NWO
- (B) Bidding Form F2-B – Cost Recovery Charges
- (C) Bidding Form F2-C – Electricity
- (D) Bidding Form F2-D – Availability Payment
- (E) Bidding Form F2-E – Output Payment
- (F) Bidding Form F2-F – Service Payment and NPV
- (G) Bidding Form F2-G – Termination Payments
- (H) Bidding Form F2-H – Financing Term Sheet
- (I) Bidding Form F2-I – Sources and Uses

Notes for filling in the forms in Bidding Form F2 (Financial Forms):

Capitalized terms (including the abbreviations) used in the aforesaid forms, shall have the meaning given to them in Concession Agreement (including appendix 8 of the Concession Agreement).

The aforementioned forms are required to be prepared in Microsoft Excel file. Bidders are required to fill in the Bidding Forms F2-A to F2-G and F2-I available at the following websites:

SPPRA – <https://ppms.pprasindh.gov.pk/PPMS/>

PPP Unit – <https://www.pppunitsindh.gov.pk/>

KW&SC – <https://www.kwsb.gos.pk>

BIDDING FORM F2-A – PROJECTED AVAILABLE NWO

	Year	Contracted Available Net Water Output m3/day CAW	Hours in Contract Year		Projected Loss of Net Water Output due to Unavailability				Projected Available Net Water Output m3 ANWO _{pn}
			Summer hours PHs	Winter hours PHw	Summer - Unplanned m3 LCWp _{ns}	Winter - Planned m3 LCWp _{pnw} ^P	Winter - Unplanned m3 LCWp _{pnw} ^U	Total m3 LCWp _{pn} = LCWp _{ns} + LCWp _{pnw} ^P + LCWp _{pnw} ^U	
C&O Period	1	454,609	4,380	4,380	1,818,436	909,218	1,818,436	4,546,090	161,386,195
	1.5	454,609	2,190	2,190	909,218	454,609	909,218	2,273,045	80,693,098
Operating Period	1	454,609	4,380	4,380	-	-	-	-	165,932,285
	2	454,609	4,380	4,380	-	-	-	-	165,932,285
	3	454,609	4,380	4,380	-	-	-	-	165,932,285
	4	454,609	4,380	4,380	-	-	-	-	165,932,285
	5	454,609	4,380	4,380	-	-	-	-	165,932,285
	6	454,609	4,380	4,380	-	-	-	-	165,932,285
	7	454,609	4,380	4,380	-	-	-	-	165,932,285
	8	454,609	4,380	4,380	-	-	-	-	165,932,285
	9	454,609	4,380	4,380	-	-	-	-	165,932,285
	10	454,609	4,380	4,380	-	-	-	-	165,932,285
	11	454,609	4,380	4,380	-	-	-	-	165,932,285
	12	454,609	4,380	4,380	-	-	-	-	165,932,285
	13	454,609	4,380	4,380	-	-	-	-	165,932,285
14	454,609	4,380	4,380	-	-	-	-	165,932,285	
15	454,609	4,380	4,380	-	-	-	-	165,932,285	

Note: The values for Summer - Unplanned (LCWpns), Winter - Planned (LCWpnwP) and Winter - Unplanned (LCWpnwU) each, during the Operating Period are, subject to the maximum limit of 909,218 m³

	Input to be provided by bidders
	Input provided by KWSB
	Output

BIDDING FORM F2-B – COST RECOVERY CHARGES

BIDDING FORM F2-C – ELECTRICITY

		Contracted Specific Net Electrical Energy Consumption	Contracted Specific Net Solar Generation													
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total	
		kWh/m3	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	kWh	
Year		ECR _{CCN}	ESG													
C&O Period	1	0.35														
	1.5	0.35														
Operating Period	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	11	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	13	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

Note: The values for Contracted Specific Net Electrical Energy Consumption (ECR_{CCN}) during the Operating Period are subject to the maximum limit of 0.3

- Input to be provided by bidders
- Input provided by KWSB
- Output

BIDDING FORM F2-D - AVAILABILITY PAYMENT

		Projected Available Net Water Output	Local Principal Repayment	Local Interest Payment	Total Local Debt Service	Foreign Principal Repayment	Foreign Interest Payment	Total Foreign Debt Service	Total Debt Service	Local Equity Component	Foreign Equity Component	Total Equity Component	Capital Cost Recovery Payment	Fixed O&M Cost Recovery Payment	Availability Payment
		m3	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR	PKR
Year		ANWOpn	LPR	LIP	LDSY = LPR+LIP	FPR	FIP	FDSY = FPR+FIP	TDSY = (LDSY+AFDSY)	LE	FE	AEY = AFE + LE	AW	BW	APW=AW + BW
C&O Period	1	161,386,195													
	1.5	80,693,098													
Operating Period	1	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	2	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	3	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	4	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	5	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	6	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	7	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	8	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	9	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	10	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	11	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	12	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	13	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	14	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-
	15	165,932,285	-	-	-	-	-	-	-	-	-	-	-	-	-

Input to be provided by bidders
 Input provided by KWSB
 Output

BIDDING FORM F2-E – OUTPUT PAYMENT

Year	Indexation Year	Net Water Input	Allowable Non Revenue Water (NRW)	Net Water Output	Electricity Price	Electricity Price Growth Rate	Project Electricity Consumption	Electricity Consumption Payment	Variable O&M Cost Recovery Payment	Output Payment
		m3	%	m3	PKR/kWh		kWh	PKR	PKR	PKR
		NWI	ANRW	W	EP	EPI	PEC	CW	DW	OPW = CW + DW
C&O Period	1	161,386,195	25.00%	121,039,646	58.00	1.16	42,363,876	2,854,086,299	-	2,854,086,299
	1.5	80,693,098	25.00%	60,519,823	58.00	1.22	21,181,938	1,500,093,206	-	1,500,093,206
Operating Period	1	165,932,285		165,932,285	58.00	1.35	-	-	-	-
	2	165,932,285	0.00%	165,932,285	58.00	1.49	-	-	-	-
	3	165,932,285	0.00%	165,932,285	58.00	1.65	-	-	-	-
	4	165,932,285	0.00%	165,932,285	58.00	1.82	-	-	-	-
	5	165,932,285	0.00%	165,932,285	58.00	2.01	-	-	-	-
	6	165,932,285	0.00%	165,932,285	58.00	2.22	-	-	-	-
	7	165,932,285	0.00%	165,932,285	58.00	2.46	-	-	-	-
	8	165,932,285	0.00%	165,932,285	58.00	2.71	-	-	-	-
	9	165,932,285	0.00%	165,932,285	58.00	3.00	-	-	-	-
	10	165,932,285	0.00%	165,932,285	58.00	3.31	-	-	-	-
	11	165,932,285	0.00%	165,932,285	58.00	3.66	-	-	-	-
	12	165,932,285	0.00%	165,932,285	58.00	4.05	-	-	-	-
	13	165,932,285	0.00%	165,932,285	58.00	4.47	-	-	-	-
	14	165,932,285	0.00%	165,932,285	58.00	4.94	-	-	-	-
	15	165,932,285	0.00%	165,932,285	58.00	5.46	-	-	-	-

Note: The values for Allowable Non-Revenue Water (ANRW) during the Operating Period are subject to the maximum limit of 4%

	Input to be provided by bidders
	Input to be provided by KWSB based on market data
	Output

BIDDING FORM F2-F – SERVICE PAYMENT AND NPV

		Year	Indexation Year	Capital Cost Recovery Payment PKR AW	Fixed O&M Cost Recovery Payment PKR BW	Electricity Consumption Payment PKR CW	Variable O&M Cost Recovery Payment PKR DW	Service Payment PKR SPW	Discount Factor DR	NPV of Service Payments PKR NPV_SC
C&O Period	1		1.5			2,854,086,299	-	2,854,086,299	0.87	2,473,876,829
	1.5		2			1,500,093,206	-	1,500,093,206	0.83	1,239,746,451
Operating Period	1	Concession Year	3	-	-	-	-	-	0.75	-
	2		4	-	-	-	-	-	0.68	-
	3		5	-	-	-	-	-	0.62	-
	4		6	-	-	-	-	-	0.56	-
	5		7	-	-	-	-	-	0.51	-
	6		8	-	-	-	-	-	0.47	-
	7		9	-	-	-	-	-	0.42	-
	8		10	-	-	-	-	-	0.39	-
	9		11	-	-	-	-	-	0.35	-
	10		12	-	-	-	-	-	0.32	-
	11		13	-	-	-	-	-	0.29	-
	12		14	-	-	-	-	-	0.26	-
	13		15	-	-	-	-	-	0.24	-
14	16	-	-	-	-	-	0.22	-		
15	17	-	-	-	-	-	0.20	-		
Sum of Net Present Value of Service Payment, including Availability Payment and Output Payment (Σ NPV):										3,713,623,280
GoS Equity Amount*										-
Sum of Net Present Value of Service Payment and GoS Equity Amount										3,713,623,280

NOTES:

- (1) Electricity Prices are assumed to be constant at PKR / kWh
- (2) Growth rate of National Consumer Price Index (IR) of:
- (3) Growth Rate of Electricity Price (EPI):
- (4) Exchange Rate fluctuation (EXR):
- (5) Based on a Discount Rate (DR) of:

(6) Reference Exchange Rate PKR/USD

	58
	10.5%
	10.5%
	9.5%
	10.0%
	-

The exchange rate shall be the TT selling rate prevailing seven (7) Business Days before the Bid Submission Date, as notified by National Bank of Pakistan. The rate can be accessed on <https://www.nbp.com.pk/RATESHEET/index.aspx>

*** GoS Equity Amount is the Class B Equity to be issued to GoS which will be the lower of 49% of Total Equity and PKR 2.5 Billion as proposed by the Bidder in the Financial Proposal**

	Input to be provided by bidders
	Input to be provided by [Grantor] based on market data
	Output

BIDDING FORM F2-G – TERMINATION PAYMENTS

Description	Unit	Value
Percentage of Foreign Debt Interest Recovery Charge linked with SOFR	%	
Percentage of Local Debt Interest Recovery Charge linked with KIBOR	%	
Maximum Foreign Equity	PKR	-
Maximum Local Equity	PKR	-
Total Equity	PKR	-
Equity IRR (USD) for Foreign Equity	%	0%
Equity IRR (PKR) for Local Equity	%	0%

Debt Repayment Profile						
Year	Quarter	Repayment Date	Principal Repayment US	Outstanding Principal Amount US	Principal Repayment PKR	Outstanding Principal Amount PKR
			Dollars Loan USD	Dollars Loan after Repayment USD	Loan PKR	Loan after Repayment PKR
1	1.5					
		PCOD		-		-
	1	PCOD + 1 Quarter	-	-	-	-
	2	PCOD + 2 Quarter	-	-	-	-
1	3	PCOD + 3 Quarter	-	-	-	-
	4	PCOD + 4 Quarter	-	-	-	-
	1	PCOD + 5 Quarter	-	-	-	-
	2	PCOD + 6 Quarter	-	-	-	-
	3	PCOD + 7 Quarter	-	-	-	-
2	4	PCOD + 8 Quarter	-	-	-	-
	1	PCOD + 9 Quarter	-	-	-	-
	2	PCOD + 10 Quarter	-	-	-	-
	3	PCOD + 11 Quarter	-	-	-	-
	4	PCOD + 12 Quarter	-	-	-	-
	1	PCOD + 13 Quarter	-	-	-	-
	2	PCOD + 14 Quarter	-	-	-	-
	3	PCOD + 15 Quarter	-	-	-	-
4	4	PCOD + 16 Quarter	-	-	-	-
	1	PCOD + 17 Quarter	-	-	-	-
	2	PCOD + 18 Quarter	-	-	-	-
	3	PCOD + 19 Quarter	-	-	-	-
5	4	PCOD + 20 Quarter	-	-	-	-

6	1	PCOD + 21 Quarter	-	-	-	-
	2	PCOD + 22 Quarter	-	-	-	-
	3	PCOD + 23 Quarter	-	-	-	-
	4	PCOD + 24 Quarter	-	-	-	-
7	1	PCOD + 25 Quarter	-	-	-	-
	2	PCOD + 26 Quarter	-	-	-	-
	3	PCOD + 27 Quarter	-	-	-	-
	4	PCOD + 28 Quarter	-	-	-	-
8	1	PCOD + 29 Quarter	-	-	-	-
	2	PCOD + 30 Quarter	-	-	-	-
	3	PCOD + 31 Quarter	-	-	-	-
	4	PCOD + 32 Quarter	-	-	-	-
9	1	PCOD + 33 Quarter	-	-	-	-
	2	PCOD + 34 Quarter	-	-	-	-
	3	PCOD + 35 Quarter	-	-	-	-
	4	PCOD + 36 Quarter	-	-	-	-
10	1	PCOD + 37 Quarter	-	-	-	-
	2	PCOD + 38 Quarter	-	-	-	-
	3	PCOD + 39 Quarter	-	-	-	-
	4	PCOD + 40 Quarter	-	-	-	-
11	1	PCOD + 41 Quarter	-	-	-	-
	2	PCOD + 42 Quarter	-	-	-	-
	3	PCOD + 43 Quarter	-	-	-	-
	4	PCOD + 44 Quarter	-	-	-	-
12	1	PCOD + 45 Quarter	-	-	-	-
	2	PCOD + 46 Quarter	-	-	-	-
	3	PCOD + 47 Quarter	-	-	-	-
	4	PCOD + 48 Quarter	-	-	-	-
13	1	PCOD + 49 Quarter	-	-	-	-
	2	PCOD + 50 Quarter	-	-	-	-
	3	PCOD + 51 Quarter	-	-	-	-
	4	PCOD + 52 Quarter	-	-	-	-
14	1	PCOD + 53 Quarter	-	-	-	-
	2	PCOD + 54 Quarter	-	-	-	-
	3	PCOD + 55 Quarter	-	-	-	-
	4	PCOD + 56 Quarter	-	-	-	-
15	1	PCOD + 57 Quarter	-	-	-	-
	2	PCOD + 58 Quarter	-	-	-	-
	3	PCOD + 59 Quarter	-	-	-	-
	4	PCOD + 60 Quarter	-	-	-	-

NOTES:

(1) PCOD = Project Commercial Operations Date

(2) For the purposes of filling the 'Principal Repayment US Dollars Loan' column in PKR, please use the Reference Exchange Rate stated in sheet 'F3-F Service Payment and NPV'

	Input to be provided by bidders
	Input to be provided by [Grantor] based on market data
	Output

yr	Principal Repayment US Dollars Loan USD	Outstanding Principal Amount US Dollars Loan after Repayment USD	Principal Repayment PKR Loan PKR	Outstanding Principal Amount PKR Loan after Repayment PKR
1	-	-	-	-
1.5	-	-	-	-
2.5	-	-	-	-
3.5	-	-	-	-
4.5	-	-	-	-
5.5	-	-	-	-
6.5	-	-	-	-
7.5	-	-	-	-
8.5	-	-	-	-
9.5	-	-	-	-
10.5	-	-	-	-
11.5	-	-	-	-
12.5	-	-	-	-
13.5	-	-	-	-
14.5	-	-	-	-
15.5	-	-	-	-
16.5	-	-	-	-

yr	Dollars Loan USD	after Repayment USD	Loan PKR	after Repayment PKR
1	-	-	-	-
2	-	-	-	-
3	TRUE	-	TRUE	-
4	TRUE	-	TRUE	-
5	TRUE	-	TRUE	-
6	TRUE	-	TRUE	-
7	TRUE	-	TRUE	-
8	TRUE	-	TRUE	-
9	TRUE	-	TRUE	-
10	TRUE	-	TRUE	-
11	TRUE	-	TRUE	-
12	TRUE	-	TRUE	-
13	TRUE	-	TRUE	-
14	TRUE	-	TRUE	-
15	TRUE	-	TRUE	-
16	TRUE	-	TRUE	-
17	TRUE	-	TRUE	-

Equity Payment Profile			
Operating Contract Year	Foreign Equity Tariff Component		Local Equity Tariff Component
	%		%
1	0%		0%
2	0%		0%
3	0%		0%
4	0%		0%
5	0%		0%
6	0%		0%
7	0%		0%
8	0%		0%
9	0%		0%
10	0%		0%
11	0%		0%
12	0%		0%
13	0%		0%
14	0%		0%
15	0%		0%

BIDDING FORM F2-H – FINANCING TERM SHEET

Project Description	
Borrower	
Use of Proceeds	
Facilities	
Amount	
Currency	
Gearing / Debt Equity Ratio	
Maturity	
Grace Period	
Repayment	
Interest Period	
Interest Rate	
Hedging (if applicable)	
Security	
Fees and Expenses	
Validity	

Signatory for and on behalf of
[insert name of the financial institution]

Name:
Designation:

Signatory for and on behalf of
[insert name of the relevant Bidder]

Name:
Designation:

BIDDING FORM F2-I – SOURCES AND USES

F2-11: Sources and Uses

Uses of Funds	PKR
EPC Cost	-
Contingencies	-
Insurance	-
Other Non-EPC Costs	-
Development, Consultancy and Advisory	-
Independent Appointees Cost	-
Interest During Construction	-
Financing Fees	-
Total	-
Sources of Funds	PKR
Local Debt	-
Foreign Debt	-
Local Equity (including Local Currency Shareholder Loans)	-
Foreign Equity (including Foreign Currency Shareholder Loans)	-
GoS Equity Amount	-
Total	-
Total Equity Excluding GoS Equity Amount	-

	Input to be provided by bidders
	Input to be provided by [Grantor] based on market data
	Output

Notes:

(1) In respect of equity of the Foreign Sponsor (defined in Volume I/RFP) above, the amount should be less than or equal to seventy percent (70%) of the total equity (excluding VGF)

(2) For the purposes of converting the Foreign Equity in PKR, please use the Reference Exchange Rate stated in sheet 'F3-F Service Payment and NPV'

(3) The total amount of Foreign Debt and Foreign Equity should not exceed the PKR equivalent of USD 35,000,000 (United States Dollars Thirty Five Million Only)

F2-I2: Project Cost

Description	PKR
Canal Rehabilitation	-
New Pipeline Construction	-
Pumping Stations	-
K-III Connection and Pumping	-
Rehabilitation/Replacement of Rising Mains	-
Water Treatment Plant	-
SCADA, Metering and Communications	-
Solar PV Plant	-
Other Costs	-
Taxes, Custom Duties and other Fees	-
Total Construction Cost	-
EPC related Contingencies	-
EPC related Insurance	-
Design, Supervision and Project Management	-
Total EPC Cost	-
Project Contingencies	-
Project Insurance	-
Other Non-EPC Costs	-
Development, Consultancy and Advisory	-
Independent Appointees Cost	-
Interest During Construction	-
Financing Fees	-
Total Project Cost	-

F2-I3: Shareholding Composition

Description	%
Local Sponsors	0%
Foreign Sponsors	0%

F2-14: Cashflow Statement

Operational Years	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Revenue	4,354,179,504	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Less:																
Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fixed O&M	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Variable O&M	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Local Debt Service Payment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Foreign Debt Service Payment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cashflow Available for Dividends	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Check	FALSE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE	TRUE

F2-15: Sponsor Equity Calculation

Local Equity Cashflows	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Foreign Equity Cashflows	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Local Equity	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Foreign Equity	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

F2-16: Applicable Taxes

Description	Rate	Comments

Note: The above table needs to be filled in by the Bidder based on the Tax Report submitted as part of the Financial Model

PART 3

BIDDING DOCUMENTARY REQUIREMENTS

BIDDING DOCUMENTARY REQUIREMENTS

No.	DOCUMENT	REQUIREMENTS ¹⁷	
		LOCAL ENTITY	FOREIGN ENTITY
1.	LETTER OF TECHNICAL PROPOSAL AND LETTER OF FINANCIAL PROPOSAL	To be dated, signed by the authorized representative and duly stamped with the Company's stamp and witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.	To be dated, signed by the authorized representative and to be duly stamped with the Company's stamp and witnessed by two (2) male witnesses or one (1) male and two (2) female witnesses.
2.	FORM OF BID SECURITY	To be issued by Acceptable Bank; and dated, signed by an authorized representative of the relevant bank and duly stamped (PKR 500/-).	To be issued by Acceptable Bank; and dated, signed by an authorized representative of the relevant bank and duly stamped (PKR 500/-). The Bid Security issued by a foreign bank should be counter-guaranteed / confirmed from a local bank in Pakistan.
3.	POWER OF ATTORNEY	To be dated; witnessed; notarized by notary public; duly stamped (PKR 200/-); signed by an authorized representative; and in the language as required under the Instructions to Bidders.	To be dated; witnessed; signed by an authorized representative and adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 200/-. The Power of Attorney executed and issued overseas will have to be notarized by notary public and; (i) attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed. In case

¹⁷ Under the Laws of Pakistan (Qanun-e-Shahdat Order, 1984), the minimum witnessing requirement mandates the presence of either two males, or one male and two females to witness.

			<p>a person in Pakistan is being appointed as an attorney pursuant to the Power of Attorney, the Power of Attorney, once brought into Pakistan, will also be required to be attested by Ministry of Foreign Affairs, Pakistan; or</p> <p>(ii) subject to applicable laws of the country where Power of Attorney is executed, authenticated by an apostille under the Apostille Convention.</p>
4.	UNDERTAKING	To be dated; signed by the authorized signatory; witnessed; duly stamped (PKR 100/-); and in the language as required under the Instructions to Bidders.	<p>To be in the English language and in compliance with the requirements under the Instructions to Bidders, dated, signed by the authorized signatory, witnessed, and adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 100/-.</p> <p>For an Undertaking issued overseas, the same will have to be notarized by notary public and:</p> <p>(i) attested by the Pakistani Embassy / Consulate in the country where the Undertaking is issued; or</p> <p>(ii) subject to applicable laws of the country where the Undertaking is executed, authenticated by an apostille under the Apostille Convention.</p>

5.	INTEGRITY PACT	To be dated and signed by the authorized representative.	To be dated and signed by the authorized representative.
6.	AFFIDAVIT	To be dated; notarized by notary public and verified by Oath Commissioner, signed by the authorized signatory; witnessed; duly stamped (PKR 100/-); and in the format as required under the Instructions to Bidders.	<p>To be in the English language and in compliance with the requirements under the Instructions to Bidders, dated; signed by the authorized signatory; witnessed; and adequately adhesive stamped when brought into Pakistan with a stamp duty of PKR 100/-.</p> <p>For an Affidavit executed and issued overseas, the same will have to be notarized by notary public and:</p> <p>(i) attested by the Pakistani Embassy / Consulate in the country where the Affidavit is executed; or</p> <p>(ii) subject to applicable laws of the country where Affidavit is executed, authenticated by an apostille under the Apostille Convention.</p>

PART 4

ANNEXURES

ANNEXURE A – BASIC ELIGIBILITY CRITERIA

A Technical Proposal received from Bidder, shall only be considered if all the following information / components have been provided and the requirements herein are satisfied:

In case any document / information furnished is in a language other than English, it will need to be accompanied by an English translation (duly notarized by notary public and: (i) attested by Pakistan Embassy / Consulate and, once brought into Pakistan, should be attested by Ministry of Foreign Affairs, Pakistan); or (ii) subject to applicable laws of the country where English translation is issued, authenticated by an apostille under the Apostille Convention. In case of any discrepancy, the English translation shall prevail.

➤ **CONSTITUTIVE DOCUMENTS**

A detailed description of the Bidder (including each Consortium Member) Contractor, containing:

- legal name;
- complete head office contact information, including mailing address, telephone and fax numbers, and an e-mail address;
- incorporation details, including corporate charter and articles of incorporation. If a Bidder (including a Consortium Member) is an unincorporated legal entity, then the proof of that legal entity's existence must be provided.

➤ **REGISTRATION WITH TAX AUTHORITIES**

The Bidder (including each Consortium Member) must possess a valid registration certificate from the income tax authority (i.e., the NTN certificate) and relevant sales tax authority, if applicable. Valid NTN certificate(s) and tax returns filed for last three (3) years are to be attached and relevant sales tax certificate, if applicable.

Foreign entities participating in the Bidding Process should submit a tax certificate of their country and tax returns filed for last three (3) years, if applicable.

➤ **AFFIDAVIT FOR GOVERNMENT OWNED LEGAL ENTITIES**

In case a Bidder (including a Consortium Member) or a Proposed EPC Contractor is a government owned legal enterprise or institution, such entity, must establish that it is legally and financially autonomous and operating under commercial law.

The Bidder (or a Consortium Member) or the Proposed EPC Contractor that is a government owned legal enterprise or institution shall submit an affidavit as set out in Bidding Form T6 (*Form of Affidavit by Bidder*) confirming that it is legally and financially autonomous and operating under commercial law.

➤ **NO CONFLICT OF INTEREST**

Bidders (including Consortium Members) and the Proposed EPC Contractors may be considered to be in a conflict of interest if they, *inter alia*, participated as a consultant in the preparation of the design or technical / commercial / financial / legal specifications for the works and / or services for the Project, that are the subject of this Bidding Process, or is an affiliate of KW&SC or any of its advisors.

A Bidder (including a Consortium Member) may be considered to be in a conflict of interest if it (including a Consortium Member) participated in more than one Bid in the Bidder Process, either individually or as a partner in a Consortium or as a Proposed EPC Contractor. This will result in the disqualification of all Bids in which it is involved.

The circumstances provided above which may constitute a conflict of interest are not exhaustive, and the KW&SC and TFEC shall be the sole determinant of whether a conflict of interest situation has arisen.

In case there is no conflict, the Bidder (in case of a Consortium, each Consortium Member) shall provide evidence in the form of an affidavit set out as Bidding Form T6 (*Form of Affidavit by Bidder*).

➤ **NON-BLACKLISTING**

Each Bidder (including each Consortium Member) shall provide evidence, in the form of an affidavit set out as Bidding Form T6 (*Form of Affidavit by Bidder*), of its and the Proposed EPC Contractor's non-blacklisting by its employers, by any Federal or Provincial governmental or non-governmental department / agency in Pakistan, or any other provincial government / governments of any foreign countries or their governmental bodies and / or International Organizations (e.g. World Bank, Asian Development Bank, United Nations, International Monetary Fund etc.) as at the Bid Submission Date.

➤ **LITIGATION HISTORY**

All pending litigation against the Bidder (including each Consortium Member) shall in total not represent more than 50% of the Bidder's (including each Consortium Member) net worth as per the audited financial statements for the year 2023, nor shall there be any litigation that prevents or materially impedes the Bidder (including a Consortium Member) from its obligations in respect of the Project.

Bidder (including each Consortium Member) shall provide details of the litigation in the format attached as Bidding Form T12 (*Form of Litigation History*) or in case of no litigation, submit an affidavit in the format set out in Bidding Form T6 (*Form of Affidavit by Bidder*).

➤ **ELIGIBLE COUNTRIES**

Bidder, including all Consortium Members, shall be incorporated in / have nationality of an Eligible Country. A Bidder, including all Consortium Members, shall be deemed to have the

nationality of an Eligible Country, if the Bidder (including all Consortium Members) is a national of that country; or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country.

➤ **LEAD DEVELOPER CRITERIA**

Bidders shall be required to demonstrate experience of developing and financing at least one (1) of the following and to submit proof thereof as set out in section below. In case of a Consortium, the experience should be provided by the Lead Developer:

- (a) at least one (1) project in infrastructure sector with direct or indirect shareholding in the project equal to or greater than twenty-five percent (25%) at financial close, throughout construction period and one (1) year of operations (prior to the Bid Submission Date);

OR

- (b) at least one (1) project in water sector with direct or indirect shareholding in the project equal to or greater than ten percent (10%) at financial close, throughout construction period and one (1) year of operations (prior to the Bid Submission Date);

OR

- (c) (i) at least one (1) project completed in the infrastructure sector (excluding residential and commercial buildings) (prior to the Bid Submission Date);

AND

- (ii) at least one (1) project awarded to it individually or as part of a consortium, on public private partnership basis (prior to the Bid Submission Date).

For a project to be considered under 'a' and 'b' it must have:

- A Government entity as a counterparty; and
- Minimum project construction cost must be USD 20,000,000/- (United States Dollars Twenty Million only).

For a project to be considered under 'c' it must have:

- For criteria (i) minimum project construction cost must be USD 40,000,000/- (United States Dollars Forty Million only).

Information to be provided in the format provided in Bidding Form T7 (*Lead Developer Criteria Evidence Form Sheet*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, prepared as per the requirements specified therein and in compliance with the RFP.

➤ **EPC Contractor Criteria**

Proposed EPC Contractor (or a Bidder (including a Consortium Member), in case the Bidder (or the relevant Consortium Member) intends to undertake the relevant engineering, procurement and construction works for the Project itself) must have undertaken engineering, procurement and construction works for at least:

- (a) one (1) water supply or sanitation project which includes a pipeline of 5 km with minimum diameter of 900 mm; or one (1) oil supply project which includes a pipeline of 5 km with minimum diameter of 600 mm; or one (1) gas supply project which includes a pipeline of 05 km with minimum diameter of 900 mm;
- (b) one (1) water supply project which includes canal new execution or rehabilitation, with more than 10 km length and with a design flow of at least 50 MGD or one (1) large dam following the ICOLD (International Commission of Large Dams) definition, or one (1) hydropower project of 25 MW or more, that includes a spillway chute, a forebay or diversion structures;
- (c) one (1) water pumping station installation, new execution or rehabilitation, with a design flow of at least 50 MGD;
- (d) one (1) water filtration or sewage treatment or wastewater treatment or desalination plant, new execution or rehabilitation, having a design flow of at least 50 MGD; and
- (e) in case solar PV plant is proposed in the Technical Proposal, one (1) solar PV plant, with a minimum capacity of 5 MW.

Information to be provided in the format provided in Bidding Form T9 (*Project References of Proposed EPC Contractor*) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, prepared as per the requirements specified therein.

➤ **Net Worth Requirements**

Bidder / Consortium Member Requirements:

In case the Bidder is a single entity, it must have a Net Worth of at least PKR 5,000,000,000/- (Pakistani Rupees Five Billion only).

In case the Bidder is a Consortium:

- (a) the Consortium, in aggregate, must have a Net Worth of at least PKR 5,000,000,000/- (Pakistani Rupees Five Billion only); and
- (b) each Consortium Member must have an individual Net Worth of at least PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only).

Information to be provided in the format provided in Bidding Form T8 (*Bidder / Consortium*

Member Net Worth Form) set out in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, prepared as per the requirements specified therein.

Proposed EPC Contractor Requirements:

A Proposed EPC Contractor must have a Net Worth of at least USD 40,000,000/- (United States Dollars Forty Million only). In case the Proposed EPC Contractor is a consortium, such consortium in aggregate must have a Net Worth of at least USD 40,000,000/- (United States Dollars Forty Million only).

Information to be provided in the format provided in Bidding Form T10 (*Proposed EPC Contractor Net Worth Form*) provided in Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP.

ANNEXURE B – EVALUATION CRITERIA

(I) TECHNICAL EVALUATION CRITERIA

Along with the requirements set out in the Instructions to Bidders and the information required pursuant thereto, this section will be used to determine whether a Bid is technically compliant to the requirements of the RFP. In case, a Bidder intends to undertake the works and / or services itself, such Bidder shall be required to submit the relevant information regarding its experience as per the requirements set out below.

For technical qualification, a Bidder must score sixty (60) or more marks in total and must score at least fifty percent (50%) in each of the categories listed below:

DESCRIPTION	EVALUATION REQUIREMENT	DOCUMENT TO BE SUBMITTED	SCORE
Suitable Technical Project Methodology/ Approach	<ul style="list-style-type: none"> • Understanding of the scope of works. [08 Marks] • Proposed technical approach / methodology to achieve compliance with Construction & Operations (C&O) Activities requirements and the offered values during O&M Period, showing the rationale behind the technical proposal made. [10 Marks] • Technical evaluation of the key equipment expected for each component of the Project. Redundancy approach to ensure the system availability. [07 Marks] • Risk management approach and proposed mitigation actions. [04 Marks] • Value engineering approach. [03 Marks] • Project management approach; reporting during C&O Period. [03 Marks] 	<p>Bidding Form T13 (<i>Technical Project Methodology / Approach</i>) provided in Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, prepared as per the requirements specified therein and in compliance with Volume II (<i>Technical Specifications</i>) of the RFP.</p>	35
Implementation Schedule suitable to PCOD target date	<ul style="list-style-type: none"> • Activities defined in detail for each component of the Project and aligned with C&O Activities methodology. [08 Marks] • Activities (including procurement timelines for key equipment) are 	<p>Bidding Form T14 (<i>Implementation Schedule</i>) provided in Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, prepared as per the requirements specified</p>	20

	<p>sequenced in a consistent way, including dependencies that may require a lead or a lag to define the logical relationship. [05 Marks]</p> <ul style="list-style-type: none"> The duration of the activities is adequately estimated to meet Project milestones. [05 Marks] The implementation schedule is aligned with the resources defined in other Bidding Forms. [02 Marks] 	therein and in compliance with Volume II (<i>Technical Specifications</i>) of the RFP.	
Suitable Organization & Staffing	<ul style="list-style-type: none"> Organization chart (for key personnel) is provided, and allocated resources are aligned with the implementation Schedule. [25 Marks] 	Bidding Form T15 (<i>Organization & Staffing</i>) provided in Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, prepared as per the requirements specified therein and in compliance with Volume II (<i>Technical Specifications</i>) of the RFP.	25
Suitable Quality Control Practices & Procedures	<ul style="list-style-type: none"> Alignment of the quality control practices and procedures with the Project requirements and international best practices, such as ISO 9001. [10 Marks] 	Bidding Form T16 (<i>Quality Control Practices & Procedures</i>) provided Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, prepared as per the requirements specified therein and in compliance with of Volume II (<i>Technical Specifications</i>) of the RFP.	10
Suitable Health & Safety Plan and Procedures	<ul style="list-style-type: none"> Adequacy of the health & safety and security approach and procedures to be implemented, and alignment with Implementation Schedule. [07 Marks] Health & safety and security management approach, reporting during C&O Period. [03 Marks] 	Bidding Form T17 (<i>Health & Safety Plan and Procedures</i>) provided in Part 2 (<i>Bidding Forms</i>) of Volume I (<i>Bidding Procedure</i>) of the RFP, prepared as per the requirements specified therein and in compliance with Volume II (<i>Technical Specifications</i>) of the RFP.	10

(II) FINANCIAL EVALUATION CRITERIA

KW&SC / TFEC shall evaluate the presence and completeness of all the supporting Bidding Forms and other documentation / information required to be submitted by a Bidder with the Financial Proposal, as

per the requirements set out in the Instructions to Bidders.

A Bidder whose Bid has been determined the Best Evaluated Bid in terms of lowest Bid Price, shall be declared the Successful Bidder.

The Bid Price shall be calculated as per the following formula:

$$\text{Bid Price} = \text{NPV of Service Payments} + \text{GoS Equity Amount}$$

The Bid Price is calculated solely for the purpose of the evaluation and comparison of Bids and does not represent the actual payments that will be made by GoS to the Company in terms of the Concession Agreement.

Note: Capitalized terms (including the abbreviations) used in herein, shall have the meaning given to them in the Concession Agreement (including appendix 8 of the Concession Agreement).

METHODOLOGY FOR CALCULATION OF NPV OF SERVICE PAYMENT

1.1 Methodology

1.1.1 The NPV of Service Payment shall be calculated in accordance with the formulae set out in Sub-Section 1.3 (*Determination of the NPV of Service Payment*) below.

1.1.2 To standardise the calculation of the NPV of Service Payment, the Bidder is required to complete the relevant Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP (using the Microsoft Excel file); using the underlying assumptions as set out in the Sub-Section 1.2 (*Assumptions for Calculations of Required Values*) below.

1.2 Assumptions for Calculation of Required Values

1.2.1 NPV of Service Payment will be calculated as the net present value of the annual payments in C&O Period and Operating Period under the Concession Agreement, as defined in Sub-Section 1.3 (*Determination of the NPV of Service Payment*) below, using the formulae outlined below, the Availability Payment and Output Payment calculation formulas set out in the relevant forms present in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP (using Microsoft Excel File).

1.2.2 Indexation of charge rates and the relevant payments will be calculated in accordance with the relevant Microsoft Excel file of the relevant Bidding Forms set out in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, based on the following assumptions:

- (a) Growth rate of National Consumer Price Index / N-CPI of Pakistan: 10.5% p.a.
- (b) Growth rate of Electricity Price: 10.5% p.a.
- (c) Exchange rate variation (USD:PKR): 9.5% p.a.
- (d) KIBOR variation: 0% (constant local floating rate)

- (e) SOFR variation: 0% (constant foreign floating rate)
- 1.2.3 The following reference values will be used for evaluation (and should be assumed in the Bidder's model):
- (a) Reference Inflation Rate: 259.92
 - (b) Electricity Price: 58 PKR / kWh
 - (c) Reference Exchange Rate: 1 USD = TT selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing seven (7) Business Days before the Bid Submission Date (e.g., 09 May 2024). The rate can be accessed from <https://www.nbp.com.pk/RATESHEET/index.aspx>
 - (d) Reference KIBOR: 11.5%
 - (e) Reference SOFR: 1.5%

1.2.4 **Calculation of Projected Available Net Water Output, Net Water Output and Projected Electricity Consumption During C&O Period**

1.2.4.1 To calculate the Projected Available Net Water Output for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should assume the Contracted Availability during the C&O Period after deducting for Outages by the Bidder as per below assumptions:

Contract Year 1:

- (d) Unplanned Outages: Summer Period - $LCW_{p_{ns}} * 1,818,436 m^3$ and Winter Period - $LCW_{p_{nw}}^U 1,818,436 m^3$
- (e) Planned Outages: Winter Period - $LCW_{p_{nw}}^P 909,218 m^3$

Contract Year 2 (6 months period):

- (f) Unplanned Outages: Summer Period - $LCW_{p_{ns}} * 909,218 m^3$ and Winter Period - $LCW_{p_{nw}}^U 909,218 m^3$
- (g) Planned Outages: Winter Period - $LCW_{p_{nw}}^P 454,609 m^3$

1.2.4.2 To calculate the Net Water Output for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should calculate Projected Available Net Water Output as detailed above, and deduct Allowable NRW at 25%

1.2.4.3 To calculate the Projected Electricity Consumption for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should calculate Net Water Output as detailed above, and use the Contracted Specific Net Electricity Consumption kWh/m³ at 0.35.

1.2.5 **Calculation of Projected Available Net Water Output, Net Water Output and Projected Electricity Consumption During Operating Period**

1.2.5.1 To calculate the Projected Available Net Water Output for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should assume the Contracted Availability during the Operating Period after deducting for Outages (i.e., (i) $LCW_{p_{ns}}$; (ii) $LCW_{p_{nw}^P}$; and $LCW_{p_{nw}^U}$) provided by the Bidder in its Bid.

1.2.5.2 To calculate the Net Water Output for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should calculate Projected Available Net Water Output as detailed above and deduct Allowable NRW provided by the Bidder in its Bid.

1.2.5.3 To calculate the Projected Electricity Consumption for the purposes of determination of NPV of Service Payments, in Contract Year “n”, the Bidder should calculate Net Water Output as detailed above, and use the Contracted Specific Net Electricity Consumption. The Contracted Specific Net Solar Generation provided by the Bidder will be deducted from the Projected Electricity Consumption to determine the electricity that is consumed from the Electricity Supplier.

1.2.5.4 Note that during the preparation of Bids, for the Operating Period Bidders should ensure that the Allowable NRW and the Outages do not exceed the caps as provided below:

- (f) Allowable NRW at 4%
- (g) Outages (i.e.: (i) $LCW_{p_{ns}}$ at 909,218m³ (ii) $LCW_{p_{nw}^P}$ at 909,218m³ and (iii) $LCW_{p_{nw}^U}$ at 909,218m³)
- (h) Contracted Specific Net Electricity Consumption kWh/m³ at 0.30

1.3 Determination of the NPV of Service Payment

The NPV of Service Payments will be determined during the Concession Period as per the formulae provided in the relevant form present in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP (using Microsoft Excel file), which is as follows:

$NPV_{SC} = \sum_{n=1}^{16.5} (SPW_n / ((1+r)^n))$
--

where:

SPW_n = Total Service Payment in Contract Years (in PKR)

n = Contract Year, including Construction Contract Year, i.e., 1 and 1.5, and Operating Contract Year, i.e. 2.5,3.5,4.5,5.5,6.5....16.5. Operating Contract Year assumed to start after two years of Commencement Date.

r = Annual discount rate (10%)

The Total Service Payments (SPW) for each Contract Year will be calculated as per the formulae provided in the relevant form present in Bidding Form F2 (*Financial Forms*) of Part 2 (*Bidding Forms*) of Volume I (*Bidding Procedure*) of the RFP, which is as follows:

$$SPW = AW_n + BW_n + CW_n + DW_n$$

where:

SPW_n = Total Service Payment in Contract Years (in PKR)

AW_n = Capital Cost Recovery Payment (in PKR) in Contract Year “n”
excluding Contract Year 1 and 1.5

BW_n = Fixed O&M Cost Recovery Payment (in PKR) in Contract Year “n”
excluding Contract Year 1 and 1.5

CW_n = Electricity Consumption Payment (in PKR) in Contract Year “n”

DW_n = Variable O&M Cost Recovery Payment (in PKR) in Contract Year “n”

ANNEXURE C – FORM OF C&O PERFORMANCE SECURITY

SEE APPENDIX 6 OF THE CONCESSION AGREEMENT FOR THE FORMAT OF C&O PERFORMANCE
SECURITY

VOLUME II:

TECHNICAL SPECIFICATIONS

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GLOSSARY

Unless otherwise specified / defined herein, all capitalized terms used herein shall bear the meanings set out in the Concession Agreement. References to: (a) any law, rule, regulation or standards shall include any amendments, modifications or any re-enactment thereof; (b) Sections are references to a section in this document; (c) the Company for the purposes of bid submission, should be read as a reference to the bidder submitting its bid in terms of the RFP.

“**AMTEC**” means the technology and / or software tools that are used for low voltage electrical network design, load flow modelling, and protection setting calculations;

“**BIM**” means Building Information Modelling;

“**CCU**” means the Central Control Unit;

“**CMMS**” means Computerized Maintenance Management System;

“**Concession Agreement**” means the agreement titled “Concession Agreement” attached in Volume III of the RFP;

“**DCS**” means Distributed Control System;

“**ERAC**” or “**ETAP**” means the technology and software tools that are used for high voltage electrical network design, load flow modelling, and protection setting calculations;

“**Head Regulator**” means the bifurcation point, at the end of the WAPDA canal from where water is distributed into the KWC and the Lasbela canal, as more specifically described herein;

“**Instructions to Bidders**” means the Instructions to Bidders set out in Part 1 of Volume I of the RFP;

“**Intelligent P&IDs**” means Intelligent Process and Instrumentation Diagram;

“**M³**” means cubic meters;

“**MEICA**” means Mechanical, Electrical, Instrumentation, Control & Automation;

“**Metering and Testing Plan**” has the meaning given to it in appendix 5 of the Concession Agreement;

“**MGD**” means Millions Imperial Gallons per Day (1 MGD = 0,0526 m³/s);

“**Normal Influent Range**” means the contractual limits for water quality to be provided at the Output Water Connection Point by the Company, as specified in table 4 under section 5.1.2;

“**NRW**” has the meaning given to it in appendix 8 of the Concession Agreement;

“**PLC**” means Programmable Logic Controller;

“**RCD**” means Residual Current Device;

“**TAG**” means the assignment of a unique number to Project equipment and items in accordance with the Project numbering system, to be used on the name plates, drawings and datasheets, and all correspondence;

“Technical Proposal” means the technical proposal (including all forms, documents and information required in terms of the RFP and submitted therewith), submitted by the Company as part of its Proposal pursuant to the RFP; and

“WAPDA” means the Water and Power Development Authority, a federal agency in Pakistan.

1. PART 1: PROJECT DESCRIPTION

Karachi is the seventh (7th) largest metropolitan city in the world right now, and the largest city and gateway of Pakistan. It is also the capital of Sindh province and the country's main seaport, economic and financial centre, sprawling over an area of about three thousand five hundred square kilometres (3,500 m²). The population of this fast-expanding megacity has been growing annually by four point two percent (4.2%) since 1998 and is projected to grow from sixteen million (16,000,000) in 2017 to around thirty-two million five hundred thousand (32,500,000) in 2025 which will make it the second (2nd) largest city in the world.

One of the bulk water sources for Karachi is the Hub Dam through the KWC which has a design capacity of 100 MGD (5.26 m³/s). This Hub Dam source is affected by the seasonal and annual water level fluctuations in the reservoir, and this situation is further aggravated due to losses attributed to leakages (see RFP Volume II Annexure 1 Due Diligence Relevant Information).

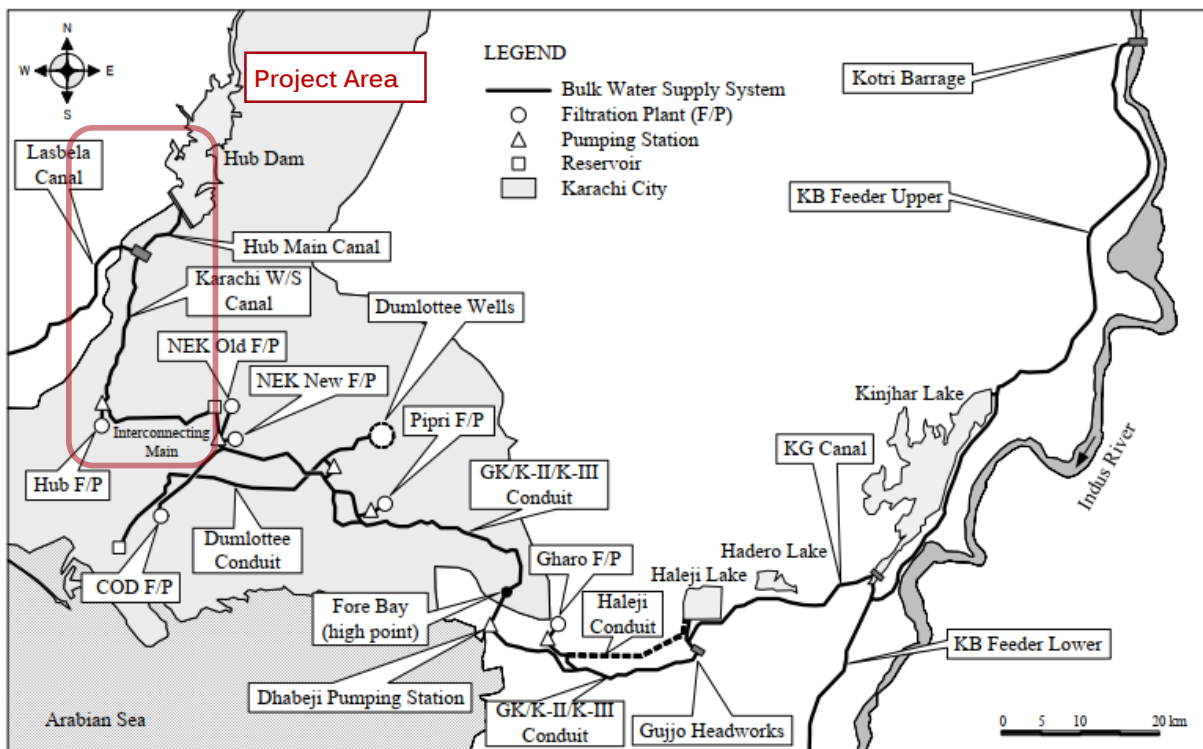


Figure 1: Existing Bulk Water Supply System. Source: JICA Masterplan (2008)

The main Hub canal (also known as the WAPDA Canal) offtakes from the Hub Dam and travels approximately eight kilometres (8 km) in a south-westerly direction. The WAPDA Canal is owned, operated and maintained by the WAPDA. The WAPDA Canal bifurcates into two (2) branches at about eight kilometres (8 km) downstream from the Hub Dam at the Head Regulator into (i) the Lasbela canal which flows west towards Balochistan, and (ii) the KWC which continues for around twenty-one kilometres (21 km) in a south-westerly direction towards the KW&SC pumping station and the Treatment Plant. Further relevant information can be found at RFP Volume II Annexure 1 Due Diligence Relevant Information.

The successful implementation of this Project will lead the KWC to reach the total expected capacity of 100 MGD (5.26 m³/s). The Project entails, *inter alia*, the rehabilitation of the KWC, replacement of the existing pumps, and the rehabilitation and capacity enhancement of the Treatment Plant to achieve 100

MGD (5.26 m³/s). In addition, the Project may include a solar PV generation solution to optimize energy requirements. With the exception of installation and operation and maintenance of the HD Input Water Metering System, no major intervention in WAPDA Canal is considered in the present scope of work.

The main components of the Project and some typical coordinates are provided below:

1. Head Regulator / start of the KWC (at the axis): E 304,854.800 N 2,787,734.050;
2. end of the KWC / intake chamber for pipeline stretch: E 302,710.500 N 2,777,029.700;
3. end of pipeline stretch at the existing old pump house: E 300,262.550 N 2,768,452.150;
4. Water Access Points:
 - a. Hamdard University and Hamdard Laboratories: E 301,847.08 N 2,774,754.55;
 - b. Sherriar Ashraf (Gulf Mineral): Coordinates to be defined by the Company prior to the start of C&O Activities;
 - c. Public Health Engineering and Rural Department (Government of Sindh): Coordinates to be defined by the Company prior to the start of the C&O Activities;
 - d. Marble City connection: Coordinates / location to be agreed between KW&SC and Company during the Mobilisation Period or during the C&O Activities, as instructed by KW&SC; and
 - e. Settlements: upto 5 Water Access Points, as specified by KW&SC to the Company prior to the Mobilisation Date;
5. some of the existing utilities crossing the KWC:
 - a. one (1) gas line: E 302,349.34 N 2,775,148.74;
 - b. one (1) crude oil line, E 300,724.60 N 2,769,628.77;
 - c. water lines: E 303,874.76 N 2,782,820.82 / E 302,372.40 N 2,775,221.92 / E 300,246.71 N 2,768,583.92; and
 - d. underground electrical cables: Coordinates to be defined by the Company prior to the start of the C&O Activities;
6. KIII Conduit concession limit (representative point): E 300,256.885 N 2,768,536.660;
7. by-pass starting point (representative point): E 300,234.033 N 2,768,488.775;
8. pump station perimeter (intersection with rising mains): E 300,275.200 N 2,768,307.200;
9. end of rising mains (where they intersect the Treatment Plant perimeter): E 300,295.600 N 2,766,420.950;
10. Treatment Plant (around midway of the sand filters): E 300,418.700 N 2,766,328.800;
11. Reservoir (around centre): E 300,364.221 N 2,766,616.159; and

All the coordinates are given as a first approximation to the points. It is the Company's responsibility to obtain any additional coordinates for other components and utilities and verify the same (including those noted above) before starting the Project Activities. The above list is not exhaustive. It is the responsibility of the Company to carry out such necessary diligence to confirm necessary components for the Project.

The solar plant may be set up on a suitable area (as determined by the Company) within the Site. Moreover, location (around centre): E 300,790.200 N 2,766,390.500 is available for the solar plant.

1.1 HUB DAM AND KW&SC WATER SYSTEM LOCATION

The KWC is situated fifty-six kilometres (56) km north from the Karachi city, in Karachi and Lasbela Districts on the border of the Sindh and Balochistan provinces.

The following figures 2, 3 and 4 aim at portraying the location of the main components of the KWC. Further information can be found at *RFP Volume II Annexure 1 Due Diligence Relevant Information*.



Figure 2: General layout of the KWC (in black) and the WAPDA Canal (in blue).

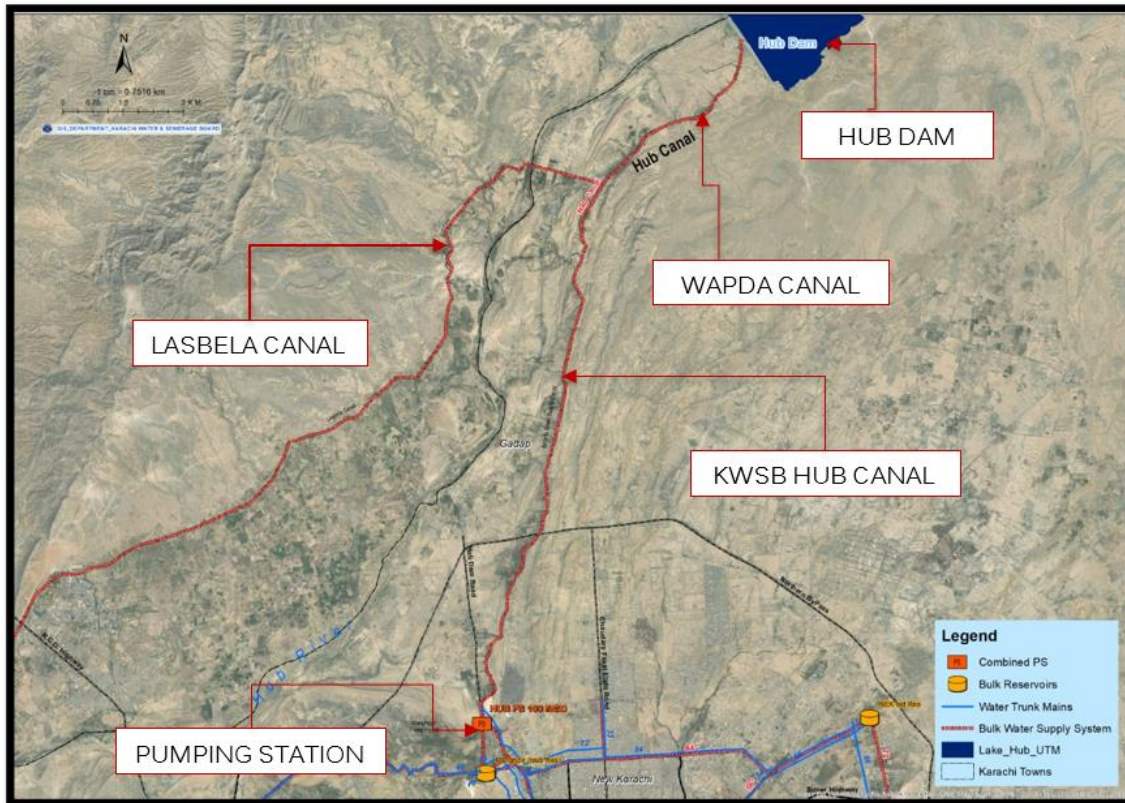


Figure 3: General Layout of the KWC.



Figure 4: General Layout of the KWC, including the Pump Station and the Treatment Plant.

1.2 DESCRIPTION OF ACCESS TO SITE

The KWC, in general, has access from the Hub Dam road and the M10 road. There is also an inspection road running along the KWC, which is crossed by the foregoing main roads, that is, M10 road at PK 17+300 and Hub Dam road at PK 20+400 which give access at these points. The pump station area and the Treatment Plant have direct access from the Hub Dam road as can be seen in the figures 5 and 6 provided below:



Figure 5: Access to the Pump Station from the Hub Dam Road.



Figure 6: Access Road from Hub Dam Road to the Treatment Plant.

1.3 SITE CONDITIONS

The provisions of this document are provided for information purposes only and will not relieve the Company of any liability it may otherwise have in relation to the conditions of the Site. The Company shall perform its own due diligence in terms of the existing Site conditions, including the potential impact of existing and future infrastructure in the proximity of the Site.

The KWC was designed and constructed around four (4) decades ago and has been in operations ever since. A facility assessment has been carried out while preparing the technical feasibility which can be found at RFP Volume II Annexure 1 Due Diligence Relevant Information.

1.4 OVERVIEW OF THE WATER SUPPLY SYSTEM FROM HUB DAM

The canal system of the Hub Dam consists of the WAPDA Canal (10.48 m³/s and 8.32 km) that branches off at the Head Regulator into KWC (5.26 m³/s and 21.15 km) and Lasbela canal (4.53 m³/s and 33.6 km). At the Head Regulator, waters transferred to Lasbela and KWC are controlled by WAPDA personnel with manually operated vertical gates.

The following sources of water exist with respect to KWC at the pumping station:

- KWC, which currently contributes with a median output of 82 MGD of water throughout the year;
- KIII Conduit, an alternate bulk water source scheme which serves the other part of Karachi. The decision of using this second source to fill any water deficit coming from the WAPDA Canal is on KW&SC, whilst the Company shall be responsible for making this infrastructure available during the Concession Period, but in no circumstances shall the Company be permitted to benefit from use of water from the KIII Conduit and the same shall not constitute a waiver of their obligations under the Project.
- The Company is required to ensure that during the C&O Period, the water losses (%) and the electrical specific consumption (kwh/m³) at the KWC, are not higher than the respective values for Allowable NRW and the Contracted Specific Net Electricity Consumption as specified in the Mobilisation Testing Acceptance Certificate as per the Mobilisation Testing criteria in appendix 5 of the Concession Agreement.
- The Company is required to ensure that following completion of the C&O Activities, the KWC can transfer up to 100 MGD (5.26 m³/s) of water, meeting the offered contractual conditions for the Operating Period in respect of Output Water Quality Specifications, Allowable NRW, Contracted Specific Net Electricity Consumption and Outages.



Figure 7: KWC, KIII Conduit, Old and New Pump Houses – Present Configuration.

The KWC, which runs downstream of the Head Regulator, currently includes the following components:

- eleven (11) concrete aqueducts and fifteen (15) culverts;
- a road bridge, and several drainage and pedestrian bridges;
- Water Access Points;
- KIII Conduit connection to provide up to a maximum of twenty (20) MGD of water, in the event water from the Hub Dam cannot match the required demand;
- by-pass system within KW&SC land boundaries, to direct discharge by gravity to the sea under extraordinary circumstances when the water received cannot be managed properly at the pumping station, the Treatment Plant, or the Reservoir;
- an old pump house (*circa* 1981) constituting of (6) pumps, with four (4) pumps having capacity of 24 MGD (1.263 m³/s) and two (2) pumps with capacity of 12 MGD (0.63 m³/s);
- a new pump house (2006) constituting of six (6) pumps, with four (4) pumps having capacity of 35 MGD (1.841 m³/s) and two (2) pumps with capacity of 17.5 MGD (0.92 m³/s);
- three (3) rising mains between the pump houses and the Treatment Plant;
- a Treatment Plant (2005), initially designed for 100 MGD (5.26 m³/s), but with an actual treatment capacity of 80 MGD (4.31 m³/s);
- an existing rectangular, semi buried, concrete Reservoir, with 15 MG (68,170 m³) capacity; and
- KE grid at 11 KV power supply.

More relevant details can be found in RFP Volume II Annexure 1 Due Diligence Relevant Information.

1.5 AREA OF ACTION WITHIN THE CONTRACT

The area of operation affected by the Concession Agreement is defined from downstream of the Head Regulator to the point of connection after the Reservoir to the Output Water Connection Point.

Consequently, the section between the Hub Dam and the Head Regulator, and the following infrastructures are beyond the scope of the Project: Hub Dam downstream gate and Lasbela canal's and KWC's main gates at the Head Regulator, which are under the responsibility of the WAPDA. The Company, however, is required to install, maintain, and operate the HD Input Water Metering System.

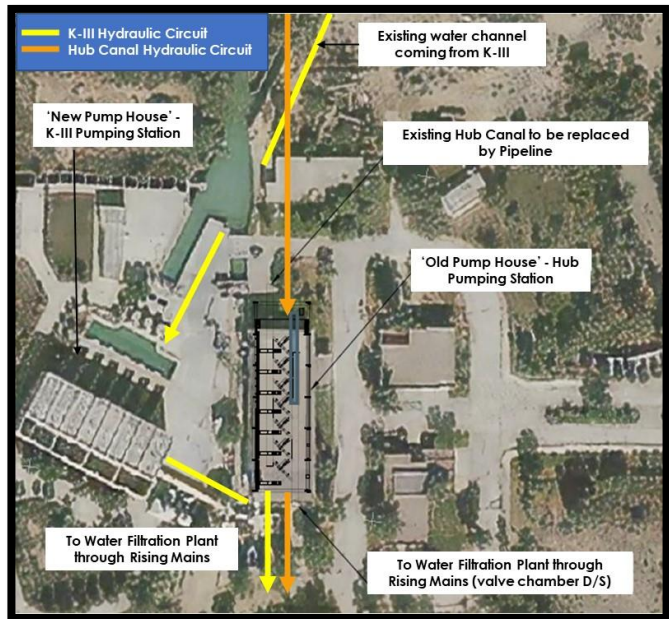
2. PART 2: SCOPE OF WORK & DESIGN BASIS

2.1 OVERALL PROJECT SCOPE OF WORK

The primary objective of the Project is to review, update and design, finance, build, rehabilitate, operate, maintain and, at the end of the Concession Period, transfer the KWC, ensuring that up to 100 MGD (5.26 m³/s) of water can be delivered successfully, minimizing the losses and achieving the quality parameters specified for the Project. To accomplish the foregoing goals, the potential bidders shall make a proposal that should consider following measures:

- methodology for preparation of a Detailed Engineering Design, with the necessary surveys and campaigns;
- interventions upstream the Head Regulator, that is, installation and operation and maintenance of the HD Input Water Metering System. The exact location of the HD Water Connection Point shall be agreed with WAPDA;
- interventions downstream the Head Regulator (main gates are beyond the scope of the Project);
- the rehabilitation of approximately the first eleven kilometres (11 km) of the KWC;
- the rehabilitation of the aqueducts N° 1 to N° 10;
- construction of a new water transmission pipeline, with a length of about nine point eight kilometres (9.8 km);

- the construction of a new pump station at the old pump house;
- the refurbishment of the new pump house (if required in the opinion of the Company) to transfer the water coming from the KIII Conduit;
- the construction of a new valve chamber;
- the construction of a new rising mains, with a length of two point two kilometres (2.2 km);
- the refurbishment, and extension or adaptation to new needs of the Treatment Plant for capacity of 100 MGD;



- rehabilitate the existing rectangular, semi-buried, concrete Reservoir, with 15 MG (68,170 m³) capacity, including, if necessary, the existing equipment;
- electrical rehabilitation and upgrade if necessary;
- a Solar Plant and electric connections (if required in the opinion of the Company);
- the automatization of control gates, and installation of required communication equipment;
- design and installation of a centralized SCADA and metering systems for management of the KWC, including the HD Input Water Metering System;
- laboratory, offices, and parking area;
- access roads rehabilitation;
- other Project Activities, such as relocation of existing utilities;
- provision of utilities for the Project Activities. There is an existing electricity connection in the name of KWSC which will be used for the Project Activities;
- development and implementation of an Environmental and Social Management Plan;
- operation and maintenance of the KWC for one point five (1.5) years during the C&O Period;
- operation and maintenance of the KWC for the Operating Period, i.e., fifteen (15) years after the Project Commercial Operations Date; and
- handover of the KWC to KW&SC in accordance with clause 21.10 of the Concession Agreement.

Additionally, the Company shall be responsible to deliver all such generic services for the Project as required, including:

- Project management, including Contactors' and sub-contractors' management and supervision, and all reporting activities during the different phases of the Project;
- process, equipment and civil detail designs and engineering works;
- provision of online collaboration and management system in relation to the Project for all Parties;
- provision of vehicles required for the Project, as specified herein;
- implementation and supervision of equipment, consumables, and spare parts procurement;
- implementation and supervision of all administrative systems and services of KW&SC;
- application and provision of Insurance Policies and Performance Securities in accordance with the Concession Agreement;
- preparation of the ESIA and obtaining the approval thereof; and
- procurement of all other required Approvals.

The KWC should be able to manage 100 MGD (5.26 m³/s).

Additional information to be used for the design can be found in Volume II Annexure 1 Due Diligence Relevant Information.

The correction factors in the payment mechanism and tariff structure under the Concession Agreement and appendix 8 thereto make allowances for variances in flow (non-revenue water), outages, electricity consumption and water quality with respect to the water entering the KWC and subsequent adjustments to the relevant Service Payments.

The Normal Influent Range and 100 MGD flow should be used as the minimal design basis of the KWC and overall Treatment Plant design (where applicable). The bidders shall make their own design decisions and risk assessment of optimum design within these parameters to ensure the Contracted Availability and compliance with quality standards and other performance and functional specifications. The specified design flows and maximum loadings shall be applicable regardless of weather conditions (including, whether dry or wet) and can be expected at any time during an annual climatic cycle.

2.2 SURVEYS & TECHNICAL STUDIES

The bidders will have access to the studies carried out as part of the technical feasibility in RFP Volume II Annexure 1 Due Diligence Relevant Information. However, the provision of such information shall not relieve the Company of any of its liabilities or obligations under the Project, and the Company shall remain responsible for (i) conducting its due diligence, (ii) obtaining all necessary information as to the risks, contingencies and other circumstances which may influence or affect the implementation of the Project, and (iii) assessing and confirming the data made available by the KW&SC and assuming all risks associated therewith under the Project Agreements.

The GoS Parties make no representations whatsoever, express, implicit or otherwise, regarding the

accuracy, adequacy, correctness, reliability and / or completeness of any assessment, assumptions, statement or information provided by either GoS Party and the Company confirms that it shall have no claim whatsoever against either GoS Party in this regard.

By way of summary, the studies that have been carried out as part of the technical feasibility are:

- **Topography study:** the topographical surveys carried out cover a wider buffer from the existing KWC axis and allow the Company to better analyse its alternatives, though it is entitled to remain in the existing right of way;
- **Flow measurement:** two (2) flow measurement campaigns have been carried out to serve as a starting point for hydrological analyses and flow estimation;
- **Hydrological Study:** this study has been developed with the aim to clarify the design flow that best matches the actual water conveyed by the KW&SC;
- **Water quality analysis:** in addition to KW&SC's historical documentation of water quality data, two (2) test campaigns have been carried out in the KWC, which serve as a basis for establishing the degree of compliance with the water quality standards currently provided by the Treatment Plant. Furthermore, a water quality test of the KIII flow required to elucidate the best option for including this flow in the design has been made available;
- **Geological, geotechnical and geophysical surveys:** a vast variety of surveys have been developed, including boreholes, laboratory tests, electrical soil resistivity tests, ferro scanning of RCC structures, and tomography. The soil resistivity tests have allowed the confirmation of the corrosion potential of the soils, which combined with the waters from the Hub Dam, have a high corrosion potential for iron or steel pipes. The ferro scanning and impact hammer have allowed to assess the conditions of reinforced concrete structures and buildings, and the tomography along the KWC has clearly identified the seepage from the KWC and consequent feeding of the groundwater. Finally, the geological mapping has allowed the determination of the percentage of soil and rock excavation in the pipeline stretch and has defined with accuracy the type of materials that lay underneath the KWC sections;
- **Seismic analysis:** during the on-Site visual inspections, it was noticed that the structural members (built around forty (40) years ago) are sufficiently sized and have withstood past earthquakes. Further, as Karachi falls under the seismic zone 2B, it can be concluded that the structures can perform adequately in case of an earthquake event;
- **Solar Plant feasibility study:** a complete study has been developed to identify such site of the Solar Plant that better fits the requirements of the Project. The site has been identified as the area next to the Treatment Plant, spanning over fourteen point five hectares (14.50 ha). The estimated global irradiation for the identified area is 1,944 kWh/m² and diffuse irradiation is estimated at 900.4 kWh/m² (46%), which makes the site suitable for solar power generation; and
- **Preliminary natural risk assessment:** it has been found that, a priori, the area is not vulnerable to the effects of the main agents (earthquakes and floods).

In any case, the Company is responsible for developing a Detailed Engineering Design and Construction Drawings for the rehabilitation and construction of the KWC, including all necessary additional surveys and technical studies.

2.3 LAND RIGHTS & ACCESS TO THE PROPOSED SITES

According to the collected documentation, the implementation of the proposed solutions should not require a new Land Acquisition and Involuntary Resettlement Process (LARP) because all areas involved would be owned by the KW&SC.

The Company shall develop a Detailed Engineering Design to verify the proposed design that recommends and considers that all C&O Activities remain within the existing RoW, and the proposed design also stays within the existing RoW. All these issues should be considered in the Detailed Engineering Design and the ESIA put forward by the Company.

In the event that such land is not within the RoW, or the Company needs additional temporary land, it would be the Company's responsibility to carry out a study about the ownership, to make available the land through a direct agreement with the owner or assess the need to resort to an expropriation process in accordance with the Legal Requirements as well as the procedures set out in IFC's Performance Standard 5.

Additional information on this matter along with the information on the utilities could be consulted in RFP Volume II Annexure 1 Due Diligence Relevant Information.

2.4 MOBILISATION ACTIVITIES

The Mobilisation Activities will take place during the Mobilisation Period, and they will lead the Company to be ready for receiving the facilities from KW&SC and begin responsibility for operations during the C&O Period.

At minimum, the equipment listed below shall be installed, tested and commissioned during the Mobilisation Period. The Company shall maintain such equipment throughout the Concession Period.

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M1	Compliance Monitoring	Downstream of Head Regulator KW&SC gate. Metering and monitoring system. (Redundancy)	Raw water monitoring point: Downstream of the Head Regulator Canal's facilities; measure against design envelope, technical and correction limits; hourly metering.	Flow Meter (+parallel back-up meter required); online water quality metering; auto- sampler and / or manual sampling point.

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M2	Compliance Monitoring	At each one of the Water Access Points. (Redundancy)	Raw water monitoring point at: <ul style="list-style-type: none"> - Hamdard University; - Hamdard Laboratories; - Sherriar Ashraf (Gulf Mineral); - Public Health Engineering and Rural Department (Government of Sindh); - Marble City connection (if instructed by KW&SC during Mobilisation Period); - Settlements (up to 5 Water Access Points). 	Flow Meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.
M3	Compliance Monitoring	Downstream of KIII Conduit, KW&SC valve. Metering and monitoring system. (Redundancy)	Raw water monitoring point: Downstream of KIII Conduit valve; measure against design envelope, technical and correction limits; hourly metering.	Flow Meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.
M5	Compliance Monitoring	Water quality metering and monitoring system. Pump station.	Monitoring of water quality for blended water from Hub Dam and KIII Conduit. Downstream of pump station and upstream of Treatment Plant; hourly metering.	Flow meter online water quality metering; auto-sampler and / or manual sampling point.
M7	Compliance Monitoring	Bypass flow metering & monitoring. (Redundancy)	Downstream of the existing discharge KWC connection point for measuring volumes. Hourly metering.	Flow meter (+ parallel back-up meter required)

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M8	Compliance Monitoring	Water quality and flow metering & monitoring system for Net Water Output. (Redundancy)	Downstream of the Output Water Connection Point, water quantity and water quality. Hourly metering.	Flow meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.

The aforementioned table summarizes the water flow and water quality monitoring requirements (including sampling points) for the KWC prior to the start of the C&O Period. Section 2.6.2 provides the general scheme for monitoring and metering points detailed above.

During the Mobilisation Period, the contractual limit for Allowable NRW, Output Water Quality Specifications and Contracted Specific Net Electricity Consumption, that will be enforced during the C&O Period, will be defined through Mobilisation Testing (as detailed in appendix 5).

All monitoring, metering, sampling and testing of raw water and potable water shall be done at least once daily at each point and shall be analysed in compliance with the National Water Quality Laboratory (NWQL) requirements, to ensure that the water meets the Output Water Quality Specification and recommendations as a minimum criteria, and shall be fully aligned to measure all parameters as required by the performance specifications. Detail of the sampling points are mentioned in the table above.

The physical samples taken on a daily basis will be analysed in an external accredited laboratory. The laboratory shall be proposed by the Company to the Independent Engineer for approval at least thirty (30) days before the scheduled starting date, including all the required certificates in the proposal.

2.5 CONSTRUCTION & OPERATION ACTIVITIES

2.5.1 Detailed Engineering Design

The Company shall develop a Detailed Engineering Design with all the necessary surveys and field campaigns to define all C&O Activities envisaged to undertake and complete the Project, according to the minimum functional requirements defined herein.

2.5.2 Project Activities downstream the Head Regulator

The Karachi and Lasbela canal's main gates are under the responsibility of WAPDA, and therefore beyond the scope of the Project.

The Company shall design and install a state of art facility for the purpose of measuring the flow rate at the beginning of KWC, to be located, downstream, as close to the existing Head Regulator sluice gates as the hydraulic conditions of the KWC regimen allows (minimum 50-100 m downstream). The aim is to allow the collection of data related to the quantity and quality of water entering the KWC. This facility shall provide the following capabilities:

- flowmeter device to measure up to 5.26 m³/s downstream of the Head Regulator;
- manual and automatic operation system;
- coated metallic structures and manoeuvring elements;
- data logger and radio communication with downstream gates and CCU;
- control pedestal, radio mast and photovoltaic module;
- fencing and anti-vandalism infrastructures;
- online and continuous water quality analysis equipment; and
- permanent sample point for monitoring water quality on a regular basis through third party analysis.

2.5.3 *Rehabilitation of the KWC*

The Company shall design the refurbishment works to adequate the KWC from the Head Regulator P.K. 0+000 up to P.K. 11+ 390 as to guarantee the conveyance of 100 MGD water flow (5.26 m³/s) under normal circumstances.

The C&O Activities shall be designed considering the critical requirement of ensuring that the KWC remains operational during the C&O Period. Therefore, the proposed solution presented by the bidders shall meet this mandatory requirement, with no other alternative solution being acceptable.

The designs shall be conducted based on the Building Code of Pakistan, the Sindh Canal Rules, and other relevant national and federal standards in force. The side canal lining shall be designed to minimize the losses of water and to meet (at minimum) the Allowable NRW.

In order to control the water flow delivered at the KWC, redundant flowmeters shall be installed at any intermediate water delivery points. The flowmeters shall be calibrated accordingly and connected to the SCADA to be provided at the CCU.

The rehabilitation of the existing KWC shall be conducted, considering the existing alignment and geometry. The bidders are required to propose a feasible solution for conducting the required rehabilitation works, guaranteeing at all times the continuity of the service offered by the existing KWC.

2.5.4 *Rehabilitation of the Aqueducts N° 1 to N° 10*

The Company shall study the existing aqueducts (N° 1 to N°10) and shall design adequate Project Activities as to guarantee the conduction of design flow with no water loses and the structural stability during the expected life of the infrastructures.

2.5.5 *KIII Conduit Connection Point with the KWC*

Before the pump station, the KIII Conduit connection point to the KWC has to be managed by the Company, implementing the flowmeter and quality monitoring system as specified herein, that is, the Primary KIII Input Water Metering System, the Back-up KIII Input Water Metering System, and the KIII Input Online Quality Monitoring System. K-III can provide up to 20 MGD to the system when Hub Reservoir is not capable of delivering 100 MGD into the KWC.

2.5.6 Construction of a New Water Transmission Pipeline

At PK 11+390, the significant slope of the KWC and the existence of a section of about three kilometres (3 km) with an excessive water velocity made KW&SC consider the construction of a new pipeline in the final section of around nine point eight kilometres (9.8 km) (P.K. 11+390 to P.K. 21+190) of the KWC for a flow of 100 MGD (5.26 m³/s) of water.

A concrete infrastructure to act as a surge / intake chamber shall be designed as to allow the transition from the open canal to the pipe inlet. Since there will not be a load breakage at the pipe arrival at the pump station, the design of the surge chamber shall ensure that there is no intrusion of any solids or sand, that could damage the pump blades.

The intake chamber shall be provided with a level sensor as to be able to control the availability of water within the supply system. This level sensor shall be connected with the SCADA at the CCU.

This infrastructure shall include a diversion in case the pipeline system should need to be closed, in order to retain the water within the KWC and drain the water possible spills.

A flow meter shall be installed upstream the pipeline intake and provided with digital data capture and communication infrastructure to allow communication with the CCU.

An approximately nine point eight kilometres (9.8 km) long gravity pipe is proposed to connect the KWC with the new pump station located at current P.K. 21+000, approximately. This pipeline's final length, material, nominal pressure and diameter are to be proposed by the bidders. The pipeline alignment and protection shall be executed according to Good International Industry Practices.

The drainage and air / vacuum valves shall be implemented along the pipe to protect against the abnormal flow conditions in the pipe. Depending on the selection of the pipeline material, at locations of all changes in alignment (i.e., along pipe bends), the bends shall be encased in concrete, and thrust blocks shall be provided if necessary.

The drainage valves shall be globe valves to discharge the pipe flow to the nearest drain in case of emergency repairs.

The pipe outlet shall be provided with a control system to regulate the flow for seasonal variation. Before the valve and operation room, a thrust block is proposed to absorb the transient effects.

Additionally, flowmeters (non-contact ultrasonic flow meter or electromagnetic flowmeters), shall be installed at different sections to control possible water loses from the piped network. All units shall be provided with data loggers and communication devices that send data to the CCU.

Proper protection shall be given to metal surfaces using paints or other protective coatings and / or by cathodic protective devices, as per the applicable standards.

The Company must adapt their design during the C&O Period at their own cost and expense to consider any crossing or parallelism of the pipeline with existing pipes, asphalt roadways, electric poles, fibre optic lines, train railways as well as any other crossing.

2.5.7 Construction of a New Pump Station at Existing Old Pump House

The Company shall design a new pump station of 100 MGD capacity, to elevate water to the Treatment Plant inlet.

Different alternatives such as a traditional pump station or a solution based on booster pump units are accepted for the tender design. The bidders are encouraged to propose innovative solutions to minimize the CAPEX and OPEX for the Project.

The minimum technical specifications for the pump station are:

- a total capacity for 100 MGD;
- number of pumps, design flow, head and electric potential of each proposed pump and spare pumps;
- necessary pump head, taking into account that the input water is considered to have around twenty (20) m of energy per unit weight of water;
- installation of butterfly valves with dismantling joints, check valves, and air release valves;
- electromagnetic or ultrasonic flowmeters;
- surge vessels to avoid pipeline vacuum and hydraulic transient effects; and
- management of the pump station, which shall be done both on Site, and from a SCADA to be implemented at the CCU.

The Company shall design the communication system so as to allow a bi-directional communication between the pump station and the CCU.

The Company is entitled to analyse potential alternatives related to the replacement of the old pump station and the rehabilitation of the new pumping station.

2.5.8 Rehabilitation of the New Pump Station: K-III Pump Station

The existing new pump house shall convey KIII waters to the Treatment Plant. The replacement of all the mechanical equipment and associated valves along with refurbishment of the building shall be considered. Further, the chain raked screens and travelling band screens shall be replaced in this new pumping station.

The Company is entitled to analyse potential alternatives related to the replacement of the old pump station and the rehabilitation of the new pump station.

2.5.9 Construction of a New Valve Chamber

The Company is entitled to analyse the proposed design of a new common valve chamber downstream of the new KWC pump station (to be constructed at the current location of the one identified as “old pump house”) so as to be able to manage water flows from KWC and KIII to be delivered to the Treatment plant through the rising mains. A complete set of manholes shall be provided so as to be able to manage both systems.

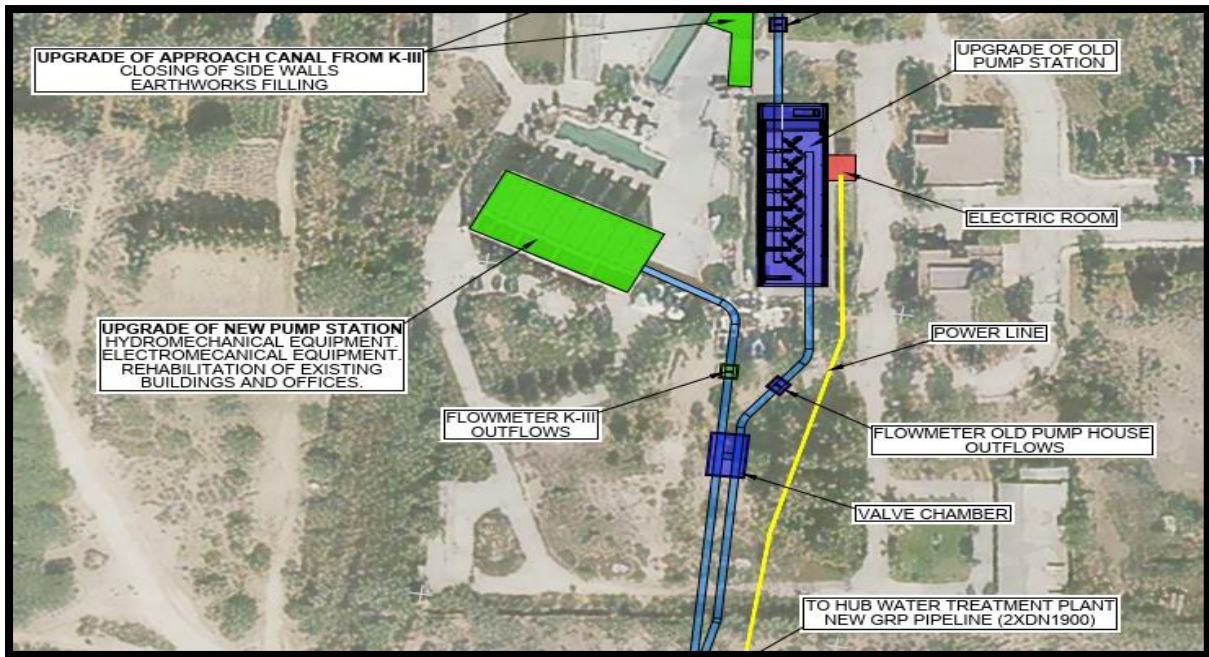


Figure 8: General Scheme for the Configuration of the Valve Chamber.

The Company shall provide a complete controlling system for:

- measurement of each flow, from (i) KWC and (ii) KIII Conduit;
- measurement of the quality of the waters coming from both water supply systems; and
- monitoring and connection to the new SCADA and metering system to be provided by the Company.

2.5.10 Construction of New Rising Mains

From the valve chamber, a double pipe network is proposed to conduct water up to the Treatment Plant inlet. The bidders are entitled to analyse potential alternatives and submit their technical proposal.

The solution retained at the document Volume II Annexure 1 Due Diligence can be used as a starting point for the proposal. The proposed solution shall consider:

- number of identical pipes to be implemented and nominal diameter;
- the proposed thickness of each pipeline should allow for safe operations and maintenance, and prolong the life of the pipelines with least damage accruing under normal operating conditions over a period of more than thirty (30) years;
- the Company must guarantee suitability and thickness of the pipe to satisfy all load requirements;
- grounded installation, with at least one point five metres (1.5 m) depth at upper generatrix; and
- cathodic protection only in metal sections (initial and final part and manholes deviations, if need be).

Proper protection shall be given to metal surfaces using paints or other protective coatings and / or by cathodic protective devices.

- AWWA D102 Coating Steel Water Storage Tanks;
- AWWA Standard D-103 Factory-Coated Bolted Steel Tanks for Water Storage; and
- AWWA D104 Cathodic Protection for Interior of Steel Water Tanks.

The Company must adapt their design during the C&O Period at their own cost and expense to consider any crossing or parallelism of the pipeline with existing pipes, asphalt roadways, electric poles, fibre optic lines, train railways as well as any other crossing.

2.5.11 Rehabilitation and Upgrade of the Treatment Plant for 100 MGD

The main goal is the refurbishment and upgrade from capacity of 80 MGD up to 100 MGD (5.26 m³/s), with the aim of obtaining a Treatment Plant that is compliant with World Health Organization’s and Pakistani standards (both include IFC Performance Standards), consistent with the bidder’s proposal and meeting the requirements stated in the Concession Agreement.

The rehabilitation and upgrade works for the existing Treatment Plant shall consider:

- the analysis and assessment of the existing infrastructures;
- the upgrade of the existing infrastructures;
- the design of new infrastructures, if required;
- the implementation of level sensor(s) at the water storage facility(ies) as to manage the availability of water within the supply system, to be connected with the new SCADA system; and
- the upgrade and implementation of a SCADA and metering system.

The bidders may include their designs for the Treatment Plant upgrade, in accordance with the Legal Requirements, and considering as a minimum:

REHABILITATION	NEW ITEMS
<ul style="list-style-type: none"> • Replacement of all mechanical equipment, pipes, and valves; • Replacement of all electrical equipment and the generator; • Change of the “average” and the existing aeration system in the filters; • Rehabilitation of the chemical building by changing tanks, pipes, pumps, and valves; • Checking / rehabilitation of civil works on faulty tanks and buildings. 	<ul style="list-style-type: none"> • Introduce flow meters, instrumentation (pH, turbidity, residual chlorine, etc.) and SCADA in the plant. • Expand the filters area with four (4) new filters (total twenty (20) = sixteen (16) existing + four (4) news) + new pumps and blowers for these filters. (N° 2 layout below); • New Sludge Building including sludge pumps, a decanter centrifuge, a polyelectrolyte package with its own pumps, and a sludge storage area;

Additional information about the Treatment Plant can be found in Volume II Annexure 1 Due Diligence Relevant Information.

2.5.12 *Rehabilitate the Existing Reservoir (with Capacity of 15 MGD)*

The main goal is the refurbishment of the existing rectangular Reservoir, built in concrete and semi-buried, with 15 MG (68,170 m³) capacity, including, if necessary, the refurbishment and upgrade of the existing equipment.

The Company shall provide water from the Reservoir that meets the Output Water Quality Specifications for three (3) hours in any day to be used as back-up in the event of non-supply of water from the Head Regulator or KIII, or electricity outage.

2.5.13 *Electrical Rehabilitation and Upgrade if Necessary*

The Good International Industry Practices shall cover the basic guidelines and requirements for the design and supply of the electrical systems and equipment to be provided for the entire system.

Electricity grid connection at the electricity interconnection point of KWSC is to be used for the Project Activities.

The bidders shall propose the technical solution for the electrical system to be installed to operate in automatic mode with provisions to operate also in semi-automatic, in manual mode and for the operation and control of the entire system.

No single power component failure shall:

- cause any danger to personnel or the KWC;
- invalidate protection by inhibiting a trip;
- shut down more than one major equipment item;
- simultaneously trip a KWC component and invalidate its auto-changeover; and / or
- affect more than one plant group or process area.

Duty / standby and / or duty / assist / standby may be utilised as determined by the process design and mechanical equipment selection with all electrical equipment / controls being fail-safe.

The Company shall design and install a complete operating electrical system, without the need for additional equipment or wiring to make the systems fully functional.

The power system arrangement shall be selected based on evaluation of such factors as service continuity, reliability, flexibility, investment cost, and operations and maintenance requirements.

All equipment shall be of applicable standards and reliable design, in accordance with Good International Industry Practices. The highest extent of uniformity and interchangeability shall be realised. The design shall facilitate easy maintenance and repair of the components.

2.5.14 *Photovoltaic Plant and Electric Connections*

A complementary on-Site power supply system might be considered by the Company, as proposed in the conceptual design prepared in the due diligence report (see RFP Volume II Annexure 1 Due Diligence Relevant Information) or according to the best criteria of the Company (during the bidding process) considering the available land, by means of a Solar Plant. If implementing a Solar Plant is considered adequate, the transmission lines and other electrical facilities such as transformers or switchgears, shall be designed, installed, commissioned, tested, and operated in accordance with the Legal Requirements, and relevant international standards, including but not limited to those listed in the following sections.

The electricity generated from the Solar Plant shall be used for the internal consumption of the KWC only. The Company may also at their discretion install batteries or accumulators for the Solar Plant.

The Solar Plant shall integrate into the Site the electrical distribution network and include protection / disconnection of the renewable source in accordance with relevant Legal Requirements and Good International Industry Practices. It should be noted that supplementary on-Site power supply shall be limited by the land availability.

The bidders shall include, during the bidding stage and the preparation of the Detailed Engineer Design, a detailed proposal of any Solar Plant (if deemed to be required) to supplement power supply including load lists, connection points & interfaces, plans and details of the proposed implementation and operation of such infrastructure.

2.5.15 *Access Roads Rehabilitation*

The Company shall design, set up for the C&O Period, commission for the Operating Period, and maintain all access roads necessary for the performance of the Project Activities. This includes access to all components of the KWC, including the rehabilitated canal, new pipeline, pump stations and connection with KIII, rising mains, Treatment Plant, Solar Plant (if required), and all other appurtenant structures. The access roads shall remain within the area licensed under the License Agreement), notably along the two (2) sides of the existing KWC.

It is the responsibility of the Company to incorporate in the road design all the necessary features as per the current road standards, accounting for matters such as alignment, dimensions, drainage, signing, etc. The Company shall also prepare a plan to maintain access roads during the Mobilization Period and the Concession Period.

2.5.16 *Automatization of Control Facilities and Communication Equipment*

The management of the KWC shall be designed and operated in a state of art solution, based on a manual and automated systems.

Intelligent automated gates shall be installed at cross-regulating structures in series along the KWC. The overshot design and precision motor control shall provide fine control of the flow through the gates. Integrated sensors for an accurate measurement of levels and flow in real time shall be provided.

Accurate flow measurement, precise motor control, power supply and radio telecommunications shall be fully integrated in a single device. Flow shall be calculated from the gate's own measurements of upstream water level, downstream water level, and gate position.

2.5.17 *Design and Installation of a Centralized SCADA and Metering System*

The Company shall design a centralized SCADA and metering system for management of the KWC infrastructures. It shall allow:

- obtaining information from the WAPDA Canal flow;
- obtaining information from the Head Regulator;
- the management of the KWC gates (if any), level sensors, quality parameters and flow metres;
- obtaining information from the KIII Conduit flow and water quality;
- daily monitoring of Net Water Output;
- the management of the new pipeline and flow metres;
- the management of the pump stations;
- the management of the Treatment Plant; and
- the management of the Solar Plant.

It will provide a modular and scalable architecture to enable specific modules to be easily and quickly installed and configured. The new SCADA shall be located at a CCU at a new or adequate room at an accessible site (the pump station or the Treatment Plant).

The management of the KWC shall be designed and operated in a state of art solution, based on a manual and automated systems. In any case, intelligent automated gates shall be installed at cross-regulating structures in series along the KWC. The overshot design and precision motor control shall provide fine control of the flow through the gates. Integrated sensors for an accurate measurement of levels and flow in real time shall be provided.

Accurate flow measurement, precise motor control, power supply and redundant telecommunications shall be fully integrated in a single device.

2.5.18 *Monitoring Methodology during the C&O Period*

When the KWC is handed over to the Company, the minimum equipment to be installed, tested and commissioned during the Mobilization Period should be in place, and it will be maintained during the Concession Period.

2.5.19 *Non-rehabilitated KWC Components*

During the C&O Period, the components of the KWC which are removed or replaced and not rehabilitated by the Company shall be handed over to KW&SC.

2.5.20 O&M Activities during the C&O Period

During the C&O Period, the Company shall execute the operation and maintenance activities in accordance with Operating and Maintenance Procedure to ensure, at minimum, the KWC continues to comply with the results / parameters established during the Mobilisation Testing.

2.6 OPERATION AND MAINTENANCE ACTIVITIES (O&M ACTIVITIES)

2.6.1 *Monitoring, Metering & Testing Requirements during the Operating Period*

The following are outline descriptions of the minimum flow and water quality monitoring requirements for the KWC, taking into consideration the performance specifications and compliance monitoring methodology. Flow and quality monitoring devices shall be installed, based on Good International Industry Practices, at the following locations, with reference to the metering and monitoring system schedule described below:

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M0	Operational Monitoring	Immediately upstream of the WAPDA Canal.	Raw water monitoring point.	Flow meter.
M1	Compliance Monitoring	Downstream of Head Regulator KW&SC gate. Metering and monitoring system. (Redundancy)	Raw water monitoring point: Downstream of the Head Regulator Canal's facilities; measure against design envelope, technical and correction limits; hourly metering.	Flow Meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.
M2	Compliance Monitoring	At each one of the Water Access Points. (Redundancy)	Raw water monitoring point at: <ul style="list-style-type: none"> - Hamdard University; - Hamdard Laboratories; - Sherriar Ashraf (Gulf Mineral); - Public Health Engineering and Rural Department (Government of Sindh); - Marble City connection (if not already installed during Mobilisation Period). 	Flow Meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M3	Compliance Monitoring	Downstream of KIII Conduit, KW&SC valve. Metering and monitoring system. (Redundancy)	Raw water monitoring point: Downstream of KIII Conduit valve; measure against design envelope, technical and correction limits; hourly metering.	Flow Meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.
M4	Operational Monitoring	Total volume being managed by the KWC.	Monitoring volume that reaches the pump station from different sources. Upstream of pump station.	Flow meter possibility to implement water quality metering.
M5	Compliance Monitoring	Water quality metering and monitoring system. Pump station.	Monitoring of water quality for blended water from Hub Dam and KIII Conduit. Downstream of pump station and upstream of Treatment Plant; hourly metering.	Flow meter online water quality metering; auto-sampler and / or manual sampling point.
M6	Operational Monitoring	Treatment Plant production metering and monitoring system and control point for potable water quality.	Treatment Plant production monitoring point: Measure plant capacity / availability on hourly basis. Downstream of the Treatment Plant; upstream of supply point to potable water storage.	Water quality metering. Possibility to implement a single flow meter; manual sampling point
Reservoir volume	Operational Monitoring	Reservoir volume metering & monitoring for operational purpose.	Measure availability of storage on an hourly basis.	Sensor within each reservoir to determine overall storage availability within $\pm 2\%$ accuracy; possibility to implement water quality metering.

Ref.	Type	Metering Station	System description	Equipment/ Methodology
M7	Compliance Monitoring	Bypass flow metering & monitoring. (Redundancy)	Downstream of the existing discharge KWC connection point for measuring volumes. Hourly metering.	Flow meter (+ parallel back-up meter required)
M8	Compliance Monitoring	Water quality and flow metering & monitoring system for Net Water Output. (Redundancy)	Downstream of the Output Water Connection Point, water quantity and water quality. Hourly metering.	Flow meter (+parallel back-up meter required); online water quality metering; auto-sampler and / or manual sampling point.

Table 1: Minimum flow and water quality metering & monitoring systems for the KWC.

Additional metering and monitoring equipment can be installed by the Company, for redundancy or internal control purposes, at any part of the KWC infrastructure.

All flow meters, online meters, auto samplers and, where applicable, back-up equipment, forming part of the metering and monitoring systems shall be maintained and calibrated regularly. The calibration of the flow and water quality meters shall be certified every six (6) months by an accredited third-party agency and the results shall be reported to the Independent Engineer. The metering and monitoring systems shall also include adequate metering and monitoring of power supply and consumption of the KWC in accordance with the Concession Agreement.

All monitoring, metering, sampling and testing of raw water and potable water shall be done online and also at least one (1) daily sample at each point shall be analysed in full compliance with the National Water Quality Laboratory (NWQL) requirements, to ensure that the water meets the Output Water Quality Specification and recommendations as a minimum criteria, and shall be fully aligned to measure all parameters as required by the performance specifications. Detail of the sampling points are mentioned in the section above.

This shall include Good International Industry Practices and accepted methods and standards of QA/QC in terms of validating all monitoring, metering, sampling and testing results.

The Company shall make available the Metering Systems and Monitoring Systems data to the Independent Engineer online and in real time through a website or an APP, and the most relevant data shall be included in the reports submitted by the Company.

The physical samples taken on a daily basis will be analysed in an external accredited laboratory. The laboratory shall be proposed by the Company to the Independent Engineer for approval at least thirty (30) days before the scheduled starting date, including all the required certificates in the proposal.

The KWC shall use the existing facilities to dump the water not meeting any of the above quality requirements. These facilities shall be designed to the extent possible to ensure that decisions can be made before the water reaches the pump station and after the water exits the pumping stations through the bypass infrastructure, to guarantee that no off-specification quality water will pass the Output Water Connection Point unless it is accepted by the Independent Engineer. These facilities will comprise but not be limited to:

- online water quality monitoring system upstream of the pump station, measuring water turbidity, pH, alkalinity and conductivity;
- regardless of the final configuration proposed for receiving water from the KWC and KIII Conduit, the proposed solution must integrate the possibility of diverting the flow to the existing outfall channel; and
- the Company shall monitor the water quality requirements by means of calculations and measurements to be taken at the Output Water Connection Point to demonstrate the quality of the water dispatched to KW&SC.

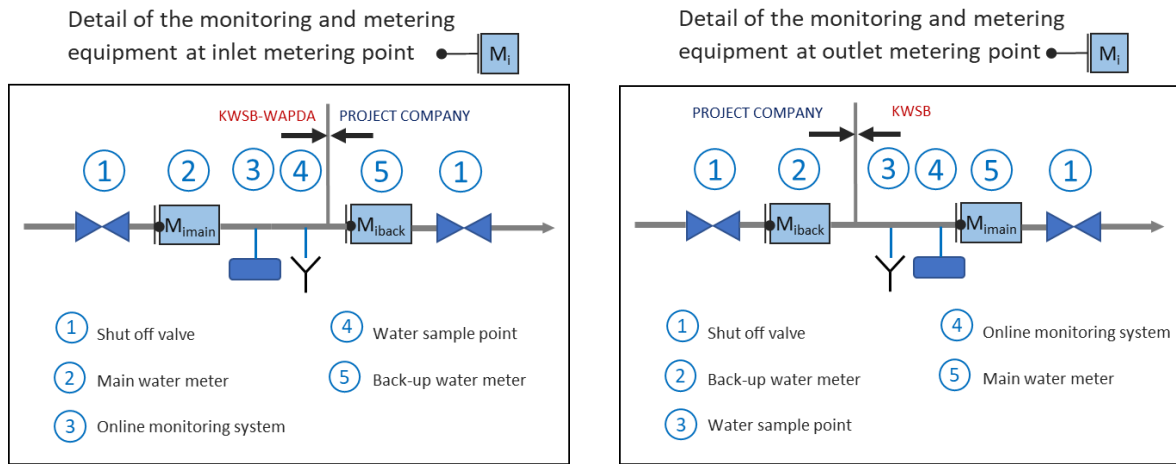


Figure 9. Examples of Connection & Metering Details.

A complete set of measuring devices shall be defined by the Company, to be connected with the new SCADA System. This set of instrumentation shall provide baseline information for the establishment of the bills and making of Service Payments to the Company during the Concession Period.

2.6.2 Compliance Monitoring Methodology during the Operating Period

The following outline compliance monitoring methodology will be followed:

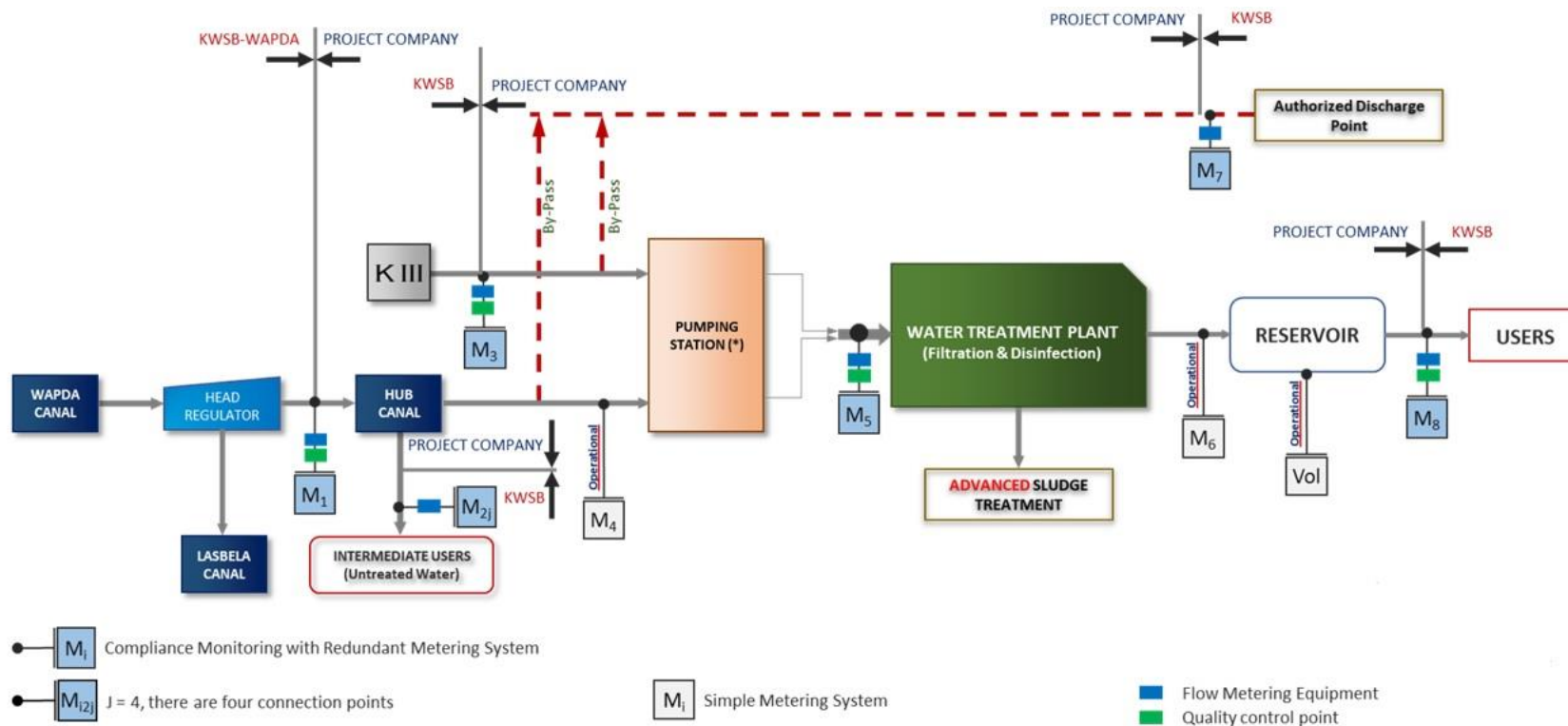


Figure 10: General Scheme for Monitoring during the Operating Period.

- STEP 1: Immediately downstream of the Head Regulator gate, flow and quality will be measured and monitored continuously (at compliance metering station M1) with hourly recorded hydraulic flows and online water quality monitoring which is validated by means of daily sampling by an accredited laboratory & quality testing which will confirm the raw water quality compared against the design envelope. Accuracy of flow and water quality metering shall be, at minimum, in compliance with the National Water Quality Laboratory (NWQL) recommendations. This shall also be used for calculation of Service Payments.
- STEP 2: Untreated water will continue to be served to existing Water Access Point Consumers, that is, Hamdard University, Hamdard Laboratories, Sherriar Ashraf (Gulf Mineral), and Public Health Engineering and Rural Department (Government of Sindh). A metering system (M21, M22, M23 and M24) shall be installed by the Company to measure the flow served on hourly basis downstream of the valve to be implemented. This shall also be used for calculation of Service Payments.
- STEP 3: Upstream the KIII Conduit interface point, flow and quality will be measured and monitored continuously (at compliance metering station M3) with hourly recorded hydraulic flows and online water quality monitoring which is validated by means of daily sampling by an accredited laboratory & quality testing which will confirm the raw water quality compared against the design envelope. Accuracy of flow and water quality metering shall be in compliance with, at minimum, the National Water Quality Laboratory (NWQL) recommendations. This shall also be used for calculation of Service Payments.
- STEP 4: For internal O&M purposes and in order to monitor losses at the KWC, hydraulic flows to be recorded at M4. The Company is entitled to propose quality monitoring equipment if considered adequate to optimize the O&M procedures.
- STEP 5: Before the Treatment Plant, flow and quality will be measured and monitored continuously (at compliance metering station M5) with hourly recorded hydraulic flows and online water quality monitoring which is validated by means of daily sampling by an accredited laboratory & quality testing. The main goal is recording off specs and polluted influent before the Treatment Plant and monitoring flow that reaches the Treatment Plant. Accuracy of flow and water quality metering shall be in compliance, at minimum, with the National Water Quality Laboratory (NWQL) recommendations. This shall also be used for calculation of Service Payments.
- STEP 6: Water output will be measured and monitored continuously (at compliance metering station M6) with hourly recorded hydraulic flows. The Company is entitled to propose quality monitoring equipment if considered adequate to optimize the O&M procedures.
- STEP 7: Hourly recorded hydraulic flows bypassed on the Treatment Plant to be measured at M7. Accuracy of flow and water quality metering shall be in compliance, at minimum, with the National Water Quality Laboratory (NWQL) recommendations. This shall also inform the calculation of Service Payments.
- STEP 8: Liquid discharge quality and flow will be measured and monitored continuously (at compliance metering station M8) with hourly recorded hydraulic flows and online water quality monitoring which is validated by means of daily sampling & quality testing which will confirm the compliance with water quality requirements (receiving waters standards

or similar). Accuracy of flow and water quality metering shall be in compliance, at minimum, with the National Water Quality Laboratory (NWQL) recommendations. This shall also be used for calculation of Service Payments.

The Company shall monitor and measure all environmental performance requirements as well technical efficiencies to be in full compliance with Environmental and Social Requirements, including the latest requirements of the Pakistan Environmental Protection Agency, Government of Pakistan and / or the Sindh Environmental Protection Agency, Government of Sindh. Noise levels to be confirmed at specified points in compliance with operational noise specifications.

2.7 ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) AND ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)

The Company shall be required to complete an ESIA and detailed ESMP that is fully compliant with E&S Standards, IFC's sustainability framework, World Bank Group EHS (sector specific) Guidelines for Water and Sanitation, ADB's standards, and Environmental and Social Laws in order to obtain Environmental and Social Approvals from the Sindh Environmental Protection Agency, Government of Sindh and other Competent Authorities, provided that where there is a contradiction amongst the foregoing, the most stringent standards shall apply.

Further details can be found in *RFP Volume II Annexure 2: ESIA ToR*.

3. PART 3: TECHNICAL FUNCTIONAL SPECIFICATIONS

3.1 GENERAL REQUIREMENTS & DESIGN STANDARDS

This section describes the guidelines for the minimum technical requirements and functional specifications for the design and construction of the KWC.

All items provided by the Company shall be designed, supplied and installed in accordance with the more stringent of the Pakistani standards and international standards.

In addition to the technical requirements of this section, the selection of the technology, the design and the arrangement shall be suitable for the conditions of the Site and optimized efficiency requirements.

The Project Activities shall be designed, manufactured and configured in such a way that they will maximize the ability to provide potable water which shall comply with the relevant best practices and accepted standards as specified herein.

The Company shall apply a well-established component classification and identification system for the Project Activities. The SI (International System) system of units shall be used for design, drawings, diagrams, and instruments, etc prepared or utilized for the purposes of the Project.

Permits, Licences & Wayleaves

It shall be the responsibility of the Company to obtain wayleaves, any additional rights of way from the ones provided by KW&SC, and all requisite Approvals from Competent Authorities to carry out the Project Activities and to ensure that the costs of procuring such Approvals and wayleaves are included in the cost of the Project as quoted in the Proposal.

Design Standards and Codes

The Company shall ensure that the provision of the Project Activities is in accordance with the more stringent of the Pakistan's standards and international standards (acceptable standards indicated below or stated elsewhere in this document), codes and best practices, provided that where there is a conflict amongst the foregoing, the most stringent framework shall apply. The current editions of the standards, codes and best practices issued by the following organizations shall apply and be allowed for the Project Activities. Only the following international standards shall be used for the purposes of the Project:

- ASCE - American Society of Civil Engineers
- ASA - American Standard Association
- ACI - American Concrete Institute (USA)
- AISI - American Iron and Steel Institute (USA)
- AISC - American Institute of Steel Construction (USA)
- ANSI - American National Standard Institute (USA)
- ASTM - American Society for Testing and Materials (USA)
- ASHRAE - American Society of Heating, Refrigeration and Air Conditioning Engineers (USA)
- AASHTO - American Association of State Highway & Transportation Officials.
- ANSI/AWWA Standards - American Water Works Association
- AWS - American Welding Society (USA)
- BS - British Standards (UK)
- CP - Codes of Practice (UK)
- ICAO - International Civil Aviation Organization
- IFC - International Finance Corporation Policies and Standards
- BSICP - British Standard Institute Code of Practice
- WPCP - West Pakistan Code of Practice for Highway Bridges 1967
- NHA - National Highway Authority
- PS - Pakistan Standards (Pak)
- PCA - Portland Cement Association
- PSI - Pakistan Standard Institute
- PBC - Pakistan Building Codes
- SSPC - Steel Structures Painting Council (USA)

- UBC - Uniform Building Code (USA)
- USBR - United States Bureau of Reclamation (USA)
- WHO - World Health Organization

If the Company, at any time and for any reason, wishes to deviate from the above standards, or desires to use material or equipment not covered by the above standards, it shall state the exact nature of the changes, the reason for making the change, and shall submit complete specifications of the materials and equipment to the Independent Engineer for approval.

3.2 GENERAL DESIGN BASIS

The Company's scope shall include, but is not limited to, Site preparation, the development, design, engineering, procurement, manufacturing, factory testing, transportation to Site, construction, installation, Site testing, commissioning and performance testing of all equipment and infrastructure. In addition, the Company shall operate and maintain the KWC during C&O Period and for the remaining duration of the Concession Period after the successful commissioning of the KWC.

The Company shall include in their scope all the equipment, works and services necessary for complete safe and prudent provision of the Project Activities, notwithstanding certain essential items not being expressly stated in the Instructions to Bidders or elsewhere.

To ensure competitiveness, the requirements are set out in a manner that allows a variety of technological solutions and choices of equipment suppliers. The requirements described in certain sections are minimum requirements that ensure the quality of technological processes for the Project.

The basis of design of the C&O Activities and performance thereof shall satisfy the following fundamental requirements:

- performance and reliability;
- the design concept for the C&O Activities must ensure modularity, with maximum flexibility and reliability;
- civil engineering and building works are to be designed based on an adequate service life period for the Site-specific conditions. The mechanical and electrical installations shall be suitable for continuous operation twenty-four (24) hours per day, as well as for intermittent operation, under all local climatic conditions;
- the design of the KWC components shall be adapted to local conditions, be state of the art and shall be such as to facilitate construction, operation, inspection and maintenance of all processes and equipment. All mechanical and electrical equipment to be supplied shall have a proven reliability record in similar works. The Company is to describe how problems caused by breakdowns and servicing will be minimized by the inclusion of stand-by equipment, spare capacity, etc.;
- adoption of design practices and approaches which will reduce and optimize capital and / or operating costs;

- standardization of components selected to reduce spares inventory, and reduce lead times for ordering of items not kept with spares; and
- availability of the KWC, including the Reservoir as per the applicable performance specifications.

Operability, maintenance and safety requirements shall be provided by the incorporation of the following:

- ease of access to equipment, controls and monitoring stations, etc.
- equipment lifting devices; electrical cranes should be provided for all pumping and engine rooms and generally where needed;
- separate storage facilities for chemicals, including secondary containment;
- lighting to all operating areas;
- ventilation of all covered operating areas, including adequate odour monitoring and control;
- machinery guards;
- proper electrical insulation facilities;
- noise suppression and insulation;
- stairs, handrails, covers, harness points, etc.;
- appropriate safety systems, monitors, meters and alarms;
- Good International Industry Practices in relation to health and safety procedures; and
- Good International Industry Practices in relation to asset management systems, including intelligent tagging, monitoring, maintenance and materials interfaces.

If the Company, at any time and for any reason, wishes to deviate from the Technical Proposal submitted, the provision of the Concession Agreement shall be followed. The minimum content of a Change in Scope proposal shall include:

- technical rationale of the proposed Change in Scope, and detailed technical proposal;
- estimated impact of the proposed Change in Scope on the CAPEX for the Project;
- estimated impact of the proposed Change in Scope on the OPEX for the Project;
- environmental impact evaluation of the proposed Change in Scope;
- health and safety considerations of the proposed Change in Scope;
- impact of the proposed Change in Scope on the Implementation Schedule;
- Stakeholders affected by the proposed change; and

- Project risk analysis of the proposed change.

3.3 DESIGN LIFE & REDUNDANCY

Design life

The minimum lifetime envisaged is as follows:

- twenty (20) years for all the new mechanical components with minimum maintenance;
- twenty-five (25) years for all the new electrical components with minimum maintenance; and
- forty (40) years for new and rehabilitated civil buildings and structures.

Redundancy

The Company shall be fully responsible to provide adequate redundancy for the pump stations and the Treatment Plant.

For vital equipment components, the installation of standby units is required, and when it is not practicable, a respective number of cold standby units will have to be provided.

The Company may optimize the provided concept such that higher redundancy and availability are achieved.

The Company shall include into their offer a detailed redundancy concept, demonstrating the operations of the pump stations and the Treatment Plant during breakdowns or regular revision and maintenance works for all relevant facilities.

3.4 DETAILED DESIGN REQUIREMENTS

The Company shall maintain a BIM compliant digital design data management platform for all the design information. All design will be digitally constructed, manipulated and stored; and any paper copies of design information shall only be for information to aid design, construction or to aid understanding of what is stored digitally. As-built design data shall also be digital and all of the above shall be provided to the KW&SC and / or the Independent Engineer in digital 3D (and 2D) format that is suitable to mainstream digital platforms.

The design and as-built data should ideally be digitally linked to a CMMS in real time so that any design data or component changes for maintenance are automatically updated on the as-built digital data records. This is to ensure a single version of accurate and up-to-date records and information, and a high level of data and operational management efficiency throughout the lifecycle of the system.

The Company is to use state of the art design tools and these shall include, but not limited to the following:

- Except for the canal and pipelines, the primary design is to be undertaken with a 3-dimensional (3D) model from which 2D drawings shall be generated. The 3D designs shall accurately detail the external surfaces of the facilities. All the system is to be TAG numbered and digitally linked to the Intelligent P&IDs and the CMMS.
- P&IDs shall be produced and will be the basis of all the mechanical, electrical and ICA designs. The P&ID system architecture shall be linked to the specific detail of each item of system and /

or instrument as attributes / metadata, that will be embedded in the software package used to construct the Intelligent P&ID. The P&ID software shall ensure performance curves can be captured and hyperlinked to the attributes / metadata. Unique TAG numbering will be digitally linked to the 3D design model components and the CMMS. The P&IDs shall be set up to generate all valve and instrument and system schedules.

- The mechanical and electrical (and ICA) 3D modelling shall be compatible and integrated with the civil, structural and architectural 3D packages to ensure there are no equipment interferences during operations and maintenance.
- For electrical network design, load flow modelling, and protection setting calculations, proper available technology and software tools shall be used; for instance, ERAC, ETAP, or similar tools for HV (high voltage), whereas AMTEC or similar tools can be used for LV (low voltage).

3.5 MEICA GENERAL REQUIREMENTS

The design of the KWC components shall be adapted to local conditions, be state of the art and shall be such as to facilitate the Project Activities. All MEICA equipment to be supplied shall, wherever possible, have a proven reliability record in similar works and conditions. The Company is to describe how problems caused by breakdowns and servicing will be minimized by the inclusion of stand-by equipment, spare capacity, by-passes etc.

The Company shall maximise, as is reasonably possible, on the standardisation and interchangeability of facilities and components so as to minimise on any downtime.

The Company shall ensure a robust supply chain from all suppliers and ensure in country representation of the manufacturers and suppliers.

(i) Electrical Power Requirements

The main objective is to provide a fully functional, automatic system, including the design, supply, installation of the electrical and ICA (EICA) infrastructure. The final design of the infrastructure must enable the KWC to cope with the flow demands and any associated scenarios.

International specifications and Good International Industry Practices shall apply to the design and installation of all electrical systems.

(ii) Instrumentation, Control & Automation (ICA)

The Company shall develop a system architecture for the Project but also to allow connectivity / interface with KW&SC for remote monitoring of the Site SCADA systems. The Company shall also liaise as necessary with KW&SC to establish the existing systems and protocols and thus ensure compatibility, so the system works effectively. The Company shall be responsible for the design of the remote monitoring system, based on Good International Industry Practices.

The control system architecture shall be capable of running the system automatically with manual override in the case of breakdown of automatic control. Each process area shall be controlled by a dedicated PLC; all PLCs shall be networked, and dual redundant PLCs shall be considered to provide additional redundancy.

Adjustable set points to modify the control parameters on any item of the system shall be adjustable only

on the manager's personal computer or the program development system. The central master station shall scan the sub masters. Block transfer of data shall be accepted. All alarms and any events' time and data recorded at the sub-master stations shall be transferred to the master station.

All the signals that are required for the system's safety operations, critical alarm / trips and controls shall be hard wired between the different installations.

Further, the Company shall establish and provide the necessary mechanisms to have data exchange and a systems integration between the SCADA, DCS, monitoring, metering data acquisition systems, and settlement systems, etc. The Company shall provide their functional design specifications of data exchange for the Independent Engineer's approval.

The DCS of the system shall be a programmable up-to-date modern digital process control system with self-diagnostic features, ensuring the operation for the remaining lifetime of the system. The software and system components like cards / modules, computer equipment shall be the most advanced version in operation. The Company shall also ensure that the supply of spare parts and technical support for the control system is available for the lifetime of the system.

The system shall fulfil the latest cybersecurity requirements (as per HCIS and the EC Controls). It shall be secured / protected from external intruder / virus and shall have provision to safeguard the system against malicious software and computer virus threats. The system shall be designed with security measures, segregation and availability to reflect the specified requirements, and have measures for disaster recovery. The system shall be designed to allow easy extension in case of subsequent modifications on the controls and the associated signal processing equipment for hardware and software.

(iii) Mechanical Requirements

It is in the Company's interest to ensure the suitability of the design of all mechanical equipment and that it is optimum for the purpose intended. The Company shall make their own assessment of materials and standards to fulfil their asset management objectives and international specifications and Good International Industry Practices shall apply to the design of all mechanical installations.

The Company shall ensure that the installation designs give easy, good and safe access to all the system. Adequate lifting facilities are to be provided that will enable removal for maintenance or replacement.

Flow measurement

The overshoot gate and / or flow metres devices shall calculate the flow using measurements of upstream water level, downstream water level, and gate position, achieving independently verified measurement accuracy of $\pm 2.5\%$. Water level measurement sensors shall be housed within the internal frame. A water-tight seal will separate the upstream and downstream sensors.

- Unique, integrated stilling wells unaffected by surrounding objects, as debris, foam, silt or other contaminants.
- Self-calibrates on every reading to eliminate drift in speed of sound variations due to changes in temperature or humidity.

Specifically designed for use in harsh canal environments.

3.6 CIVIL, STRUCTURAL & ARCHITECTURAL REQUIREMENTS

All civil, structural and architectural works shall be designed, constructed, operated and maintained in compliance with Good International Industry Practices and in conformance with the minimal requirements and guideline standards.

(i) Prior to the start of C&O Activities

The Company shall be responsible for conducting the technical evaluation of the proposed Site prior to the start of the C&O Activities, with particular cognisance of fluctuating levels in the groundwater table, geological and geotechnical conditions.

The Company shall undertake all necessary preparatory works, including:

- investigation of any existing facilities / infrastructure above and below the ground in the Site area;
- re-routing of any existing live facilities / infrastructure above and below the ground in the Site area in agreement with the owner of the facility / infrastructure at the cost and expense of the Company;
- removal of any existing facilities / infrastructure above and below the ground, including mechanical and electrical equipment, in the Site area at the cost and expense of the Company;
- provision of temporary laydown areas, warehouses, workshops, batch plant, vehicles, equipment, as required for the C&O Period;
- provision of temporary:
 - power and water supply;
 - firefighting and alarm system; and
 - site drainage, stormwater and sanitary drainage;
- disposal of sewage, as necessary;
- removal of existing buildings and structures as required;
- provision of temporary roads and fencing, including gates as necessary; and
- provision of first aid, and safety and security system for the Site for the duration of the C&O Period.

(ii) Earthworks & Site Grading

Ground surfaces shall be graded to slope away from structures towards the Site roads to facilitate surface water collection.

Embankment and cutting slopes shall be graded in accordance with the requirements of the Company's geotechnical design report.

Interceptor swales shall be provided at the top of any slopes to divert overland surface water flow from areas outside the Site boundary away from the main Site area.

Finished floor levels of buildings shall be one hundred fifty millimetres (150 mm) above the surrounding finished ground level, except where ramped access is required for vehicles or equipment.

(iii) Structural Design

The design of all structures shall be carried out in accordance with design codes, and the structural loading shall include, but is not limited to: dead / permanent loads; superimposed dead loads; imposed / variable loads; wind loading; seismic loading; accidental loading; thermal loads, both in-plane and through thickness differentials; traffic / live load surcharge; crane loading, both mobile and gantry type cranes; hydrostatic and hydrodynamic pressure; earth pressure; and construction loads.

Loads shall be combined in accordance with the selected design code requirements.

The Company shall prepare a durability assessment report which defines how the design and construction will achieve the minimum design life for each element of the Project Activities.

Early age thermal effects, autogenous shrinkage and drying shrinkage shall be considered in the design of reinforced concrete structures and adequate reinforcement shall be provided to control cracking.

Where possible, structures shall be designed without movement joints and the design shall follow current guidelines and best practice to limit shrinkage and thermal cracking in walls and slabs that are in contact with the ground.

(iv) Hydraulic Design

Hydraulic design shall be in accordance with Good International Industry Practices for conveying potable water.

When possible, sufficient redundancy within the pipework and structures must be provided to allow each element of the system to be taken out of service for routine maintenance activities.

When possible, flows shall be distributed equally in the pump stations and Treatment Plant facilities, among all operational process units under all flows and operating conditions.

The minimum freeboard in tanks and hydraulic channels shall be 0.5m from maximum top water level to top of wall level, under all flow and operating conditions.

Weirs shall be designed for free discharge under all flow and operating conditions and shall allow for a minimum fall of 100mm under peak flow conditions.

Hydraulic surge analysis shall be carried out for pump systems as required to design mitigating measures for surge and other detrimental transient conditions.

(v) Pipework Design

Pipe networks for the KWC shall be provided, including but not limited to water flows, sludge, wash water, compressed air, potable water, firefighting water and irrigation.

The minimum depth of cover to pipes is one point five metres (1.5 m). Where the aforementioned cover cannot be achieved, pipes shall be encased in concrete as a protection measure.

Pipes shall be designed for all foreseeable loading conditions, including live load surcharge from construction vehicles, maintenance plant and cranes.

Foul sewage pipe networks shall be separated from potable water networks to avoid cross contamination. The minimum clearance shall be six hundred millimetres (600 mm) vertical and three hundred millimetres (300 mm) horizontal from the outside of the sewage pipe to the outside of the water supply pipe. Potable water networks shall be located above sewage networks.

Cathodic protection only in metal sections (including initial and final part and manholes deviations, if need be).

Proper protection shall be given to metal surfaces using paints or other protective coatings and/or, by cathodic protective devices.

- AWWA D102 Coating Steel Water Storage Tanks
- AWWA Standard D-103 Factory-Coated Bolted Steel Tanks for Water Storage
- AWWA D104 Cathodic Protection for Interior of Steel Water Tanks

(vi) Ducts design

Ducts shall enter any below ground chambers or through tank walls a minimum of three hundred millimetres (300 mm) above maximum top water level. If the tank or chamber has an overflow, the ducts shall enter above this level. If ducts terminate above the ground level, the ducts shall be encased in a concrete surround with the duct terminating 150mm above the finished ground level. Ducts shall be sealed with a Denso Putty (or similar).

Draw pits and covers shall be designed for the maximum vehicle loading likely to be imposed on the cover or side wall of the chamber.

(vii) Surface Water Drainage

Surface water drainage systems within the Site shall be designed for a one (1) in ten (10) years, sixty (60) - minute duration event with a peak rainfall intensity derived from codes.

The surface water drainage system shall be easily maintainable. Where piped systems are employed, manholes shall be provided at every change of direction or every hundred metres (100 m) on straight runs to facilitate rodding and maintenance.

(viii) Site Access, Circulation and Egress

The permanent Site access & egress shall be determined prior to preparing the Detailed Engineering Design and approved by the Independent Engineer.

Site access roads and internal roads shall be designed for a target maximum speed of thirty (30) kph.

Roads shall have the following characteristics:

- eight (8) m minimum width for two-way access and 6m minimum width for one-way access;
- continuous around all tanks and buildings;
- minimum longitudinal gradient of zero point five percent (0.5%) and maximum four percent (4%);
- maximum ramp gradient into buildings shall be fifteen percent (15%);
- minimum cross fall or camber of two percent (2%);
- corner radii at junctions shall be twelve metres (12 m) minimum;
- horizontal clearance between carriageway edge and vertical objects adjacent to the access road shall be zero point six metres (0.6 m) minimum;
- vertical clearance between finished ground level or carriageway level and the soffit of any object crossing the carriageway or coming within zero point six (0.6) m of the carriageway edge shall be five point five (5.5) m minimum;
- visibility splays at junctions shall be two metres (2 m) x thirty-three metres (33 m) minimum between the driver's eye height of one metre (1 m) to two metres (2 m) and object height of zero point two five metres (0.25 m);
- surfacing shall be bituminous generally, but concrete shall be used for any areas of likely spill of sewage or chemicals, the Tanker Import Facility and sludge export area. Pavements shall be designed for the cumulative effect of the largest loads expected to use the KWC roads during the operational life of the pavement and the effects of any cranes expected to be used during maintenance operations;
- street lighting shall be designed and constructed in accordance with international codes;
- signage for all significant buildings shall be provided to facilitate wayfinding for regular vehicles and for emergency services vehicles entering the facilities; and
- road markings and signage shall be provided to indicate right of way at internal junctions.

Vehicle tracking shall be carried out at design stage for the largest vehicle likely to access the KWC on a regular basis (rigid tankers and articulated tankers) to ensure sufficient curve widening is provided on bends and no conflicts between opposing vehicles are likely to occur.

(ix) Landscaping

The Company shall prepare a landscaping plan, including planting plan, hardscape areas, Site amenities and external lighting.

Hard landscaping: A minimum two metres (2 m) width of hard standing shall be provided around the buildings. The finish shall be precast concrete paving slabs or in situ brushed concrete. The minimum fall on the hard standing shall be two percent (2%) away from the building towards a surface water drainage system.

Soft landscaping: Soft landscaping shall consist of drought-resistant, evergreen, low maintenance trees and shrubs local to the area. Irrigation systems shall be provided for any planted areas around the Site. Soft landscaping should be provided around any habitable / office / accommodation buildings. The boundary landscaping shall consist of a tree screen (maximum ten metres (10 m) spacing on a staggered pattern) to act as a visual screen to the Site. No trees or shrubs should be planted within twenty metres (20 m) of an open tank.

(x) External Lighting

External lighting shall be provided around all buildings and along all internal access roads. Task lighting shall be provided in any area where regular maintenance activities are planned.

(xi) Electricity Efficiency

Buildings shall be designed to minimise electricity use and maximise efficiency as far as possible. These measures shall include LED lighting, electricity efficient heating and cooling and insulation and ventilation systems design and power saving devices (such as movement sensors) as a minimum.

(xii) Building Finishes

External

- roofs – typically flat roofs with single ply solar reflective waterproofing membrane (with protection) over rigid insulation over concrete slabs. Maximum U-value shall be zero point one nine (0.19);
- walls – concrete structures with concrete masonry units as infill with insulation and a decorative render finish. Maximum U-value shall be zero point two (0.2);
- louvres – fixed aluminium with anodised finish, intake louvres shall be sand-trapping;
- windows – fixed, aluminium framed with anodised finish, glazing shall be tinted insulating glass;
- doors – habitable buildings: aluminium with anodised finish; non-habitable: steel, galvanised and painted. Equipment access doors shall be aluminium roller shutter type with anodised finish and motorised operations.

Internal

- doors – timber with painted, hollow metal frames;
- walls – habitable buildings: plastered and painted, tiled in wet areas; and non-habitable buildings: fair finish painted masonry suitable for wash-down and light reflectance;
- floors – habitable buildings: tiled concrete / screed, maximum U-value shall be zero point two (0.2); and non-habitable buildings / workshop areas: concrete with power floated finish and sealer;
- ceilings – habitable buildings: suspended ceilings; and non-habitable: painted for light reflectance; and
- safety equipment shall be provided as necessary.

(xiii) Rain Water Drainage

Rain water shall be diverted from roof structures via external down pipes to pipes at ground level where it shall then connect into the surface water drainage system for the Site.

Roof outlets shall be provided with sufficient redundancy to prevent build-up of water on roofs in the event of a blockage.

(xiv) Building Signage

The language of all signage shall be both Urdu and English.

- external signage: all buildings shall incorporate exterior identification nameplates for ‘way finding’ and use by any emergency response units;
- internal signage: interior doors shall incorporate room numbering and identification nameplates. Hazardous material signs, warning signs, caution signs and safety signs shall be provided as required; and
- emergency signage: emergency and ‘way finding’ signage shall be fitted at all appropriate locations to facilitate safe and controlled egress from each facility to a designated place of safety away from the buildings and other hazardous facilities that may be nearby.

3.7 BUILDING SERVICES REQUIREMENTS

The primary design parameters and requirements for buildings are as follows:

- fire Suppression: generally, all buildings shall be fully protected by a fixed wet sprinkler system. All main electrical rooms shall be protected by a clean agent gas suppression system using FM200 gas or similar. The gas shall be stored in bottles located in each of the protected areas. A pressurised sprinkler connection will be extended from the Site fire main to serve the sprinkler installation within the building;
- small power & lighting: general purpose 220V socket outlets will be provided and all items of fixed equipment will be provided with dedicated power supplies. Outlets and fused connection units will be protected by RCDs where necessary. Generally recessed, high frequency, luminaires shall be used, where a suspended ceiling is installed. In restrooms, and other utility areas, recessed down lighters shall be used. In plant areas, surface mounted / suspended luminaires shall be used. Emergency bulkhead luminaires shall be installed over exit doors. Emergency lighting will be supported by a central battery system;
- HVAC systems: all occupied areas within the building shall be provided with air conditioning and ventilation. The ventilation air shall be provided based on space occupancy levels and to meet the over pressurisation requirements for the building. The ventilation system shall be a variable air volume system with local temperature controls for each area. All mechanical systems shall be sized with a ten percent (10%) spare capacity for cooling and for ventilation air requirements; and
- lightning protection: the lightning protection system shall be designed and installed in accordance with existing regulations, with supplementary surge protective devices fitted. All lightning protection systems will be bonded to the building electrical earths. Test links will be provided.

Consideration should be given for LED luminaires throughout.

3.8 GENERAL ENVIRONMENTAL REQUIREMENTS & PERMITS

The Company shall conduct their own baseline studies and any surveys and investigations which may be required to obtain the Environmental and Social Approvals required for the Project.

On confirmation of the Company's proposed design and technologies, they will be required to perform a detailed ESIA assessment and permit application in order to meet the Legal Requirements, as well as World Bank / IFC Equator Principles, and the E&S Standards. These will typically include the following as a minimum:

- validation of any studies or surveys conducted by KW&SC;
- detailed assessment of the environmental impacts (air, noise, odour, soil quality, groundwater quality, marine impacts, etc.); and
- compliance with specific requirements include land availability & ownership, right of way, wayleaves and permitting / regulatory requirements, waste management (sludge), socio-economic impacts, etc;

In addition to the Environmental and Social Approvals, the Company shall also be responsible to obtain all other Approvals required for the Project Activities. These may involve Approvals (without limitation) for on-Site fuel storage, on-Site power supply, access & egress, security and communication requirements, building permits, traffic and transportation, health & safety, etc.

Additional information can be found in Annexure 2: ESIA ToR.

4. PART 4: SPECIFIC REQUIREMENTS

4.1 MANAGEMENT, OPERATIONS & MAINTENANCE REQUIREMENTS

Good management of the assets ensures that operational and maintenance costs are in line with the original projection and ensure that full design life is achieved. It also reduces the likelihood of major failure, which can carry significantly higher cost as well as the risk of failing performance commitments. It must also be considered that many equipment warranties will be linked to the ability of the Company to demonstrate that the KWC has been operated and maintained in line with manufacturer's instructions.

To assist in this evaluation, it is important that the Company establishes robust asset management throughout the Concession Period that:

- maximizes operation and maintenance efficiency;
- records operation and maintenance activities; and
- maintains up-to-date asset data.

The Company, throughout the Concession Period, shall be required to administer all data through the use of modern and intelligent design and asset management tools.

The KWC long term data storage facilities shall incorporate the ability to maintain operational and maintenance data through the lifetime.

The Company is to ensure the systems and tools are administered by competent, well-trained and appropriately skilled operational teams and continuous training is implemented to match the technology improvements that will occur during the Concession Period.

Using the CMMS, the Company shall report to the Independent Engineer on a monthly basis, regarding the Net Water Input, the Net Water Output, water quality parameters, failures and repairs, replacements, main meantime between failure trending, asset condition, and predicted asset life.

The Company shall be required to carry out operations and maintenance of the Project in conformity with the applicable standards and the Operating and Maintenance Procedures.

4.2 OPERATING AND MAINTENANCE PROCEDURES

The Company shall submit drafts of the Operating and Maintenance Procedures to the Independent Engineer and KW&SC:

- (i) for the C&O Period, no later than sixty (60) Days prior to the Scheduled Commencement Date; and
- (ii) for the Operating Period, no later than ninety (90) Days prior to the Scheduled Project Commercial Operations Date,

as well as instructions and drawings in relation to all the equipment supplied. The Operating and Maintenance Procedures are to be provided in both Urdu and English.

The minimum content of the documents is detailed next:

Introduction

- A general description of the facilities and equipment, including the Treatment Plant process;
- A description of the operation of the facilities and equipment including the sequence of events required for operation of each equipment, and instructions on how to start and stop the equipment, stating any safety and / or sequencing requirements;
- Arrangements. The information may be used for instructing untrained personnel in the operation of the relevant equipment and facilities, and therefore must be set out in a simple and orderly manner to aid the instructor;
- A definition of technical terms used in subsequent sections of the manuals;
- A complete list of the facilities and equipment, valves, pipes etc., existing and supplied, including model and serial numbers; and
- A complete section on occupational health and safety policies and procedures for facilities managerial and operations personnel.

Detailed Description

- Full specification for each individual item of equipment, its accessories and components, including a complete list stating its clearances and tolerances;

- A list of all “as-built drawings”; and
- Operating manuals and vendor data for all items of equipment.

Operating Principles

- A summary description shall be given of the technical operating basis of the facilities or equipment, including, for example: flow sheets circuit and piping diagrams.

Operating Instructions

- The instructions shall contain the sequence of individual manipulations required for operation of each equipment installed at the facilities. The instructions shall be prepared in such a manner that they can be used for instructing untrained personnel in the operation of the facilities and its equipment.

Testing and Adjustment

- The entire testing and adjustment procedure for the facilities or equipment, which has to be done after overhauls and during operations, shall be provided.

Detailed Service and Maintenance Instructions

- Preventative maintenance to indicate the inspection required at regular intervals, the inspection procedures, the routine cleaning and lubricating operations, the regular safety checks and similar steps;
- Repair and adjustment, describing the inspections, fittings and dismantling of parts, fault tracing as well as the repair and adjustment procedure;
- Spare parts list containing all the necessary data for ordering spare parts;
- List of lubricants, and the required grades, including the trade names of the products;
- List of packing seals and gasket materials;
- List of chemicals required; and
- List of special tools.

Drawings

- Construction Drawings shall include sectional drawings of the equipment and workshop drawings.

Test Results

- All works testing and Site testing / commissioning results shall be included as part of the Operating and Maintenance Procedures.

Instrumentation & Control (I&C) System

Technical manuals and record (as built) drawings for the I&C systems shall be given, including the following:

- Process and instrumentation diagrams;
- Loop descriptions;
- Loop drawings;
- Instrument summary;
- Instrument data sheets;
- Sizing calculations;
- Instrument installation details;
- Test Procedures; and
- Test results (loop testing, pre-commissioning, and performance testing).

Requirements for Updating the Operating and Maintenance Procedures

- Operating and Maintenance Procedures shall be updated whenever necessary, such as, whenever there is a change in equipment, flow pattern(s), or operating procedures. Any time there is a change that affects the manner in which the KWC operates in order to meet the Output Water Quality Specifications is an event “necessary” for revision of the Operating and Maintenance Procedures; and
- Numbered Addenda shall be added to the manual and the index shall be revised accordingly. A new edition shall be prepared at least once every five (5) years that incorporates all previous addenda. This document shall be maintained both in hard copy and on soft copy.

Other Information

- A comprehensive index for each volume and an overall index volume;
- Addresses, e-mail addresses, telephone numbers, fax numbers of suppliers and local agents of all items of equipment; and
- The service providers, that is, manufacturers or specialized sub-contractors shall also furnish the manuals on soft copy.

4.3 GENERAL FACILITIES

(i) Central Administration Building including laboratory

A central administration building shall be established to accommodate the KWC management, the pump stations and the Treatment Plant administration, main technical staff, and the Treatment Plant laboratory. The final design solution for the central administration building shall be in compliance with the relevant design standards and shall be approved by KW&SC. As a minimum, the central administration building shall provide the following rooms:

- one (1) laboratory completely furnished and equipped as detailed below;
- one (1) SCADA room thirty (30) m²;
- two (2) offices each twenty (20) m²;
- three (3) offices each fifteen (15) m²;
- one (1) meeting room thirty (30) m²;
- one (1) store (archive) twenty (20) m²;
- one (1) kitchenette fully equipped;
- sanitary facilities (WC, shower, locker etc.);
- one (1) prayer room; and
- two (2) offices each fifteen (15) m² and one (1) meeting room thirty square metres (30 m²) for KW&SC or the Independent Engineer with separate entrance (to be confirmed).

At least one (1) lift capable of accommodating ten (10) persons shall be provided in the case of a multi-storey building.

The Company shall provide facilities for the KW&SC's / IE's representatives, including, as a minimum, the following to accommodate at least four (4) staff members during the C&O Period:

- Office: Total minimum area: twelve metres (12 m) x three point seven five metres (3.75 m), consisting of two (2) rooms, one (1) toilet with basin and one (1) kitchen.
- Furniture: four (4) office tables; six (6) chairs; four (4) tea tables; four (4) cabinets; four (4) fixed reception chairs; dining table & chairs for six (6) persons; desktop computers & software (including MS Office), A3 printer & scanner and an internet connection (with wi-fi router).

(ii) Vehicles

The Company shall provide the following vehicles for use of the representatives of the Project Implementation Unit and the Independent Engineer throughout the Concession Period:

- Project Implementation Unit:
 - one (1) x Toyota Corolla Grande or equivalent thereof;
 - one (1) x Toyota Revo Rocco or equivalent thereof; and
 - two (2) x Suzuki Jeep (Latest Model + A/T) or equivalent thereof;
- Independent Engineer:
 - one (1) x Toyota Double Cabin 4x4 (Latest Model + A/T) or equivalent thereof;
 - two (2) x Toyota Single Cabin 4x4 (Latest Model + A/T) or equivalent thereof;

- one (1) x Suzuki Jeeps (Latest Model + A/T) or equivalent thereof; and
- four (4) x Suzuki High-Roof (Latest Model) or equivalent thereof.

The vehicles shall be provided with driver, fuel, maintenance, insurance, registration etc., by the Company at all times during the duration of the Concession Period.

(iii) On-Site Laboratory

One (1) laboratory shall be updated / provided according to the needs of the Company. The laboratory shall be fully equipped for making the necessary analytical measurements and operating control tests to meet monitoring requirements. The laboratory shall have sufficient size, bench space, equipment, and supplies to perform all self-monitoring analytical work stipulated as required for operations of the KWC.

Laboratory instrumentation and size must reflect the Treatment Plant size, staffing requirements, process complexity, and applicable certification requirements. The laboratory shall be capable of performing chemical, physical and microbiological analysis of water and waste streams. The laboratory shall be equipped to carry out all tests in compliance with Good International Industry Practices in relation to water and wastewater testing. The analytic tests equipment shall provide highest levels of confidence as required by national and international standards.

KW&SC's representatives shall have the right to access the laboratory anytime during normal working hours in order to witness the execution of the analyses.

The laboratory is preferred to be located at the treatment site on ground level, with appropriate environmental control and health & safety compliance being an important consideration. It shall be isolated from vibrating, noisy, high temperature machinery or equipment which might have adverse effects on the performance of laboratory staff or instruments.

The laboratory floor space and facility layout must be based on an evaluation of the complexity, volume, and variety of sample analyses expected during the design life of the KWC, including testing for process control and potable water quality monitoring requirements in terms of the KWC's water safety plan.

Consideration shall be given to the necessity to provide separate (and possibly isolated) areas for some special laboratory equipment, glassware, and chemical storage. The analytical and sample storage areas must be isolated from all potential sources of contamination. Organic chemical facilities shall be isolated from other facilities.

Adequate security shall be provided for sample storage areas. Provisions for the proper storage and disposal of chemical wastes shall be provided. Office and administrative space needs must be considered including for KW&SC as outlined in above. The abovementioned on-Site laboratory requirements should be seen as a minimum requirement for the purpose of the Proposal.

(iv) Parking Facilities

Sufficient parking space for employees, KW&SC's staff and visitors shall be provided. All permanent used parking spaces shall be furnished with a sun shed. Size of the parking spaces shall be at least five metres (5 m) x two point five metres (2.5 m) for normal spaces and five metres (5 m) x four metres (4 m) for handicap parking spaces. The surface of all parking lots, parking spaces, drives, aisles and manoeuvring areas shall be asphalt or concrete. Striping is required and shall be maintained to define spaces and assure safe traffic flows. In the instance where no public access to the lot is paved, the lot may

remain on gravel (providing bumper guards or wheel stops to define each space). Parking spaces along the outer boundaries of a parking lot must be contained by a curb or wheel stops. Artificial lighting shall be provided for all parking lots and interior access lanes must be of sufficient width for all vehicle turning and manoeuvring. For the central administration building, the following parking spaces shall be provided:

- For KW&SC representatives, this shall include three (3) parking spaces plus one (1) handicap parking spaces;
- for visitors and for KWC staff, the Company shall propose the parking spaces to be provided, in their Proposal; and
- other parking spaces shall be provided as necessary for the pump stations area and the Treatment Plant's operations.

(v) Access and Security

The Company shall be responsible for the security of the Site and shall ensure that the security facilities are constructed within the Site boundary.

To enable free access to various Site areas (e.g., the fuel oil and chemical unloading stations), the Company shall make provision for the corresponding required permanent access roads to these areas, including outdoor lighting.

The Company shall put in place suitable security management and control.

Security system: comprehensive security solution shall be provided for all facilities, focusing on intrusion detection, video surveillance, access control, control centres and danger management.

Site perimeter security & access control: any boundary fence (if required) shall be constructed, subject to the ESIA visual impact assessment and the KW&SC or the Independent Engineer's approval.

4.4 HEALTH & SAFETY REQUIREMENTS

The Company and its Contractors shall prepare a health and safety plan in terms of the Sindh Occupational Safety and Health Act, 2017, ISO 45001, IFC Occupational Health and Safety guidelines and / or applicable Good International Industry Practices and in compliance with the Legal Requirements, including Sindh and national labour laws.

The Company shall be deemed to have read and fully understood the requirements of the abovementioned Legal Requirements and standards, which are relevant to the Project and to account for all costs necessary to ensure compliance therewith.

In this regard, appended to the relevant form sheet, an outline health and safety plan and approach in respect of the Project Activities shall be included in order to demonstrate the necessary competencies and resources to perform the Project Activities in accordance with the abovementioned regulations. The outline health and safety plan and approach shall be developed into a fully detailed health & safety plan to be approved by the Independent Engineer and to cover *inter alia* the following details as a minimum:

- the safety management structure, including the names of all designated persons such as the construction supervisor and any other competent persons; and
- safety method statements, risk assessments and procedures to be adopted to ensure compliance with the Legal Requirements and Good International Industry Practices.

Aspects to be dealt with shall include but are not limited to:

- public vehicular and pedestrian traffic accommodation measures;
- control of the movement of construction vehicles;
- the storage and use of materials;
- COSHH
- the use of tools, vehicles and plant;
- temporary support structures;
- dealing with working at height;
- dealing with and working with water and wastewater;
- confined spaces;
- environmental conditions and hazards
- excavation work;
- demolition work;
- security, access control and the exclusion of unauthorised persons;
- the provision and use of temporary services;
- compliance with wayleaves, permissions, and Approvals;
- safety equipment, devices and clothing to be employed;
- emergency procedures;
- provision of welfare facilities;
- induction and training;
- signage;
- first aid;
- provision and maintenance of the health and safety file and other documentation; and

- arrangements for monitoring and control to ensure compliance with the safety plan.

5. PART 5: COMPLIANCE MONITORING METHODOLOGY AND TESTING & COMMISSIONING PROCEDURES

5.1 COMPLIANCE MONITORING METHODOLOGY

During the C&O Period, the water quality parameters established by Mobilisation Testing shall apply.

During the Operating Period, the main compliance monitoring of the KWC shall revolve around the metering, monitoring and analysis of the received and the delivered water, as well as the by-pass discharges. These main compliance criteria shall be measured against the prescribed range of influent volumes and quality and set limits. The combined compliance and impact of events will be applied to the financial payment mechanisms and deduction formulae to calculate the Service Payments due to the Company for each Billing Period, based on the Concession Agreement.

The following flow and flow event definitions are applicable to the compliance monitoring of the KWC with flow values indicated for the KWC.

5.1.1 *Inlet Water Quality Parameters*

The required Treatment Plant to be implemented by the Company should be able to provide the adequate water quality when receiving influent quality parameters within the range shown next:

Parameters	Unit	Normal Influent Range Compliance	
pH	-	6,50	8,50
Turbidity	NTU	0	50
Aluminium	mg/l	0	1
Chlorine residual	mg/l	0	0,02
Faecal Coliform	E. Coli – cfu/100ml	0	100
Total Coliforms	cfu/100ml	0	100

Table 2: Normal Water Influent Range Compliance.

The Project scope assumes the Treatment Plant is expected to operate with water inflows that respect the water quality parameters presented in the above limits.

5.1.2 *Outlet Water Quality Parameters*

The Company shall ensure full compliance of water produced by the Treatment Plan with the National Standards for Drinking Water Quality (NSDWG - Pakistan Environmental Protection Agency, Government of Pakistan – Sindh Environmental Protection Agency, Government of Sindh) as well as all

requirements and procedures in force as specified by the Pakistan Environmental Protection Agency, Government of Pakistan and / or the Sindh Environmental Protection Agency, Government of Sindh, and the WHO drinking water guidelines.

The table below shows the contractual limits for water quality to be provided at the Output Water Connection Point by the Company:

Parameters	Unit	Normal Influent Range Compliance	
pH	-	6,50	8,50
Turbidity	NTU	0	5
Aluminium	mg/l	0	0,20
Chlorine residual	mg/l	0,20	0,50
Faecal Coliform	E. Coli – cfu/100ml	0	0
Total Coliforms	cfu/100ml	0	0

Table 3: Normal Water Outlet Range Compliance.

The other parameters are requested to be analysed, but no contractual impact is considered with respect to the Company’s obligations under the Project.

The Treatment Plant shall be able to operate and deliver potable water to the Output Water Connection Point within that range, and at least the performance guarantees included in Attachments 1, 2 and 3 of the Appendix 5 to the Concession Agreement, otherwise, the outlet will be considered as not compliant.

5.1.3 *Outlet Water Quality Parameters*

Other parameters are requested to be analysed, but no contractual impact is considered with respect to the Company’s obligations under the Project. The complete table that summarizes all the parameters is shown below.

The testing of the output water quality parameters listed in table below shall be conducted in accordance with the Metering and Testing Plan, and pursuant to the Operating and Maintenance Procedures.

The pH, turbidity, aluminium, chlorine residual, faecal coliform and total coliform levels are to be tested on a regular / daily basis as per the Concession Agreement.

Parameters	Inlet Limits Contractual values	Outlet limits		
		WHO	Pakistan Standards	Contractual
pH	6,50-8,50	6,50-8,50	6,50-8,50	6,50-8,50
Odour	-	Odourless	Odourless	NO
Taste	-	Sweet	Sweet	NO
Colour (Pt-Co)	-	≤15	≤15	NO
Turbidity (NTU)	≤50	≤5	≤5	≤5
Total dissolved solids (TDS – mg/l)	-	<1000	<1000	NO
Total Hardness (mg/l)	-		<500	NO
Fluoride (mg/l)	-	1,5	≤1,50	NO
Nitrate Nitrogen (NO ₃ – mg/l)	-	50,0	≤0,50	NO
Nitrite Nitrogen (NO ₂ – mg/l)	-	3,00	≤3,00	NO
Aluminium (mg/l)	≤1	0,20	≤0,20	≤0,20
Arsenic (mg/l)	-	0,01	≤0,50	NO
Boron (mg/l)	-	0,30	0,30	NO
Barium (mg/l)	-	0,70	0,70	NO
Cadmium (mg/l)	-	0,003	0,01	NO
Chromium (mg/l)	-	0,5	≤0,50	NO
Copper (mg/l)	-	2,00	2,00	NO
Manganese (mg/l)	-	0,5	≤0,50	NO
Nickel (mg/l)	-	0,020	≤0,020	NO
Lead (mg/l)	-	0,01	≤0,050	NO
Antimony (mg/l)	-	0,02	≤0,0050	NO

Parameters	Inlet Limits Contractual values	Outlet limits		
		WHO	Pakistan Standards	Contractual
Selenium (mg/l)	-	0,01	0,01	NO
Zinc (mg/l)	-	3,00	5,00	NO
Mercury (mg/l)	-	0,0010	≤0,0010	NO
Chloride (mg/l)	-	250,0	<250,0	NO
Chlorine residual (mg/l)	<0,02	<0,02	0,2-0,5	0,2-0,5
Cyanide (mg/l)	-	0,07	≤0,05	NO
Total Phenols (mg/l)	-	≤0,002		NO
Chlorined Pesticides (µm/l)	-			NO
Total PAH (mg/l)	-	10,00		NO
Total Alkalinity (mg/l)	-			NO
Acidity as CaCO ₃	-			NO
BOD5	-			NO
T ^a	-			NO
Faecal Coliform (E. Coli – cfu/100ml)	≤100	Absent	Absent	Absent
Total Coliforms (cfu/100ml)	≤100	Absent	Absent	Absent

Table 4: Water Quality Parameters.

5.1.4 *Water Quality Testing Methodology*

The water quality will be analysed in different points of the KWC, but the compliance methodology is summarized next:

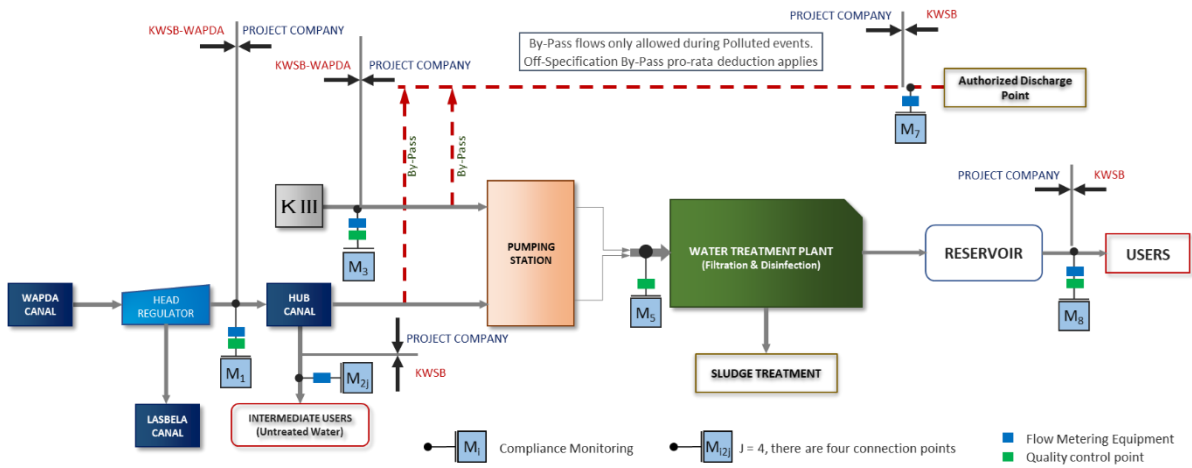


Figure 11: Water Quality Metering Points.

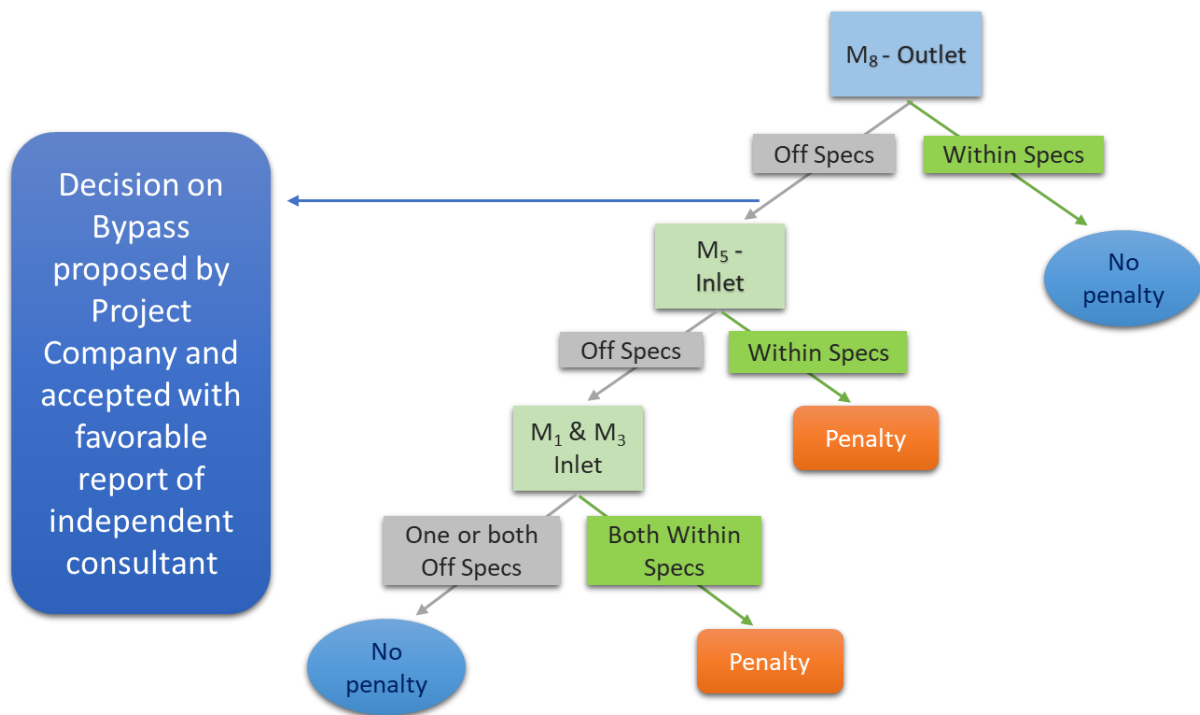


Figure 12: Water Quality Testing Methodology.

5.2 TESTING & COMMISSIONING PROCEDURES

Testing will also take place during the Mobilisation Period, the completed works will be subject to appropriate commissioning and testing as part of the C&O Activities and also at the end of Operating Period, before the handover, as per appendix 5 of the Concession Agreement.

The Company shall propose the testing and commissioning procedures in the Bidding Form T7 – Technical Project Methodology / Approach of Volume I – bidding procedure, according to the Concession Agreement and Good International Industry Practices.

After completion of process commissioning for the KWC, the Company (in addition to other testing requirements as set out in the Concession Agreement) shall prepare Test Procedures for the KWC to demonstrate (i) the operational integrity of the interfaces of the KWC with related facilities as well as the operational integrity of the KWC itself, and (ii) the ability of the Treatment Plant to treat water within the design envelope, technical limits & to deliver potable water which complies with the Output Water Quality Specifications without interruption.

The minimum commissioning and acceptance testing criteria are listed in the following table, though further details shall be found at Appendix 5 of the Concession Agreement:

Item	Criteria
Potable Water	Potable water quality is in accordance with the Output Water Quality Specifications.
Continuous Operation	Continuous operation of the KWC in automatic mode without interruption.
	Certain specified individual equipment items have been in continuous operation without interruption.
	Automatic changeover of duty / standby units in the event of failure of the duty unit during the continuous operation verified.
	Display of all the monitoring parameters at the KWC console and SCADA verified.
	Ability to react in the desired manner when fault conditions are detected or reported is verified.
	Main water treatment process systems operating in a stable way and providing compliant water quality in accordance with the requirement set forth in the RFP.
	Delivery of water at the Output Water Connection Point.
Non-Revenue Water	Percentage of NRW within the limits defined by the Company.

Annexure A – Due Diligence Report

Due Diligence Report has been Attached as a Separate Document

**VOLUME III
CONCESSION AGREEMENT**

between

**(1) THE GOVERNOR OF SINDH
(THROUGH THE LOCAL GOVERNMENT & HOUSING TOWN PLANNING
DEPARTMENT, GOVERNMENT OF SINDH)**

(2) THE KARACHI WATER AND SEWERAGE CORPORATION

- and -

(3) [THE COMPANY]

relating to
KARACHI HUB WATER CANAL PROJECT

Dated [●]

Drafting Notes:

- 1. Bidders should note that appendix 1 to the Concession Agreement will comprise Volume II of the RFP and will be inserted at signing with any necessary changes for references to the Proposal. References in this draft Concession Agreement to appendix 1 and to sections of appendix 1 should be read as references to sections of Volume II of the RFP.***
 - 2. Items highlighted in green within the draft Concession Agreement (including the appendices) will be inserted prior to signing and (where stated) extracted from the relevant document referenced in the footnotes.***
 - 3. Provisions relating to the solar plant will be deleted if the Proposal does not provide for the same.***
-

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THIS CONCESSION AGREEMENT is made on [●], 2024 at Karachi, Pakistan.

BETWEEN:

- (1) **THE GOVERNOR OF SINDH** (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) having its office located at Local Government Department, Ground Floor, Tughlaq House, Sindh Secretariat, Karachi, Pakistan, for and on behalf of the Government of Sindh (the “**GoS**”, which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns);
- (2) **KARACHI WATER AND SEWERAGE CORPORATION**, a statutory body constituted pursuant to section 3 of the Karachi Water and Sewerage Corporation Act, 2023, with its office located at 9th Mile, Karsaz, Karachi, Pakistan (“**KW&SC**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns); and
- (3) [**COMPANY**]¹, a company incorporated under the Laws of Pakistan whose registered office is located at [●] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns).

RECITALS:

- A KW&SC invited proposals from interested parties to undertake the Project pursuant to a request for proposals issued on [●] (as amended, varied or supplemented, the “**RFP**”).
- B The Project has, pursuant to the process described in the RFP, been awarded to the Successful Bidder as set out in the letter of award issued by KW&SC on [●].
- C In accordance with the RFP, the Successful Bidder has incorporated the Company as a special purpose company to implement the Project and perform the obligations and exercise the rights of the Company, including the obligation to enter into this Agreement.
- D The Project will consist of the Mobilisation Activities during the Mobilisation Period, the C&O Activities during the C&O Period, and the O&M Activities during the Operating Period, in each case, as more particularly described in appendix 1.
- E The Company acknowledges and confirms that it has, based on the RFP, undertaken a thorough due diligence (including technical and financial viability and legal due diligence) of the Project and its requirements, and on the basis of its independent satisfaction, is entering into this Agreement for the purpose of accepting the Concession for the implementation of the Project on a “**DFBROMT**” basis, in accordance with the terms and conditions of this Agreement.
- F This Agreement sets out the terms and conditions on which the Company shall undertake the Project.

¹ Insert name of the company incorporated by the Sponsors as per the requirements of the RFP.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Except when the context requires otherwise, the capitalised terms used in this Agreement (including the recitals) shall have the following meanings:

“Abandonment” means:

- (a) in relation to any period prior to the Project Commercial Operations Date, the Company’s failure to demonstrate to the Independent Engineer its ability to perform its obligations under this Agreement (taking into account its ability to accelerate the works and services under the EPC Contract) such as to demonstrate that the Project Commercial Operations Date will be achieved on or before the Long Stop Date, except where such failure to demonstrate is attributable to a Force Majeure Event or a Relief Event; or
- (b) following the Mobilisation Date, in the opinion of the Independent Engineer, other than due to a Force Majeure Event or a Relief Event:
 - (i) a persistent failure of the Company to perform its obligations hereunder such as to suggest an intention to repudiate this Agreement; or
 - (ii) failure by the Company to resume and continue the performance of substantially all of its obligations under this Agreement within a reasonable period following the cessation of a Force Majeure Event or a Relief Event, in each case, which prevented, hindered or delayed such performance,

and **“Abandons”** shall be construed accordingly;

“Acceptable Bank” means: (a) together the Foreign Bank and the Acceptable Pakistani Bank, which is counter-guaranteeing the obligations of the Foreign Bank; or (b) an Acceptable Pakistani Bank, as the case maybe;

“Acceptable Pakistani Bank” means a scheduled bank or a financial institution incorporated or organised in Pakistan having a credit rating of at least AA or higher by PACRA, or AA or higher by VIS, or A3 or higher by Moody’s or equivalent rating by Fitch or Standard and Poor, approved by the GoS, such approval not to be unreasonably withheld or delayed;

“Accounting Principles” means the International Financial Reporting Standards, as may be amended from time to time, applicable in Pakistan;

“Actual Loss of Water Output” has the meaning given to it in appendix 8;

“Actual NRW” means (expressed as a percentage), for any given period, the Non-Revenue Water in such period divided by the Net Water Input in the same period;

“ADB Standards” means the principles and requirements set forth in the Asian Development Bank’s Safeguard Policy Statement, 2009;

“Adjoining Property” means any land and/or property adjoining or adjacent to any part of the Site, including all conduits, roads, footpaths, walls, fences, buildings, pipelines, cables, wires and other erections, structures and other apparatus on, under or within such land and/or property;

“Adverse Person” means:

- (a) any person whose primary residence is in or who is incorporated or organized under the laws of a country:
 - (i) which is subject to sanctions levied by the United Nations (or the Security Council thereof) pursuant to authority derived from Article 41 of Chapter 7 of the United Nations Charter (a **“Sanctioned Country”**); or
 - (ii) with which the Government of Pakistan does not have commercial or trade relations or otherwise does not maintain official diplomatic relations (an **“Unfriendly Country”**);
- (b) any national government, or any political subdivision, of any Sanctioned Country or Unfriendly Country;
- (c) any ministry, department, authority, or statutory corporation of, or any corporation or other entity (including a trust), owned or controlled directly or indirectly by the national government, or any political subdivision, of any Sanctioned Country or Unfriendly Country; or
- (d) any person who has been blacklisted by any federal or provincial government, governmental body or non-governmental department / agency whether in Pakistan or the government or governmental body of any foreign countries and/or international organizations;

“Affected Community” means the Settlements that will be directly impacted by changes induced by Project Activities;

“Affected Party” has the meaning given to it in clause 19.5.1;

“Affiliate” means, in relation to a person, a company or entity that directly or indirectly Controls, or is Controlled by, or is under common Control with that person;

“Agreement” means this concession agreement (including the recitals and appendices hereto), as amended and supplemented from time to time;

“Allowable NRW” has the meaning given to it in appendix 8;

“Approvals” means all such permits, licences, consents, authorisations, approvals, registrations, grants, acknowledgements or agreements required under the Laws to be obtained from any Competent Authority for the Project Activities (including the Environmental and Social Approvals) and **“Approval”** shall be construed accordingly;

“Arbitration” has the meaning given to it in clause 27.3.1.1;

“Arbitrators” has the meaning given to it in clause 27.3.1.1;

“Archaeological Delay Event” means the discovery of any Archaeological Items found or located on or under the Site that results in a delay to the design, construction, rehabilitation, testing or commissioning of the KWC;

“Archaeological Items” means articles of archaeological value, interest or antiquity, historical structures, human remains or other substances, objects or things of archaeological or historic interest;

“Availability” has the meaning given to it in appendix 8;

“Availability Payment” has the meaning given to it in appendix 8;

“Award” has the meaning given to it in clause 27.3.4;

“Back-up Bypass Output Water Metering System” has the meaning given to it in clause 14.2.17;

“Back-up HD Input Water Metering System” has the meaning given to it in clause 14.2.3;

“Back-up KIII Input Water Metering System” has the meaning given to it in clause 14.2.6;

“Back-up Metering System” means the Back-up HD Input Water Metering System, the Back-up KIII Input Water Metering System, the Back-up Water Access Point Metering System, the Back-up Bypass Output Water Metering System and the Back-up Output Metering System;

“Back-up Output Metering System” has the meaning given to it in clause 14.2.19;

“Back-up Water Access Point Metering System” has the meaning given to it in clause 14.2.9;

“Base Case Financial Model” means the financial model in Microsoft Excel electronic format submitted as part of the Proposal;

“Bid Submission Date” means ;

“Billing Period” has the meaning given to it in appendix 8;

“Biodiversity Action Plan” means the action plan and compliance protocols to be prepared by the Company in consultation with the Independent Engineer and the Sindh Forest and Wildlife Department, Government of Sindh to carry out mitigation measures to protect the commiphora-wightii tree and other conservation significant species from any adverse environmental impact that may be caused by the Project, as may be specified in the Environmental and Social Documents;

“Board Resolution” means a resolution passed by the board of directors of the Company;

“Business Day” means any Day that is not declared a public holiday in Karachi, Pakistan, during which banks are generally open for business in Karachi, Pakistan;

“Bypass Input Water” has the meaning given to it in appendix 8;

“Bypass Off-Spec Mixed Water” has the meaning given to it in appendix 8;

“Bypass Water Connection Point” has the meaning given to it in appendix 8;

“Bypass Water Output” has the meaning given to it in appendix 8;

“C&O Activities” means all works, services and obligations to be performed by the Company by the Scheduled Project Commercial Operations Date (other than the Mobilisation Activities), including, design, construction, rehabilitation, procurement, installing, operations, maintenance, testing and commissioning as more fully described in appendix 1;

“C&O Performance Security” means the irrevocable, unconditional and on-demand bank guarantee (and any replacement thereof), in favour of GoS, in an amount equal to Pakistani Rupees one billion nine hundred million only (PKR 1,900,000,000/-), issued by an Acceptable Bank in the form set out in part 1 of appendix 6;

“C&O Performance Security Expiry Date” has the meaning given to it in clause 4.1.1;

“C&O Period” means the period commencing at 00:00 hours on the Commencement Date and ending at 23:59 hours on the Day immediately preceding the Project Commercial Operations Date;

“Casualty Proceeds” has the meaning given to it in clause 19.10.1;

“Change in Law” means any of the following events:

- (a) the introduction, adoption, enactment or promulgation of any new Law by a Competent Authority;
- (b) the change or repeal by any Competent Authority of any Law;
- (c) a change by a Competent Authority and having the force of Law (i) in the manner in which a Law is applied or (ii) in the interpretation of any Law;
- (d) the introduction, adoption, change or repeal by any Competent Authority of any material condition in connection with the issue, renewal, or modification of any Approval; and
- (e) a change in the World Health Organisation standards for potable water to the extent that the Company is obliged to comply with them in accordance with this Agreement, which occurs no earlier than ten (10) Days prior to the Bid Submission Date or thereafter and which:
 - (i) results in any imposition of, or change in Taxes, duties or levies payable by one or more of the Company, the EPC Contractor, or the O&M Contractor, in relation to the Project Activities; or
 - (ii) results in change in or repeal of any of the requirements applicable to the Project Activities,

it is clarified that Change in Law shall not include: (A) any change in any withholding tax, or other similar taxes, on income or dividends or other distributions distributed by the Company, the EPC Contractor or the O&M Contractor; and (B) the coming into effect of, no earlier than ten (10) Days prior to the Bid Submission Date or thereafter, any provision of a Law, which is already gazetted in accordance with the Law;

“Change in Scope” means any alteration in the technical requirements, the scope of the Project, or the designs and drawings applicable to the Project, as instructed by the GoS Parties or proposed by the Company, in accordance with clause 6.3;

“Change in Scope Order” means an order issued by the GoS Parties certifying approval of a proposed Change in Scope and recording the terms and conditions on which the proposed Change in Scope is required to be implemented;

“Claim” means any suits, actions, legal or administrative proceedings, claims, demands, losses, damages, liabilities, fines, costs and expenses of whatsoever kind or nature (including reasonable attorney’s fees and expenses and pre- and post- judgment interest and penalties), whether arising before or after the Final Expiry Date, but excluding any indirect or consequential damages;

“Class A Shares” has the meaning given to it in the EFU Agreement;

“Class B Shares” has the meaning given to it in the EFU Agreement;

“Commencement Certificate” means the certificate duly signed and issued by the Independent Appointees to the Parties, certifying that each of the Commencement Conditions Precedent have been satisfied, waived or deferred in terms of this Agreement;

“Commencement Conditions Precedent” means the conditions precedent for commencement of C&O Activities as set out in part 2 of appendix 4;

“Commencement Date” has the meaning given to it in clause 3.4.1;

“Commencement Date Delay Notice” has the meaning given to it in clause 3.6.3;

“Commercial Parties” means the GoS and the Company, in their respective capacities as a Party to this Agreement and **“Commercial Party”** means either of them;

“Company Cure Period” has the meaning given to it in clause 21.7.2;

“Company Demand” has the meaning given to it in clause 12.2.1;

“Company Event of Default” has the meaning given to it in clause 21.5;

“Company Indemnified Parties” has the meaning given to it in clause 23.2;

“Company IPR” means all Intellectual Property Rights owned by the Company (or its relevant licensor) as at the Effective Date including all information provided as part of its Proposal;

“Company Notice of Intent to Terminate” has the meaning given to it in clause 21.7.1;

“Company Payment Account” means the account to be established and maintained by the Company, in which Service Payments payable by the GoS in terms of this Agreement are paid;

“Competent Authority” means the Government of Pakistan, the GoS, or any ministry, department or political subdivision thereof, any municipality, any court or tribunal or any other governmental entity, instrumentality, agency, authority, committee or commission, under the direct or indirect control of the Government of Pakistan or the GoS, or any department or

political subdivision thereof, or any independent regulatory authority relating thereto, having jurisdiction under the Law over the Company, KW&SC, the EPC Contractor, or the O&M Contractor, in each case within Pakistan, provided that, for the purposes of this Agreement, neither the GoS nor KW&SC in their respective capacities as a party to any of the Project Agreements shall be considered a Competent Authority;

“**Component BW**” has the meaning given to it in appendix 8;

“**Concession**” has the meaning given to it in clause 2.1.1;

“**Concession and License Direct Agreement**” means the agreement substantially in the form set out in appendix 7;

“**Concession Period**” means the period commencing at 00:00 hours on the Commencement Date and ending at 23:59 hours on the Final Expiry Date;

“**Confidential Information**” has the meaning given to it in clause 29.5;

“**Construction Contract Year**” or “**CCY**” means the twelve (12) Month period commencing at 00:00 hours on the Commencement Date and ending at 23:59 hours on the Day immediately preceding the anniversary of the Commencement Date and each subsequent twelve (12) Month period during the C&O Period ending at 23:59 hours on the Day immediately preceding each subsequent anniversary of the Commencement Date, provided that the last Construction Contract Year shall end at 23:59 hours on the Day immediately preceding the Project Commercial Operations Date;

“**Construction Documents**” means each of the Detailed Engineering Design and the Construction Drawings approved in accordance with clause 6.1;

“**Construction Drawings**” means the drawings and designs prepared by the Company pursuant to the standards and design requirements that pertain to the Project, set out in appendix 1;

“**Contract Year**” means a Construction Contract Year or an Operating Contract Year, as applicable;

“**Contracted Availability**” has the meaning given to it in appendix 8;

“**Contracted Specific Net Electricity Consumption**” has the meaning given to it in appendix 8;

“**Contractors**” means the EPC Contractor and the O&M Contractor;

“**Control**” means:

- (a) ownership or control (whether directly or otherwise) of more than fifty percent (50%) of the equity share capital, voting capital, or the like, of the controlled entity;
- (b) ownership of equity share capital, voting capital, or the like, by contract or otherwise, conferring control of or power to (i) control the composition of, or power to appoint more than fifty percent (50%) of the members of the board of directors, board of management, or other equivalent or analogous body of the controlled entity or (ii) appoint the key managers of such entity; or

- (c) power to influence (whether directly or indirectly) any decision of the board of the Company through contract, agency or otherwise;

and “**Controls**” “**Controlling**” or “**Controlled**” shall be construed accordingly;

“**Cure Period**” means the Company Cure Period or the GoS Cure Period, as the case maybe;

“**Day**” means a 24-hour period beginning at 00:00 hours and ending at 23:59 hours;

“**Deductible Termination Amounts**” means, to the extent it is a positive amount, the aggregate, up to the date immediately preceding the Termination Date, of:

- (a) all credit balances on any bank accounts, held by or on behalf of the Company on the Termination Date, the value of any right of the Company and/or the Financing Parties to any insurance proceeds that are receivable and of any such proceeds actually received (save where such credit balances or proceeds are paid to the GoS, KW&SC and/or not applied in reinstatement), sums due and payable from the Contractors and any third parties, proceeds from the liquidation of any authorized investment, and letters of credit issued in lieu of maintaining credit balance in any account; and
- (b) amounts GoS is entitled to off-set due to deductions/adjustments in terms of this Agreement;

“**Deductions**” has the meaning given to it in appendix 8;

“**Deduction for Off-Spec Output Water**” has the meaning given to it in appendix 8;

“**Deduction for Reduced Water Availability**” has the meaning given to it in appendix 8;

“**Deemed Availability**” means the average Availability, during the immediately preceding four (4) Billing Periods, or if less than four (4) Billing Periods have occurred, such number of Billing Periods as there have been, provided that if there are none, then it shall be based on the Contracted Availability (subject to deduction for Outages determined by the Independent Appointees) and provided further that any hour in which the Availability was reduced during any such Billing Period as a result of the occurrence of a Force Majeure Event or a Relief Event shall be disregarded;

“**Deemed Commissioning Event**” has the meaning given to it in clause 8.4.1;

“**Defaulting Party**” means the GoS in the case of a GoS Event of Default or the Company in the case of a Company Event of Default;

“**Defective Metering Event**” means, in relation to any of the Metering Systems or Monitoring Systems, that:

- (a) such Metering System or Monitoring System is not in service;
- (b) any seal on a metering or monitoring device constituting part of that Metering System or Monitoring System is found to be broken; or
- (c) a metering device constituting part of that Metering System fails to register or, upon testing, in the case of a Metering System, is found to vary by more than the Metering Tolerance;

“Detailed Engineering Design” means the detailed engineering design for the Project prepared by the Company in accordance with appendix 1;

“DFBROMT” means the design, finance, build, rehabilitate, operate, maintain and transfer mode, being the public-private partnership mode pursuant to which the Project is undertaken in terms of the Sindh Public-Private Partnership Act, 2010;

“Dispute” means a dispute, controversy, difference or claim between the Parties arising out of or in relation to this Agreement or the Parties’ performance or non-performance of this Agreement;

“Disputed Obligation” means any dispute, by a GoS Party, in respect of the requirement to comply with an obligation expressed to be assumed by such GoS Party in any Relevant Agreement on the basis that such obligation is illegal, invalid, void, voidable or unenforceable under the applicable Legal Requirements;

“Distributions” means:

- (a) whether in cash or in kind, any remittance to the Shareholders or any of their Affiliates of:
 - (i) dividends or other distributions in respect of any revenue account balance or the share capital of the Company;
 - (ii) dividends or other distributions in respect of release of debt service reserve account or liability reserve account funding;
 - (iii) capitalisation of profits, bonus issue, reduction of capital, redemption or purchase of shares or any other reorganisation or amendment to the share capital of the Company;
 - (iv) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was put in place at or after Financial Closing and was neither in the ordinary course of business nor on reasonable commercial terms; or
 - (v) the receipt of any other benefit that is not received in the ordinary course of business and on reasonable commercial terms; or
- (b) the early release of any contingent funding liabilities;

“Effective Date” means the date of this Agreement;

“EFU Agreement” means the equity funding and utilisation agreement executed between the Commercial Parties and the Sponsors on or about the date hereof;

“Electricity” means the electrical energy to be delivered by the Electricity Supplier to the KWC at the Electricity Connection Point;

“Electricity Connection Point” has the meaning given to it in appendix 8;

“Electricity Price” or **“EP”** has the meaning given to it in appendix 8;

“Electricity Supplier” means as of the Effective Date, K-Electric Limited, or such other supplier of electric power to the KWC as approved by the GoS Parties;

“Electricity Supply Failure” means any disruption in the supply of Electricity from the Electricity Supplier, needed to start up, test, commission or operate the KWC, but only if the Company is in compliance with its obligation to maintain the Reservoir Capacity in accordance with clause 10.7 and to the extent that such disruption:

- (a) materially adversely affects the ability of the Company to start up, test, commission or operate the KWC in accordance with Good International Industry Practice;
- (b) is not the direct or indirect result of a breach by the Company (or its Contractors) of its obligations under this Agreement; and
- (c) is not the direct or indirect result of the Company failing to make any payment due to the Electricity Supplier;

“Employee Redeployment Plan” has the meaning given to it in clause 4.11.1;

“Encashed Sums” has the meaning given to it in clause 12.2.8;

“Encumbrance” means any encumbrance on an asset, including but not restricted to mortgage, charge, pledge, lien, hypothecation or any security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include, without limitation, any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the KWC, the Site or any part or portion thereof and physical encumbrances and encroachments thereon;

“Environmental and Social Approvals” means any permits, certificates and other Approvals (including any conditions which attach to the foregoing) required under Environmental and Social Laws;

“Environmental and Social Documents” means:

- (a) the Environmental and Social Impact Assessment;
- (b) each no objection certificate issued by the Sindh Environmental Protection Agency, Government of Sindh, with respect to the Project;
- (c) any other document, plan or programme to be prepared under the Environmental and Social Management System and the Environmental and Social Impact Assessment; and
- (d) any documents required at any time to be prepared under the Environmental and Social Requirements as a result of any unanticipated impacts found during the execution of the Project Activities;

“Environmental and Social Impact Assessment” or **“ESIA”** means the environmental impact assessment titled “Environmental and Social Impact Assessment” in relation to the Project including all other supplements, modifications and amendments thereto, to be prepared in accordance with the requirements set out in part 1 of appendix 12 by the Company;

“Environmental and Social Laws” means all applicable Laws relating to Environmental Matters, Hazardous Substances, Social Matters, involuntary resettlement, human health or safety, or laws relating to social issues, including minimum labour standards and laws prohibiting forced labour or harmful child labour, and including the conventions of the International Labour Organisation signed and ratified by Pakistan;

“Environmental and Social Management System” or **“ESMS”** means the part of the overall management system of the Company developed in compliance with the E&S Standards, that shall include relevant policies, organisational structure, planning activities, responsibilities, practices, procedures and resources for developing, implementing, achieving, reviewing and maintaining compliance with the Environmental and Social Requirements and which shall be dedicated to the structural improvement of the environmental and social performance of the Company, established and maintained in accordance with the requirements of part 2 of appendix 12;

“Environmental and Social Requirements” means:

- (a) any Environmental and Social Law (as amended from time to time);
- (b) any Environmental and Social Approval issued by any Competent Authority or otherwise under any Environmental and Social Law;
- (c) the E&S Standards; and
- (d) the Environmental and Social Documents;

“Environmental and Social Standards” or **“E&S Standards”** means the IFC Performance Standards, the World Bank Group Environmental, Safety and Health Guidelines, the IFC Environmental, Safety and Health Guidelines, and the ADB Standards, along with any other Good International Industry Practice standards identified as relevant and specifically referenced within the Environmental and Social Documents;

“Environmental Matters” means any of the following:

- (a) any emission, release, entry or introduction into the air of any Hazardous Substance including the air within buildings and other natural or man-made structures above or below ground;
- (b) any discharge, release, entry or introduction into water of any Hazardous Substance including into any river, watercourse, lake or pond (whether natural or artificial, above or below ground) or reservoir, or the surface of the riverbed or of other land supporting such waters, ground waters, sewer or the sea;
- (c) any deposit, release, keeping or disposal in land or on land, whether or not covered by water, of any Hazardous Substance;
- (d) any deposit, disposal, keeping, treatment, importation, production or carrying of any waste, including any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process or activity (including making it re-usable or reclaiming substances from it) and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled; and

- (e) nuisance, noise, defective premises, health and safety at work, preservation or protection of the natural environment or of man or any living organisms supported by the environment;

“EPC Contract” means the contract to be entered into between the Company and the EPC Contractor for, as applicable, the design, engineering, procurement, manufacture, factory testing, transportation, construction, rehabilitation, erection, installation, completion, testing, commissioning and warranty of the KWC;

“EPC Contractor” means the contractor (or consortium of contractors) hired by the Company as advised in the Proposal (unless otherwise approved by KW&SC) and includes any substitute approved pursuant to clause 16);

“EPC Contractor Criteria” means the criteria set out in Volume I of the RFP for the qualification of EPC Contractor;

“Equity Held USD Amounts” means amounts contributed to ‘Fund’ (as defined in the EFU Agreement), from time to time, the Sponsor Funding Amount in USD and held in a USD account of the Company but not considered as ‘USD Equity Contribution’ (as defined in the definition of USD Equity Return);

“Equity Return” means (expressed and payable in PKR) the sum of the USD Equity Return and the PKR Equity Return, as applicable;

“Estimated Remedial Costs” has the meaning given to it in clause 21.10.2.2;

“Event of Default” means, as the context requires, a Company Event of Default or a GoS Event of Default;

“Event of Loss” means an event that causes all or a portion of the KWC to be damaged, destroyed or rendered unfit for normal operation in accordance with this Agreement;

“Final Expiry Date” means earlier of: (a) Term Expiry Date; and (b) the Termination Date;

“Financial Closing” means that: (a) Financing Documents covering hundred percent (100%) of the total capital cost of the Project (other than the amounts to be funded by Sponsors or GoS in terms of the EFU Agreement) shall have been signed and are in full force and effect; (b) all funds under the Financing Documents are fully committed; and (c) all conditions to the first drawdown of funds under the Financing Documents have been satisfied or waived by the Financing Parties;

“Financial Model” means the Base Case Financial Model, as updated prior to the Financial Closing or otherwise adjusted to the extent expressly permitted or required under this Agreement or the EFU Agreement;

“Financing Documents” means (other than any documents relating to Sponsor Loans, indebtedness constituting Sponsor Equity or any other indebtedness to Shareholders), any and all loan agreements, notes, bonds, indentures, security agreements, direct agreements, assignments and acknowledgements, registration or disclosure statements, subordination agreements, mortgages, deeds of trust, credit agreements, intercreditor agreements, note or bond purchase agreements, hedging agreements, participation agreements, Islamic financing documents and any other documents entered into by the Company relating to the financing of

the Project, including any modifications, supplements, extensions, renewals and replacements of any such financing or Refinancing, in each case, executed in accordance with clause 16.3;

“Financing Due” means the aggregate of the following sums outstanding and payable to the Financing Parties up to the date immediately preceding the Termination Date:

- (a) the Outstanding Principal Amount; and
- (b) the interest or mark-up (or any other term connoting the return paid to Financing Parties on debt financing) accruing on the Outstanding Principal Amount;

notwithstanding anything to the contrary herein, no interest, mark-up or profit, or default interest, mark-up or profit accrued shall be paid by the GoS for any interest, mark-up or profit that accrued under the Financing Documents from and after a default by the Company thereunder, unless such default results directly from a GoS Event of Default; provided that USD amounts will be converted into PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Day immediately preceding the Termination Date;

“Financing Party” means any person providing hedge, debt, Islamic finance, bond or capital market financing, export credit loan or Refinancing (approved in the accordance with clause 16.3), under the Financing Documents, and their permitted successors and assigns, including any agent or trustee for such person, in each case, not objected to by the GoS, but excluding a Shareholder or its Affiliate(s) with respect to any indebtedness constituting Sponsor Equity or indebtedness to Shareholders, and **“Financing Parties”** shall be construed accordingly;

“Financing Termination Date” means the earlier of: (a) ■² as may be extended due to any delay in achievement of the Commencement Date in terms of clause 3.6.1 or permitted in accordance with clause 3.6.3; and (b) the date on which no part of the Financing Due is outstanding and all amounts due and payable by the Company to the Financing Parties are paid in accordance with the Financing Documents, as confirmed in writing by the Independent Auditor;

“First IA List” has the meaning given to it in clause 17.7.1;

“First IE List” has the meaning given to it in clause 17.1.1;

“Force Majeure Event” has the meaning given to it in clause 19.1;

“Foreign Bank” means a scheduled bank or financial institution incorporated or organized outside Pakistan having a credit rating of at least AA or higher by PACRA, or AA or higher by VIS, or A3 or higher by Moody’s or equivalent rating by Fitch or Standard and Poor;

“Good International Industry Practice” or **“GIIP”** means those practices, skills, diligence, prudence, foresight, methods, equipment, specifications and standards of safety and performance (as may change from time to time) employed by experienced professional international contractors or operators in activities or undertakings of the same or similar circumstances and conditions as the Project Activities, which in the exercise of reasonable judgement in light of the facts known at the time the judgement was made, are considered good,

² Insert the last repayment date of principal debt set out in attachment E of appendix 8.

safe and prudent practices commensurate with standards of safety, performance, dependability, efficiency and economy;

“GoS Account Funding Date” means, with respect to the:

- (a) C&O Period, within thirty (30) Days of issuance of the Partial FC Letter and thereafter, at least five (5) Days prior to the start of each Billing Period in a Construction Contract Year; and
- (b) Operating Period, thirty (30) Days prior to the anticipated Project Commercial Operations Date, as confirmed by the Independent Engineer and thereafter, at least five (5) Days prior to the start of each Billing Period in an Operating Contract Year;

“GoS Account One” means GoS account titled “Government of Sindh Non-Food Account No.1” maintained with SBP;

“GoS Appointed IA” has the meaning given to it in clause 17.11.1;

“GoS Appointed IE” has the meaning given to it in clause 17.5.1;

“GoS Cure Period” has the meaning given to it in clause 21.7.1;

“GoS Equity Account” has the meaning given to it in the EFU Agreement;

“GoS Equity Account Standing Instructions” has the meaning given to it in the EFU Agreement;

“GoS Event of Default” has the meaning given to it in clause 21.6;

“GoS Indemnified Parties” has the meaning given to it in clause 23.1;

“GoS Notice of Intent to Terminate” has the meaning given to it in clause 21.7.2;

“GoS Parties” means the GoS and KW&SC, in their respective capacities as a Party to this Agreement and **“GoS Party”** means either of them;

“GoS Payment Account” means the account established, funded and maintained by the GoS in accordance with clause 12.1;

“GoS Payment Account Bank” means a scheduled bank in Pakistan with a minimum credit rating of at least ‘AA-’ as rated by VIS or an equivalent rating by PACRA;

“GoS Payment Account Certificate” has the meaning given to it in clause 12.1.2;

“GOS Payment Account Letter of Lien” has the meaning given to it in clause 12.1.12;

“GoS Payment Account Required Balance” means an amount equal to the projected Service Payment due in any Contract Year, where the projected Output Payments will be calculated based on Net Water Output equal to Contracted Availability (subject to deductions for Outages), as stated in the GoS Payment Account Certificate;

“GoS Payment Account Standing Instructions” means the standing instructions issued to the GoS Payment Account Bank, in the form attached in appendix 9;

“GoS Protected Assets” has the meaning given to it in clause 25.4.1.2;

“GoS SBLC Amount” means an amount not exceeding three-fourth (3/4) of the GoS Payment Account Required Balance, as stated in the GoS Payment Account Certificate;

“GoS SBLC Issuing Bank” means a scheduled bank in Pakistan with a minimum credit rating of at least ‘AA-’ as rated by VIS or an equivalent rating by PACRA;

“GoS Service Payment SBLC” means (if applicable) an irrevocable and unconditional stand-by letter of credit issued by the GoS SBLC Issuing Bank in favour of the Company in an amount equal to the GoS SBLC Amount, in accordance with clause 12.1.9;

“GoS Termination SBLC” means an irrevocable and unconditional stand-by letter of credit issued by the GoS Termination SBLC Issuing Bank in favour of the Company in accordance with clause 12.2.2;

“GoS Termination Secured Amount” means, at any given time, an amount equal to fifty percent (50%) of the Outstanding Principal Amount, as certified by the Independent Auditor;

“GoS Termination SBLC Amount” means GoS Termination Secured Amount applicable on the GoS Termination SBLC Renewal Date, as determined from time to time, by the Independent Auditor and stated in the GoS Termination SBLC Certificate;

“GoS Termination SBLC Certificate” has the meaning given to it in clause 12.2.6;

“GoS Termination SBLC Renewal Date” has the meaning given to it in clause 12.2.6;

“GoS Termination SBLC Failure Certificate” has the meaning given to it in clause 12.2.8;

“GoS Termination SBLC Issuing Bank” means a scheduled bank in Pakistan with a minimum credit rating of at least ‘AA-’ as rated by VIS or an equivalent rating by PACRA;

“GoS Termination SBLC Validity Period” has the meaning given to it in clause 12.2.8;

“Government of Pakistan” means the government of the Islamic Republic of Pakistan;

“Grievance Redress Mechanism” has the meaning given to it in clause 25.5.1.2;

“Handover Certificate” means the certificate to be issued by the Independent Appointees certifying the satisfaction of the Handover Conditions in terms of clause 21.10;

“Handover Conditions” means that, as at the Final Expiry Date:

- (a) where the Project Commercial Operations Date is not achieved, KWC will be in a condition of repair, cleanliness and appearance that is consistent with the standards required in this Agreement (including as set out in appendix 1);
- (b) where the Project Commercial Operations Date has been achieved: (i) the actual condition of assets to be transferred to KW&SC meets the expected condition based on the design life of such assets; (ii) KWC meets the Contracted Specific Net Electricity Consumption, Allowable NRW and the Output Water Quality Specifications; and (iii)

the requirements for handover in appendix 5 have been met, in each case, as determined by the Independent Engineer;

- (c) the Company has completed training of the KW&SC employees (or KW&SC nominees) to ensure smooth taking over operations of the KWC to a standard satisfactory to the Independent Engineer and KW&SC;
- (d) the Independent Engineer has confirmed that the Company is in compliance with the requirements of the Operating and Maintenance Procedures; and
- (e) the Site shall be:
 - (i) free and clear from obstructions, impediments placed by the Company, used consumables and waste, and Hazardous Substances;
 - (ii) neat and tidy; and
 - (iii) made safe and secure in accordance with Good International Industry Practice;

“Hazardous Substances” means any solid, liquid or gaseous material, substance, constituent, chemical, mixture, raw material, intermediate product or by-product which is defined as **“hazardous waste”**, **“hazardous material”**, **“toxic substance”** or **“toxic pollutant”** under, or is otherwise regulated by the Environmental and Social Requirements;

“HD Input Online Quality Monitoring System” has the meaning given to it in clause 14.2.4;

“HD Input Water Metering System” has the meaning given to it in clause 14.2.1;

“HD Water Connection Point” means the physical point where water enters the WAPDA Canal from the Hub Dam;

“Head Regulator” has the meaning given to it in appendix 1;

“Hub Dam” means the reservoir on the Hub river, located on the provincial border of Sindh and Balochistan;

“HR Policy and Procedure” has the meaning given to it in clause 4.9.1;

“IFC” means the International Finance Corporation, a member of the World Bank Group;

“IFC Advisory Fee” means the fee equal to [USD [●]/- (United States Dollars [●] Only)]³ paid by the Company to IFC prior to the Effective Date in accordance with the requirements of the RFP;

“IFC Environmental, Safety and Health Guidelines” means the IFC Environmental, Safety and Health Guidelines, dated 30 April 2007, available at https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines/ehsguidelines;

³ Amount of the IFC Advisory Fee paid by the Company / Successful Bidder prior to the signing of this Agreement (as per the RFP) to be inserted.

“IFC Performance Standards” means IFC’s Performance Standards on Social & Environmental Sustainability, dated 01 January 2012, available at https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards;

“Implementation Schedule” means the implementation schedule set out in appendix 2, as may be revised from time to time, pursuant to this Agreement;

“Increased Costs” means any increased costs or expenses relating to the Project that are incurred or suffered by the Company resulting from any circumstance described in clause 20.1, and not otherwise covered by the receipt of insurance proceeds, which costs and expenses may include one or more of:

- (a) capital costs;
- (b) costs and expenses in respect of the design, engineering, procurement, manufacture, construction, rehabilitation, commissioning, testing and completion of the KWC;
- (c) financing costs;
- (d) costs of operation and maintenance;
- (e) costs of Taxes imposed on or payable by the Company; and
- (f) reduction in the revenue received by the Company;

“Independent Appointees” means the Independent Auditor and the Independent Engineer;

“Independent Auditor” means the auditor appointed for the Project in accordance with clause 17.7 and in terms of the Independent Auditor Contract meeting the Independent Auditor Criteria and includes any replacement Independent Auditor appointed in terms of this Agreement;

“Independent Auditor Initial Term” has the meaning given to it in clause 17.8.1;

“Independent Auditor Authorized Representative(s)” has the meaning given to it in clause 17.9.1;

“Independent Auditor Contract” means the contract to be entered into between the Parties, the Sponsors and the Independent Auditor in accordance with clause 17 and includes any contract subsequently executed with any replacement Independent Auditor in terms of this Agreement;

“Independent Auditor Criteria” means the minimum criteria for selection of firms of auditors for the appointment of Independent Auditor, set out in part 1 of appendix 10;

“Independent Auditor Payment Account” means the account established and maintained by the Company pursuant to clause 17.12;

“Independent Auditor Payment Account Bank” means the financial institution in Pakistan selected by the Company, the Sponsors and the GoS where the Independent Auditor Payment Account is held;

“Independent Auditor Payment Account Standing Instructions” has the meaning given to it in clause 17.12.2;

“Independent Auditor Payments” has the meaning given to it in clause 17.11.1;

“Indicative Independent Auditor Terms of Reference” means the indicative duties, functions and the scope of work to be performed by the Independent Auditor, as set out in part 1 of appendix 10;

“Independent Engineer” means the engineer appointed for the Project in accordance with clause 17.1 and in terms of the Independent Engineer Contract meeting the Independent Engineer Criteria and includes any replacement Independent Engineer appointed in terms of this Agreement;

“Independent Engineer Initial Term” has the meaning given to it in clause 17.2.1;

“Independent Engineer Authorized Representative(s)” has the meaning given to it in clause 17.3.1;

“Independent Engineer Contract” means the contract to be entered into between the Parties, the Sponsors and the Independent Engineer in accordance with clause 17 and includes any contract subsequently executed with any replacement Independent Engineer in terms of this Agreement;

“Independent Engineer Criteria” means the minimum criteria for selection of firms of engineers for the appointment of Independent Engineer, set out in part 2 of appendix 10;

“Independent Engineer Payment Account” means the account established and maintained by the Company pursuant to clause 17.6;

“Independent Engineer Payment Account Bank” means the financial institution in Pakistan selected by the Company, Sponsors and GoS where the Independent Engineer Payment Account is held;

“Independent Engineer Payment Account Standing Instructions” has the meaning given to it in clause 17.6.2;

“Independent Engineer Payments” has the meaning given to it in clause 17.5.1;

“Indicative Independent Engineer Terms of Reference” means the indicative duties, functions and the scope of work to be performed by the Independent Engineer, as set out in part 2 of appendix 10;

“Input HD Water Connection Point” has the meaning given to it in appendix 8;

“Input KIII Water Connection Point” has the meaning given to it in appendix 8;

“Input Water Connection Point” has the meaning given to it in appendix 8;

“Insurance Policies” has the meaning given to it in clause 18.1.1;

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software (including manuals, user guides and other materials or information relating to such software in whatever form), database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“International Financial Reporting Standards” means any International Financial Reporting Standards promulgated by the International Accounting Standards Board (which includes standards and interpretations approved by the International Accounting Standards Board issued under previous constitutions), together with its pronouncements thereon from time to time;

“International Accounting Standards Board” means the independent accounting standard-setting body of the International Financial Reporting Standards Foundation (IFRS Foundation);

“Invoicing Party” has the meaning given to it in clause 13.6.1.1;

“KIII Conduit” means the water conduit running from Kheenjar lake to the Input KIII Water Connection Point;

“KIII Input Online Quality Monitoring System” has the meaning given to it in clause 14.2.7;

“KIBOR” has the meaning given to it in appendix 8;

“KWC” or “Karachi Water Canal System” means water canal system running from the Head Regulator located at the Input HD Water Connection Point to the Output Water Connection Point (including the Input KIII Water Connection Point), the water treatment plant, canal, the pipe, the pumping station(s), raising mains, power supply systems (including the Solar Plant, if applicable), raw sewage conveyance, sewage treatment, sludge handling and treated effluent discharge infrastructure, the by-pass system, the Metering Systems and the Monitoring Systems, the Reservoir, the Water Access Points and all associated facilities and infrastructure, whether already constructed and in operation or to be constructed, rehabilitated, operated or maintained as part of the Project Activities;

“Late Payment Rate” means the three (3) Months KIBOR plus two percent (2%), compounded semi-annually, calculated for the actual number of Days for which the relevant amount remains unpaid on the basis of three hundred sixty-five (365) Days year;

“Law” means all federal, provincial and local laws of Pakistan, and all orders, rules, regulations, executive orders, statutory regulatory orders, decrees, judicial decisions, notifications, or other similar directives issued by any a Competent Authority pursuant thereto, including the Environmental and Social Requirements, as any of them may be amended, substituted, replaced or re-promulgated from time to time;

“Legal Requirements” means all Laws and Approvals;

“License Agreement” means the agreement between KW&SC and the Company, substantially in the form set out in appendix 11;

“Lien Enforcement Certificate” has the meaning given to it in clause 12.1.13, being the same lien enforcement certificate referenced in the GoS Payment Account Standing Instructions;

“Long Stop Date” means the date that is one hundred eighty (180) Days after the Scheduled Project Commercial Operations Date;

“Maintenance Schedule” has the meaning given to it in clause 10.4.1;

“Maximum Volume” means the maximum volume of water to be delivered by the Company to each Water Access Point Consumers at the relevant Water Access Point, as set out below:

- (a) for Hamdard University: 4000 m³/day;
- (b) for Hamdard Laboratories: 200 m³/day;
- (c) for Sherriar Ashraf (Gulf Mineral): 60 m³/day;
- (d) for the Public Health Engineering and Rural Department (Government of Sindh): 600 m³/day;
- (e) for [Marble City Connection]⁴: 9100 m³/day; and
- (f) such volume as may be agreed between KW&SC and the Company in respect of Settlements;

“Metering System(s)” means the HD Input Water Metering System, the Primary HD Input Water Metering System, the Back-up HD Input Water Metering System, the Primary KIII Input Water Metering System, the Back-up KIII Input Water Metering System, the Primary Water Access Point Metering System, the Back-up Water Access Point Metering System, the Pumping Station Metering System, the Mixed Water Metering System, the Reservoir Water Metering System, the Primary Bypass Output Water Metering System, the Back-up Bypass Output Water Metering System, the Primary Output Metering System and the Back-up Output Metering System;

“Metering Tolerance” means in relation to any component of the Metering System or the Monitoring System, plus or minus three percent (3%) from the measurement made by the standard meter used in a test of such component;

“Mixed Water Metering System” has the meaning given to it in clause 14.2.12;

“Mixed Online Quality Monitoring System” has the meaning given it in clause 14.2.13;

“Mixed Water Monitoring Point” has the meaning given to it in appendix 8;

“Mobilisation Activities” means all works, services and obligations to be performed by the Company during the Mobilisation Period as set out in appendix 1;

⁴ Name of Consumer to be advised by KW&SC

“Mobilisation Certificate” means the certificate duly signed and issued by the Independent Appointees to the Parties, certifying that each of the Mobilisation Conditions Precedent have been satisfied, waived or deferred in terms of this Agreement;

“Mobilisation Conditions Precedent” means the conditions precedent for commencement of the Mobilisation Activities as set out in part 1 of appendix 4;

“Mobilisation Date” has the meaning given to it in clause 3.1.1;

“Mobilisation Date Delay Notice” has the meaning given to it in clause 3.3.3;

“Mobilisation Period” means the period commencing at 00:00 hours on the Mobilisation Date and ending at 23:59 hours on the Day immediately preceding the Commencement Date;

“Mobilisation Testing” has the meaning given to it in appendix 5;

“Mobilisation Testing Acceptance Certificate” means the certificate issued by the Independent Engineer following completion of the Mobilisation Testing setting out, *inter alia*, Contracted Specific Net Electricity Consumption, Allowable NRW and the Output Water Quality Specifications, in each case, as applicable during the C&O Period;

“Monitoring System(s)” means the Online Output Quality Monitoring System, the HD Input Online Quality Monitoring System, the KIII Input Online Quality Monitoring System, the Pumping Station Online Quality Monitoring System, the Mixed Online Quality Monitoring System, and the Reservoir Online Quality Monitoring System;

“Month” means a calendar month beginning at 00:00 on the first Day of the month and ending at 23:59 on the last Day of the month;

“National Economic Council” means the council established under Article 156 of the Constitution of Pakistan, 1973 (as amended from time to time);

“Natural Force Majeure Event” has the meaning given to it in clause 19.2;

“Net Equity” means (expressed and payable in PKR) the sum of the USD Net Equity and the PKR Net Equity, as applicable;

“Net Water Input” has the meaning given to it in appendix 8;

“Net Water Output” has the meaning given to it in appendix 8;

“NFME Period” means the duration of a Natural Force Majeure Event as determined by the Independent Engineer, provided that if more than one Natural Force Majeure Event is ongoing at the same time, for the purposes of determining the NFME Period, such Natural Force Majeure Events shall be considered as running concurrently;

“Non-Revenue Water” has the meaning given to it in appendix 8;

“O&M Activities” means all works, services and obligations to be performed by the Company during the Operating Period, including operations and maintenance of the KWC, as more fully described in appendix 1;

“O&M Contract” means the agreement between the Company and the O&M Contractor for the management, operation, maintenance and repair of the KWC;

“O&M Contractor” means the contractor(s) (or consortium of contractors) hired by the Company that meets the O&M Contractor Criteria and includes any substitute approved by Independent Engineer (in consultation with KW&SC) pursuant to clause 16;

“O&M Contractor Criteria” means the criteria set out in Attachment A of Part 1 of Appendix 4;

“O&M Performance Security” means the irrevocable, unconditional and on-demand bank guarantee (and any replacement thereof), in favour of GoS, in an amount equal to Pakistani Rupees five hundred million only (PKR 500,000,000/-), issued by an Acceptable Bank in the form set out in part 2 of appendix 6;

“O&M Performance Security Expiry Date” has the meaning given to it in clause 4.1.2;

“Off-Spec Input Water” has the meaning given to it in appendix 8;

“Off-Spec Mixed Water” has the meaning given to it in appendix 8;

“Off-Spec Output Water” has the meaning given to it in appendix 8;

“Online Output Quality Monitoring System” has the meaning given to it in clause 14.2.20;

“Operations Handover Certificate” means a certificate issued by the Independent Engineer certifying that Operations Handover Conditions have been satisfied;

“Operations Handover Conditions” means the conditions for handover of the KWC to the Company on the Commencement Date, as set out in appendix 1;⁵

“Operating and Maintenance Procedures” has the meaning given to it in clause 10.3.1;

“Operating Contract Year” or **“OCY”** means the twelve (12) Month period commencing at 00:00 hours on the Project Commercial Operations Date and ending at 23:59 hours on the Day immediately preceding the following anniversary of the Project Commercial Operations Date and each subsequent twelve (12) Month period during the Operating Period ending at 23:59 hours on the Day falling immediately prior to each subsequent anniversary of the Project Commercial Operations Date, provided that the last Operating Contract Year shall end at 23:59 hours on the last Day of the Concession Period;

“Operating Period” means the period commencing at 00:00 hours on the Project Commercial Operations Date and ending at 23:59 hours on the Final Expiry Date;

“Outages” has the meaning given to it in appendix 8;

“Output Payment” has the meaning given to it in appendix 8;

“Output Water Connection Point” has the meaning given to it in appendix 8;

⁵ Operations Handover Conditions to be included in appendix 1 based on the Proposal.

“**Output Water Quality Specifications**” has the meaning given to it in appendix 8;

“**Outstanding Principal Amount**” means:

- (a) prior to the Project Commercial Operations Date, all actual outstanding principal amount required to be repaid by the Company pursuant to the Financing Documents in effect as of Financial Closing, such amount not to exceed PKR [●] and USD [●];⁶ and
- (b) at any time thereafter, the actual outstanding principal amount required to be repaid by the Company pursuant to the Financing Documents in effect as of Financial Closing, such amount not exceeding the principal amount in PKR and USD stated for the relevant time period set out in attachment E of appendix 8;

in each case, to the extent such principal amount was actually applied for the purposes of financing the Project; provided that USD amounts will be converted into PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Day immediately preceding the Termination Date;

“**PACRA**” means the Pakistan Credit Rating Agency Limited;

“**Pakistan**” means the Islamic Republic of Pakistan;

“**Pakistani Rupees**” or “**PKR**” means Pakistani Rupees, the lawful currency of Pakistan;

“**Partial FC Letter**” has the meaning given to it in paragraph 5.1 of part 2 of appendix 4;

“**Parties**” means the GoS, KW&SC and the Company and “**Party**” means any of them;

“**Payment Date**” has the meaning given to it in clause 13.3;

“**Performance Securities**” means the C&O Performance Security and the O&M Performance Security and “**Performance Security**” mean either of them;

“**PFME Period**” means the duration of a Political Force Majeure Event as determined by the Independent Engineer, provided that if more than one Political Force Majeure Event is ongoing at the same time, for the purposes of determining the PFME Period, such Political Force Majeure Events shall be considered as running concurrently;

“**PKR Equity Return**” means, for Sponsor Equity in PKR by a resident Sponsor, as follows:

$$\text{Max}(\sum_{i=1}^t [(PKR \text{ Equity Contribution} - PKR \text{ Equity Distribution})_i \times (1 + PKR \text{ EIRR})^{(t-i)}], 0)$$

where:

t = total number of distinct twelve (12)-Month intervals in the period from the Effective Date until the Termination Date; provided that if the last interval is shorter than twelve (12)-Months, it shall be considered a twelve (12)-Month interval;

⁶ Insert principal amount specified in Bidding Form F2-G of the Proposal for PKR and USD.

i = index denoting a specific twelve (12)-Month interval (where i=1 for the 1st twelve (12)-Month interval and i=t for the last twelve (12)-Month interval, which may be shorter than twelve (12) Months);

PKR Equity Contribution = the nominal amount paid by a Sponsor to the Company in PKR (including Equity Held USD Amounts paid by Sponsor) to fund the Sponsor Funding Amount in accordance with the EFU Agreement, provided that Equity Held USD Amounts, for the purposes of this definition, shall be converted to PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, applicable on the date of contribution;

PKR Equity Distribution = the product of: (a) equity percentage of the local sponsor (identified in attachment F of appendix 8) for each Operating Contract Year until the Termination Date set out in attachment F of appendix 8; and (b) the sum of amount declared on any given date from time to time until the Termination Date in PKR by the Company for payment to the Shareholders against Class A Shares by way of return on capital, whether in the form of dividends, redemption of capital, payment of principal and interest on any indebtedness to such Shareholders; and

PKR EIRR = lower of: (a) **[insert Equity IRR (PKR) for Local Equity as per Bidding Form F2-G]**; or (b) seventeen percent (17%);

“PKR Net Equity” means, for Sponsor Equity in PKR by a resident Sponsor, as follows:

$$\text{Max}(\sum_{i=1}^t [(PKR Equity Contribution - PKR Equity Distribution)_i], 0)$$

where:

t = Total number of distinct twelve (12)-Month intervals in the period from the Effective Date until the Termination Date; provided that if the last interval is shorter than twelve (12)-Months, it shall be considered a twelve (12)-Month interval;

i = Index denoting a specific twelve (12)-Month interval (where i=1 for the 1st twelve (12)-Month interval and i=t for the last twelve (12)-Month interval, which may be shorter than twelve (12) Months);

‘PKR Equity Contribution’ has the meaning given to it in the definition of ‘PKR Equity Return’; and

‘PKR Equity Distribution’ has the meaning given to it in the definition of ‘PKR Equity Return’;

“Planned Outage” has the meaning given to it in appendix 8;

“Political Force Majeure Event” has the meaning given to it in clause 19.3;

“Primary Bypass Output Water Metering System” has the meaning given to it in clause 14.2.16;

“Primary HD Input Water Metering System” has the meaning given to it in clause 14.2.2;

“Primary KIII Input Water Metering System” has the meaning given to it in clause 14.2.5;

“Primary Metering Systems” means the Primary HD Input Water Metering System, Primary KIII Input Water Metering System, Primary Water Access Point Metering System, the Primary Bypass Output Water Metering System, and the Primary Output Metering System;

“Primary Output Metering System” has the meaning given to it in clause 14.2.18;

“Primary Water Access Point Metering System” has the meaning given to it in clause 14.2.8;

“Project” means:

- (a) the Project Activities;
- (b) the use by the Company, in accordance with the License Agreement, of the Site;
- (c) maintaining the Contracted Availability by the Company;
- (d) selling the Net Water Output at the Output Water Connection Point in accordance with this Agreement;
- (e) the handover of the KWC to the KW&SC in terms of this Agreement; and
- (f) all activities incidental to any of the foregoing, in accordance with this Agreement;

“Project Activities” means the Mobilisation Activities, the C&O Activities and O&M Activities;

“Project Agreements” means:

- (a) this Agreement;
- (b) the EFU Agreement;
- (c) the License Agreement;
- (d) the EPC Contract; and
- (e) the O&M Contract;

“Project Commercial Operations Certificate” means the certificate duly signed and issued by the Independent Engineer to the Parties, certifying that the Project Commercial Operations Testing has been successfully completed;

“Project Commercial Operations Date” has the meaning given to it in clause 8.3.1;

“Project Commercial Operations Testing” means the tests to be carried out as per appendix 5 for the achievement of commercial operations of KWC;

“Project IPR” means all Intellectual Property Rights developed by or for the Company in connection with and for the Project after the Effective Date and prior to the Final Expiry Date, but excluding any Company IPR;

“Project Implementation Unit” means the project implementation unit established by the GoS for the purpose of overseeing the day-to-day implementation of the Project in accordance with the Legal Requirements and for carrying out the functions assigned to it under clause 25.5;

“Projected Loss of Net Water Output” has the meaning given to it in appendix 8;

“Proposal” means the proposal dated [●] delivered by the Successful Bidder to KW&SC on the Bid Submission Date in response to the RFP and any agreed amendments, variations or supplements thereto;

“Proposed Construction Documents” has the meaning given to it in clause 6.1.3;

“Public Private Partnership Policy Board” means the Public Private Partnership Policy Board constituted pursuant to the Sindh Public-Private Partnership Act, 2010;

“Pumping Station Metering System” has the meaning given to it in clause 14.2.10;

“Pumping Station Online Quality Monitoring System” has the meaning given to it in clause 14.2.11;

“Quarter” means each three (3) Month period commencing at 00:00 on 1 January, 1 April, 1 July and 1 October in each calendar year;

“RE Period” means the duration of a Relief Event as determined by the Independent Engineer, provided that if more than one Relief Event is ongoing at the same time, for the purposes of determining the RE Period, such Relief Events shall be considered as running concurrently;

“Receiving Party” has the meaning given to it in clause 13.6.1;

“Recipient” has the meaning given to it in clause 29.2.1;

“Refinancing” means:

- (a) any amendment, variation, novation, supplement or replacement of any Financing Document;
- (b) the exercise of any right, or the grant of any waiver or consent under any Financing Document;
- (c) any restructuring of capital;
- (d) the disposition of any rights or interests in, or the creation of any rights or interests in respect of, the Financing Documents or the creation or granting of any other form of benefit or interest in the Financing Documents or any revenues, contracts or assets of the Company, whether by way of security or otherwise; or
- (e) any other arrangement put in place by the Company or another person which has a similar effect to paragraphs (a) to (d) above or which has the effect of limiting the Company’s ability to carry out any of (a) to (d) above,

where such action affects the economic position of the Company, or the Shareholders including (without limitation) by changing or in any way affecting:

- (i) amounts and/or payment schedules for margins, fees or other financing costs;
- (ii) the maturity or size of the debt or repayment profile or schedule;
- (iii) the timing or amount of any Distributions or any release of any contingent equity commitments;
- (iv) any reserving requirements; and
- (v) any requirement to provide or maintain any guarantee or security;

“Refinancing Gain” has the meaning given to it in clause 16.3.8;

“Relevant Agreement” means:

- (a) this Agreement;
- (b) the Concession and License Direct Agreement;
- (c) the License Agreement; and
- (d) the EFU Agreement;

“Relief Event” means the following events or circumstances:

- (a) an act of impediment or prevention by a GoS Party or a breach by a GoS Party of any of its obligations under this Agreement or any other Relevant Agreement;
- (b) after the Project Commercial Operations Date, an Electricity Supply Failure;
- (c) after the Project Commercial Operations Date, a Reservoir Filling Event;
- (d) after the Project Commercial Operations Date, Off-Spec Input Water or Off-Spec Mixed Water accepted pursuant to clause 14.8.4, that was rejected by the Company and results in damage or loss to any part of the KWC; and
- (e) prior to the Project Commercial Operations Date, an Archaeological Delay Event, but only if and to the extent that the Company has made all reasonable efforts to reduce to a minimum and mitigate the effect of such event;

but only if and to the extent that in any such case, (i) in the opinion of the Independent Appointees, it materially and adversely impairs the ability of the Company, the Sponsors, or any Contractor to perform their respective obligations under the Project Agreements, (ii) the Company is not in breach of its obligation to meet the Contracted Availability and to maintain the Reservoir Capacity, and (iii) such event or circumstance is not the direct or indirect result of a breach by Company (or its Contractors) or the Sponsors of any of their obligations under this Agreement or any other Project Agreement, or any negligent act or omission by the Company, the Contractors or the Sponsors;

“Remedial Plan” has the meaning given to it in clause 21.10.2.2;

“Remedial Report” has the meaning given to it in clause 21.10.2.2;

“Remedial Works” has the meaning given to it in clause 21.10.2.2;

“Reservoir” means the existing potable water storage reservoir located within the Site as more particularly described in appendix 1;

“Reservoir Capacity” means sixty-eight thousand one hundred seventy cubic meters (68,170 m³);

“Reservoir Online Quality Monitoring System” has the meaning given to it in clause 14.2.15;

“Reservoir Filling Event” means the period (agreed with KW&SC), following any disruption in the supply of Electricity from the Electricity Supplier, which the Company utilised to refill the Reservoir upto the Reservoir Capacity, in any case, not exceeding three (3) consecutive hours in a Day;

“Reservoir Water Metering System” has the meaning given to it in clause 14.2.14;

“Restoration Account” has the meaning given to it in clause 19.10.2;

“RFP” has the meaning given to it in recital A;

“Savings” means any increase in revenues received by the Company and/or any savings or reduction of costs or expenses relating to the Project resulting from, or otherwise attributable to, any circumstance described in clause 20.1 that is realised by the Company, which cost or expenses may include one or more of:

- (a) capital costs;
- (b) financing costs;
- (c) costs of operation and maintenance; and
- (d) costs of Taxes imposed on or payable by the Company;

“SBP” means the State Bank of Pakistan;

“SBP Debit Authority” has the meaning given to it in clause 12.2.1;

“Service Payment Certificate” has the meaning given to it clause 13.5.1, being the same service payment certificate referenced in the GoS Payment Account Standing Instructions;

“Scheduled Commencement Date” means the date specified in the Implementation Schedule for the achievement of the Commencement Date (which is [●]⁷ as at the Effective Date) as such date may from time to time be amended in accordance with this Agreement;

“Scheduled Mobilisation Date” means the date specified in the Implementation Schedule for the achievement of the Mobilisation Date (which is [●]⁸ as at the Effective Date) as such date may from time to time be amended in accordance with this Agreement;

⁷ Insert date falling six (6) Months from the Effective Date.

⁸ Insert date falling two (2) Months from the Effective Date.

“Scheduled Project Commercial Operations Date” means the date specified in the Implementation Schedule for the achievement of the Project Commercial Operations Date (which is ●⁹ as at the Effective Date) as such date may from time to time be amended in accordance with this Agreement;

“Service Payments” means following the Commencement Date, the Output Payment and following the Project Commercial Operations Date:

- (a) the Availability Payment; and
- (b) the Output Payment,

in each case payable in accordance with appendix 8 and the terms of this Agreement;

“Settlements” means communities situated along the KWC as identified in the Environment and Social Impact Assessment;

“Shareholder” means a person who is from time to time registered in the Company’s share register as a holder of Class A Shares;

“Site” means the location of the KWC, as more fully described in appendix 1, which is licensed to the Company pursuant to the License Agreement for undertaking the Project Activities;

“Site Information” has the meaning given to it in clause 5.6.1;

“Social Matter” means any:

- (a) matter relating to public consultation and disclosure with respect to the Project Activities;
- (b) impacts on a person, of any resettlement or land acquisition activities, undertaken in connection with the Project;
- (c) impacts to livelihood as a result of the changes induced by the Project Activities;
- (d) impacts to community health and safety, infrastructure, or socioeconomics; or
- (e) impacts of the Project Activities on vulnerable groups, including those living below the poverty line, female-headed households, individuals with disabilities, and informal settlers;

“Solar Plant” means the solar power plant that may be established by the Company at the location and meeting the requirements, as specified in appendix 1;

“Sponsors” has the meaning given to it in the EFU Agreement;

“Sponsor Equity” means: (a) Sponsor Loans; and (b) any paid-up capital issued by the Company to a Sponsor, in each case, in cash, to ‘Fund’ (as defined in the EFU Agreement) the Sponsor Funding Amount in accordance with the EFU Agreement;

⁹ Insert date falling twenty-four (24) Months from the Effective Date.

“Sponsor Funding Amount” has the meaning given to it in the EFU Agreement;

“Sponsor Loans” has the meaning given to it in the EFU Agreement;

“Stakeholder Engagement Plan” has the meaning given to it in clause 4.10.3;

“Stakeholders” means any person or group who are directly or indirectly affected by the Project (including the Affected Communities), as well as those who may have interests in the Project and/or the ability to influence its outcome, either positively or negatively, and may include their formal and informal representatives, national or local government authorities, politicians, religious leaders, non-governmental organizations, civil society organizations and groups with special interests, the academic community, or other businesses;

“Successful Bidder” means ●¹⁰;

“Summer Period” or **“Summer”** has the meaning given to it in appendix 8;

“Taxes” means any tax, charge, impost, tariff, duty or fee of any kind charged, imposed or levied, directly or indirectly, by a Competent Authority including any zakat, value added tax, sales tax, notarisisation fees, stamp duty, import duty, withholding tax (whether on income, dividends, commission payments, fees, equipment, rentals or otherwise), tax on foreign currency loans or foreign exchange transactions, excise tax, property tax, registration fee or licence, water tax or environmental, energy or fuel tax, including any commission, penalties or additions thereon;

“Technical Parties” means KW&SC and the Company, and **“Technical Party”** means either of them;

“Term Expiry Date” means the fifteenth (15th) anniversary of the Project Commercial Operations Date, as may be extended from time to time in accordance with this Agreement;

“Termination Date” means the date of issuance of Termination Notice;

“Termination Notice” means a notice of termination issued by the Company or GoS, as the case may be, pursuant to clauses 21.2, 21.3, 21.4, 21.7, or 21.8.4;

“Termination Payment” means, as the context requires, Value A, Value B, Value C, Value D or Value E;

“Termination Payment Amount Certificate” means the certificate to be jointly issued by the Independent Appointees pursuant to clause 21.9.2, not later than ten (10) Days from the Termination Date, setting out the relevant Termination Payment;

“Termination Payment Date” means the date on which the GoS has made payment of the relevant Termination Payment to the Company, such date being within the period that is sixty (60) Days following the Termination Date, as may be extended pursuant to clauses 21.10.4 and 21.10.5;

“Test Procedures” has the meaning given to it in clause 8.1.1;

¹⁰ Insert from Letter of Award.

“Traffic and Pedestrian Safety Plan” has the meaning given to it in clause 5.5.4;

“Treatment Plant” has the meaning given to it in appendix 8;

“Unavailability Notice” has the meaning given to it in appendix 8;

“Unavailable” or **“Unavailability”** has the meaning given to it in appendix 8;

“Unenforceability Event” means circumstances where:

- (a) there is a Disputed Obligation; and
- (b) there is a final and binding determination of an arbitral tribunal or of a Pakistan court that the Disputed Obligation is illegal, invalid, void, voidable or unenforceable under the applicable Legal Requirements; and
- (c) such illegality, invalidity, voidability or unenforceability under the applicable Legal Requirements materially impairs:
 - (i) the rights of the Financing Parties under the Financing Documents; or
 - (ii) the ability of the Company to perform its obligations under the Project Agreements or the Financing Documents,

provided that the Company must have used its best efforts to mitigate such consequences (or the event itself). For the purposes of this definition, “materially” means a material impairment in the Company’s rights to receive Service Payments in terms of this Agreement; and

- (d) the Company is not otherwise adequately compensated for the material impairment described in paragraph (c) above by way of remedy or relief pursuant to this Agreement or otherwise;

“United States Dollars” or **“USD”** means United States Dollars, the lawful currency of United States of America;

“Unpaid Termination Payment Amount” has the meaning given to it in clause 12.2.9;

“Unpaid Termination Payment Amount Certificate” has the meaning given to it in clause 12.2.9;

“Unplanned Outage Maintenance Program” has the meaning given to it in clause 10.5.2.2;

“Unplanned Outages” has the meaning given to it in appendix 8;

“Unrecovered Termination Payment Amount” means the amount of the Termination Payment not recovered by the Company pursuant to clause 12.2.9;

“Unrecovered Termination Payment Amount Certificate” has the meaning given to it in clause 12.1.5.2, being the same unrecovered termination payment certificate referenced in the GoS Payment Account Standing Instructions;

“USD Equity Return” means, for Sponsor Equity issued on a repatriable basis, as follows:

$$(Max(\sum_{i=1}^t [(USD Equity Contribution - USD Equity Distribution)_i] \times (1 + USD EIRR)^{(t-i)}), 0) * FX$$

where:

t = total number of distinct twelve (12)-Month intervals in the period from the Effective Date until the Termination Date; provided that if the last interval is shorter than twelve (12)-Months, it shall be considered a twelve (12)-Month interval;

i = index denoting a specific twelve (12)-Month interval (where i=1 for the 1st twelve (12)-Month interval and i=t for the last twelve (12)-Month interval, which may be shorter than twelve (12) Months);

USD Equity Contribution = USD amounts contributed from time to time by a Sponsor to 'Fund' (as defined in the EFU Agreement) the Sponsor Equity set out, as applicable, in the certificates of deposit, proceeds realization certificates or document(s) evidencing the registration of Sponsor Loan (for funding the Sponsor Funding Amount in accordance with the EFU Agreement) issued by the authorized dealer or the SBP (the "**USD Contribution Amount**").

The USD Contribution Amount as a percentage of the total Sponsor Equity for any Operating Contract Year cannot exceed: (I) the equity percentage of the foreign sponsor (identified in attachment F of appendix 8); or (II) seventy percent (70%), whichever is lower. USD Contribution Amount over and above seventy percent (70%) of total Sponsor Equity shall be considered PKR Equity Contribution amount (Equity Held USD Amount).

USD Equity Distribution = the product of: (a) equity percentage of the foreign sponsor (identified in attachment F of appendix 8) for each Operating Contract Year until the Termination Date set out in attachment F of appendix 8; and (b) the sum of amount declared on any given date from time to time (the "**Declaration Date**") until the Termination Date in PKR by the Company for payment to the Shareholders against Class A Shares by way of return on capital, whether in the form of dividends, redemption of capital, payment of principal and interest on any indebtedness to such Shareholders. The PKR amounts will be converted to USD based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Declaration Date;

FX = USD based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Termination Date; and

USD EIRR = lower of: (a) **[insert Equity IRR (USD) for Foreign Equity as per Bidding Form F2-G]**; or (b) twelve percent (12%);

"**USD Net Equity**" means, for Sponsor Equity issued on a repatriable basis, as follows:

$$(Max(\sum_{i=1}^t [(USD Equity Contribution - USD Equity Distribution)_i]), 0) * FX$$

where:

t = Total number of distinct twelve (12)-Month intervals in the period from the Effective Date until the Termination Date; provided that if the last interval is shorter than twelve (12)-Months, it shall be considered a twelve (12)-Month interval;

i = Index denoting a specific twelve (12)-Month interval (where i=1 for the 1st twelve (12)-Month interval and i=t for the last twelve (12)-Month interval, which may be shorter than twelve (12) Months);

FX = USD based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Termination Date;

‘USD Equity Contribution’ has the meaning given to it in the definition of ‘USD Equity Return’; and

‘USD Equity Distribution’ has the meaning given to it in the definition of ‘USD Equity Return’;

“Value A” means an amount equivalent to:

- (a) the Financing Due; *plus*
- (b) the Equity Return; *less*
- (c) the Deductible Termination Amounts;

“Value B” means an amount equivalent to:

- (a) the Financing Due; *less*
- (b) the Deductible Termination Amounts;

“Value C” means an amount equivalent to:

- (a) the Financing Due; *plus*
- (b) the Net Equity; *less*
- (c) the Deductible Termination Amounts;

“Value D” has the meaning given to it in clause 21.3.1;

“Value E” means an amount equivalent to the IFC Advisory Fee;

“VIS” means the VIS Credit Rating Company Limited (formerly JCR-VIS Credit Rating Company Limited);

“Water Access Point Consumers” means Hamdard University, Hamdard Laboratories, Sherriar Ashraf (Gulf Mineral), the Public Health Engineering and Rural Department (Government of Sindh), the [Marble City Connection]¹¹ and the Settlements;

¹¹ Name of Consumer to be advised by KW&SC

“Water Access Points” means the water access points for delivery of water by KW&SC to the Water Access Point Consumers, located on the KWC, as specified in appendix 1;

“Water Volume Notification” means the notice issued by KW&SC from time to time, in accordance with clause 4.8.2.1, setting out the volume of water per Day to be delivered to each Water Access Point, provided that, the volume of water stated in such notice shall not exceed the Maximum Volume applicable for each Water Access Point;

“WAPDA Canal” means the canal owned and operated by the Pakistan Water and Power Development Authority running from the Hub Dam to the Input HD Water Connection Point;

“Within Spec Input Water” has the meaning given to it in appendix 8; and

“World Bank Group Environmental, Safety and Health Guidelines” means the technical reference documents with general and industry-specific examples of Good International Industry Practice and are referred to in the IFC Performance Standards.

1.2 Interpretation

The following rules of construction and interpretation apply to this Agreement:

- 1.2.1 periods of time refer to the Gregorian calendar and reference to a time of Day shall be construed as a reference to the time of Day in Pakistan;
- 1.2.2 a “person” includes any individual, company, corporation, firm, partnership, joint venture, association (whether a body corporate or an unincorporated association of persons) or any government institution, department or establishment, and a person shall be construed as including a reference to its successors, permitted assigns and permitted transferees in accordance with their respective interests;
- 1.2.3 words importing the singular number include the plural and vice versa, and words importing a gender include the other gender;
- 1.2.4 the descriptive headings in this Agreement, including the cover page and table of contents, are for convenience of reference only and not for purposes of construction or interpretation of its provisions;
- 1.2.5 unless specifically provided otherwise, the words “herein” and “hereunder”, and words of similar import, refer to the entirety of this Agreement and not only to the clause in which such use occurs;
- 1.2.6 a reference to a “clause”, “appendix” or “attachment” is a reference to a clause of this Agreement, an appendix to this Agreement, or an attachment to an appendix;
- 1.2.7 this Agreement is to be read and construed as a whole; anything mentioned in any of the documents comprising this Agreement shall be of like effect as if stated or mentioned in all of them. In the event of a conflict between the clauses and the appendices, the Independent Appointees shall endeavour, in the first instance, to resolve the conflict by reading this Agreement as a whole and the provision that is more specific to the subject matter shall govern. If, notwithstanding the Independent

Appointees' good faith efforts to resolve the conflict as provided in the preceding sentence, the conflict continues to persist, the provision in the clauses shall govern;

- 1.2.8 where an obligation of a Party to make payment under this Agreement, as a result of the calculation of time, falls on a Day other than a Business Day, such time for performance shall be extended to the next Business Day;
- 1.2.9 "certified" shall mean in the context of the Company, duly certified by the company secretary and in the context of the GoS Parties, duly certified by an authorised person;
- 1.2.10 "including" or "includes" shall be deemed to be qualified by a reference to "without limitation";
- 1.2.11 reference to "this Agreement" or any other agreement or document shall be construed as a reference to such agreement or document as amended, modified or supplemented and in effect from time to time and shall include a reference to any document which amends, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms;
- 1.2.12 the "face amount" of a letter of credit or guarantee, shall be construed as a reference to the remaining amount available for drawing under that letter of credit or guarantee;
- 1.2.13 neither the giving of any approval or consent, the review, knowledge or acknowledgement of the terms of any document by or on behalf of the GoS Parties or the Independent Appointees, nor the failure to do so, shall, unless expressly stated in this Agreement, relieve the Company of any of its obligations under this Agreement or of any duty which it may have under this Agreement to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, review, knowledge or acknowledgement;
- 1.2.14 the rule of construction, if any, that an agreement should be interpreted against the Party responsible for the drafting and preparation thereof shall not apply to this Agreement; and
- 1.2.15 the Parties acknowledge that liquidated damages for specific defaults prescribed under this Agreement are representative of the actual losses, liabilities, damages, costs, charges, or expenses that shall be suffered by the non-defaulting Party due to failure of the defaulting Party to perform its obligations in accordance with this Agreement and are not in the nature of a penalty.

2. CONCESSION AND TERM

2.1 Grant of Concession

- 2.1.1 In consideration of the Company's obligations contained in this Agreement and relying on the Company's representations, warranties and covenants contained herein, KW&SC, subject to the terms of this Agreement, grants to the Company the right and authorizes it to:
 - 2.1.1.1 carry out the Mobilisation Activities during the Mobilisation Period, the C&O Activities during the C&O Period, and the Operating Activities during the Operating Period, on a **DFBROMT** basis;

2.1.1.2 exercise and enjoy the rights, powers, benefits, privileges, authorizations, and entitlements as set forth in this Agreement,

(collectively referred to as the “**Concession**”).

2.1.2 The Company agrees and undertakes to implement the Project in accordance with the terms of this Agreement.

2.2 Concession

Unless otherwise stated, this Agreement shall become effective on the Effective Date. The Concession is granted to the Company and shall be effective in accordance with the terms of this Agreement.

2.3 Extension of Concession Period

The Concession Period may be extended for an additional period, if:

2.3.1 not less than eighteen (18) Months prior to the Term Expiry Date, the GoS Parties (acting jointly) provide a notice to the Company, or the Company provides a notice to the GoS Parties, requesting that the Parties enter into good faith negotiations to extend the Concession Period;

2.3.2 subject to the Parties having agreed to enter into good faith negotiations pursuant to clause 2.3.1, not later than twelve (12) Months prior to the Term Expiry Date, the Parties agree to the terms of such extension;

2.3.3 not later than six (6) months prior to the Term Expiry Date, the Parties enter into a binding agreement in writing, confirming the agreed terms of the extension (including any adjustments to the Service Payments); and

2.3.4 any requisite approval for the extension of the Concession Period (including any adjustments to the Service Payments) is obtained from the Competent Authorities in accordance with the Legal Requirements.

3. MOBILISATION AND COMMENCEMENT

3.1 Mobilisation Date

3.1.1 The rights and obligations of the Parties to undertake the Mobilisation Activities shall be conditional upon the issuance of the Mobilisation Certificate by the Independent Appointees, certifying in writing the satisfaction, deferral or irrevocable waiver by the relevant Party as provided in part 1 of appendix 4 of all the Mobilisation Conditions Precedent (the date of such certification being the “**Mobilisation Date**”). The Mobilisation Certificate shall be issued within five (5) Business Days of the occurrence of such satisfaction, deferral, or waiver.

3.1.2 Each Party shall cause the Mobilisation Date to occur on or before the Scheduled Mobilisation Date.

3.2 Reports Prior to Mobilisation Date

On a regular (at least fortnightly) basis from the appointment of the Independent Appointees until the Mobilisation Date, the Company shall advise the Independent Appointees as to the status of the satisfaction of the Mobilisation Conditions Precedent for which the Company is responsible, provided that:

- 3.2.1 no review or approval by the Independent Appointees of any Mobilisation Conditions Precedent shall relieve the Company from any liability that it would otherwise have had in respect of such Mobilisation Conditions Precedent or failure to comply with the applicable Legal Requirements or this Agreement with respect thereto; and
- 3.2.2 neither the GoS Parties, the Independent Appointees, nor any of their representatives or any of their advisors shall be liable to the Company or any other person by reason of their review or approval of any Mobilisation Conditions Precedent.

3.3 Delay in Achieving the Mobilisation Date

3.3.1 If, the achievement of the Mobilisation Date has been delayed due to:

3.3.1.1 any delay or failure on the part of a GoS Party in the performance of its obligations under this Agreement, which is not otherwise attributable to the Sponsors, the Company or any of its Contractors;

3.3.1.2 any delay or failure on the part of KW&SC in the execution of, or the performance of its obligations under the License Agreement; or

3.3.1.3 the occurrence of a Political Force Majeure Event,

the Independent Appointees shall confer with the Parties with a view to equitably adjusting the Scheduled Mobilisation Date and the Implementation Schedule, taking into account:

3.3.1.4 the effect which the Company demonstrates is solely attributable to the GoS Parties' delay or failure and which would not have occurred but for such delay or failure;

3.3.1.5 the effect which the Company demonstrates is solely attributable to the occurrence of a Political Force Majeure Event and which would not have occurred but for such delay or failure; and

3.3.1.6 the ability of the Parties to reschedule their obligations to avoid or minimise the overall resulting delays and ensure that any such adjustment to the Scheduled Mobilisation Date and the Implementation Schedule is limited to that necessary and is a consequence of the delay or failure.

3.3.2 The remedies set out in this clause 3.3 shall be the Company's sole and exclusive remedies with respect to any delay in achieving the Mobilisation Date by the Scheduled Mobilisation Date due to any matter referred to in clause 3.3.1, provided that if the Company fails to achieve the Mobilisation Date by the Scheduled Mobilisation Date (as adjusted under clause 3.3.1), then, unless the Scheduled Mobilisation Date is

extended in accordance with clause 3.3.3, either Commercial Party may exercise its right to terminate this Agreement pursuant to clause 21.2.

- 3.3.3 If, for reasons other than those specified under clause 3.3.1, the Company is unable to achieve the Mobilisation Date by the Scheduled Mobilisation Date then, subject to clause 3.3.4, the Scheduled Mobilisation Date shall be extended for a period not exceeding sixty (60) Days. No later than twenty (20) Days prior to the Scheduled Mobilisation Date, the Company shall provide written notice to the Independent Appointees of its expected inability to achieve the Mobilisation Date by the Scheduled Mobilisation Date (the “**Mobilisation Date Delay Notice**”).
- 3.3.4 The extension of the Scheduled Mobilisation Date pursuant to clause 3.3.3 shall be subject to each of the following conditions being fulfilled (as determined by the Independent Appointees) on or before the Scheduled Mobilisation Date as applicable prior to any such extension being granted:
- 3.3.4.1 the Company shall have:
- (A) provided the Mobilisation Date Delay Notice; and
 - (B) executed the EPC Contract; and
- 3.3.4.2 the EPC Contractor shall have commenced work under the EPC Contract such that the Company will meet the Implementation Schedule.
- 3.3.5 The Company acknowledges that any adjustment to the Scheduled Mobilisation Date pursuant to clause 3.3.3 shall not entitle the Company to any adjustment to the Implementation Schedule or any Service Payments.
- 3.3.6 Within ten (10) Days after the Mobilisation Date, the Company shall deliver to the Independent Appointees and the GoS Parties, one (1) physical copy, each, of all Project Agreements and all other documents related or incidental thereto, and a closing book in electronic format containing conformed copies thereof.

3.4 Commencement Date

- 3.4.1 The rights and obligations of the Parties to undertake the C&O Activities shall be conditional upon the issuance of the Commencement Certificate by the Independent Appointees certifying in writing the satisfaction, deferral, or irrevocable waiver by the relevant Party as provided in part 2 of appendix 4 of all the Commencement Conditions Precedent (the date of such certification being the “**Commencement Date**”). The Commencement Certificate shall be issued within five (5) Business Days of the occurrence of such satisfaction, deferral or waiver.
- 3.4.2 Each Party shall use its best endeavours to cause the Commencement Date to occur on or before the Scheduled Commencement Date.

3.5 Reports Prior to Commencement Date

On a regular (at least fortnightly) basis from the Mobilisation Date, the Company shall advise the Independent Appointees as to the status of the satisfaction of the Commencement Conditions Precedent for which the Company is responsible, provided that:

- 3.5.1 no review or approval by the Independent Appointees of any Commencement Conditions Precedent shall relieve the Company from any liability that it would otherwise have had in respect of such Commencement Conditions Precedent or failure to comply with the applicable Legal Requirements or this Agreement with respect thereto; and
- 3.5.2 neither the GoS Parties, the Independent Appointees nor any of their representatives or any of their advisors shall be liable to the Company or any other person by reason of their review or approval of any Commencement Conditions Precedent.

3.6 Delay in Achieving the Commencement Date

- 3.6.1 If, the achievement of the Commencement Date has been delayed due to:
 - 3.6.1.1 any delay or failure on the part of a GoS Party in the performance of its obligations under this Agreement, which is not otherwise attributable to the Sponsors, the Company or any of its Contractors; or
 - 3.6.1.2 the occurrence of a Force Majeure Event,

the Independent Appointees shall confer with the Parties with a view to equitably adjusting the Scheduled Commencement Date and the Implementation Schedule, taking into account:
 - 3.6.1.3 the effect which the Company demonstrates is solely attributable to the GoS Parties' delay or failure and which would not have occurred but for such delay or failure;
 - 3.6.1.4 the effect which the Company demonstrates is solely attributable to the occurrence of a Force Majeure Event and which would not have occurred but for such delay or failure; and
 - 3.6.1.5 the ability of the Parties to reschedule their obligations to avoid or minimise the overall resulting delays and ensure that any such adjustment to the Scheduled Commencement Date and the Implementation Schedule is limited to that necessary and is a consequence of the delay or failure.
- 3.6.2 The remedies set out in this clause 3.6 shall be the Company's sole and exclusive remedies with respect to any delay in achieving the Commencement Date by the Scheduled Commencement Date due to any matter referred to in clause 3.6.1, provided that if the Company fails to achieve the Commencement Date by the Scheduled Commencement Date (as adjusted under clause 3.6.1), then, unless the Scheduled Commencement Date is extended in accordance with clause 3.6.3, either Commercial Party may exercise its right to terminate this Agreement pursuant to clause 21.3.
- 3.6.3 If, for reasons other than those specified under clause 3.6.1, the Company is unable to achieve the Commencement Date by the Scheduled Commencement Date then, subject to clause 3.6.4, the Scheduled Commencement Date shall be extended for a period not exceeding sixty (60) Days. No later than twenty (20) Days prior to the Scheduled Commencement Date, the Company shall provide written notice to the Independent

Appointees of its expected inability to achieve the Commencement Date by the Scheduled Commencement Date (the “**Commencement Date Delay Notice**”).

3.6.4 The extension of the Scheduled Commencement Date pursuant to clause 3.6.3 shall be subject to each of the following conditions being fulfilled on or before the Scheduled Commencement Date as applicable prior to any such extension being granted:

3.6.4.1 the Company shall have provided the Commencement Date Delay Notice;

3.6.4.2 submission of the Operating and Maintenance Procedures in accordance with clause 10.3;

3.6.4.3 submission of the Maintenance Schedule in accordance with clause 10.4;

3.6.4.4 submission of the construction manual and the operations and maintenance manuals; and

3.6.4.5 completion by the Company of all Mobilisation Activities as required under appendix 1 (other than procurement of Mobilisation Testing Acceptance Certificate).

3.6.5 The Company acknowledges that any adjustment to the Scheduled Commencement Date pursuant to clause 3.6.3 shall not entitle the Company to any adjustment to the Implementation Schedule or any Service Payments.

4. PROJECT IMPLEMENTATION

4.1 Company’s Obligations

4.1.1 The Company shall deliver the C&O Performance Security to the GoS on or before the Effective Date and shall maintain the same in full force and effect until the expiry of a period of six (6) Months from the Project Commercial Operations Date (the “**C&O Performance Security Expiry Date**”). The Company shall notify the GoS of the impending expiry of the C&O Performance Security not more than three (3) and not less than two (2) Months prior to the date when it is due to expire. If the C&O Performance Security is not extended at least one (1) Month prior to the C&O Performance Security Expiry Date, the Parties acknowledge and agree that the GoS may encash the full amount of the C&O Performance Security, provided that, on submission of extended C&O Performance Security by the Company, as confirmed by the Independent Auditor to the GoS, in compliance with this clause, and subject to receipt of relevant approvals, applicable Legal Requirements and permitted deductions, the GoS shall return the relevant encashed amount of the C&O Performance Security to the Company. The C&O Performance Security shall be returned to the Company on the C&O Performance Security Expiry Date provided that no claim for payment is outstanding on such date, in which case it will be returned on satisfaction of such claim. The Parties have agreed that the amount of the C&O Performance Security is reasonable and in accordance with the Legal Requirements.

4.1.2 The Company shall deliver the O&M Performance Security to the GoS on or before the Scheduled Project Commercial Operations Date and shall maintain the same in full force and effect until the later of: (a) expiry of a period of six (6) Months from the Final

Expiry Date; and (b) the date determined in accordance with clause 21.10.3 (the “**O&M Performance Security Expiry Date**”). The Company shall notify GoS of the impending expiry of the O&M Performance Security not more than three (3) and not less than two (2) Months prior to the date it is due to expire. If the O&M Performance Security is not extended at least one (1) Month prior to the O&M Performance Security Expiry Date, the Parties acknowledge and agree that GoS may encash the full amount of the O&M Performance Security, provided that, on submission of extended O&M Performance Security by the Company, as confirmed by the Independent Auditor to the GoS, in compliance with this clause, and subject to receipt of relevant approvals, applicable Legal Requirements and permitted deductions, the GoS shall return the relevant encashed amount of the O&M Performance Security to the Company. The O&M Performance Security shall be returned to the Company on the O&M Performance Security Expiry Date provided that no claim for payment is outstanding on such date, in which case it will be returned on satisfaction of such claim. The Parties have agreed that the amount of the O&M Performance Security is reasonable and in accordance with the Legal Requirements.

4.1.3 The Performance Securities:

4.1.3.1 shall be issued and maintained without any recourse on the Company, its assets or properties and all costs, expenses, fees and other charges of any nature associated with the issuance, maintenance and encashment of the Performance Securities shall be borne by the Sponsors;

4.1.3.2 shall not be secured by the property or assets comprising of KWC or the Site; and

4.1.3.3 shall be encashed on demand in accordance with the terms of this Agreement.

4.1.4 The Company undertakes that no Encumbrance of any nature shall be created on the Site, or any immovable assets and immovable properties comprising of the KWC, unless the same have been constructed, procured, or rehabilitated by the Company.

4.1.5 The Company shall cause and be responsible for:

4.1.5.1 the due and proper application for all Approvals and all renewals thereof required to be obtained in the name of the Company in connection with the transactions contemplated by this Agreement, other Project Agreements and the Financing Documents, the diligent effort to obtain, the receipt of, and the maintenance of, all such Approvals until the Final Expiry Date;

4.1.5.2 preparation of, and compliance with the requirements of, the Environmental and Social Impact Assessment;

4.1.5.3 development, implementation, operation and maintenance of the Environmental and Social Management System;

4.1.5.4 the procurement and use of any temporary land identified by the Environmental and Social Impact Assessment as required by the Company for the Project Activities, in compliance with the Environmental and Social Requirements, including the IFC Performance Standards’ requirements

relating to temporary land acquisition, and any mitigation measures set out in the Environmental and Social Impact Assessment and subsequent Environmental and Social Management System;

- 4.1.5.5 the due and proper application for, the diligent effort to obtain, and the receipt of, any visas, work permits, employment permits, dependents' permits, licences and other permits required for all individuals involved in the Project on behalf of or pursuant to contracts with the Company;
- 4.1.5.6 executing all Project Agreements and Financing Documents to which it or a Sponsor is a party, in a timely manner;
- 4.1.5.7 co-operating with KW&SC in the identification of the applications to be made by KW&SC referred to in clause 4.2.3 and supporting such applications, including providing reasonable assistance in the preparation thereof, so as to expedite the consideration thereof by the appropriate Competent Authority, provided that such applications are in compliance with all applicable Legal Requirements and the terms and conditions of each Project Agreement in connection with which such application is made;
- 4.1.5.8 delivering to the Independent Appointees and the GoS Parties, each of the documents required to be delivered in accordance with parts 1 and 2 of appendix 4 not later than the time for delivery thereof set out therein;
- 4.1.5.9 achieving the Mobilisation Date on or before the Scheduled Mobilisation Date;
- 4.1.5.10 achieving the Commencement Date on or before the Scheduled Commencement Date; and
- 4.1.5.11 achieving the Project Commercial Operations Date on or before the Scheduled Project Commercial Operations Date.

4.2 KW&SC Obligations

KW&SC shall cause and be responsible for:

- 4.2.1 making available, or causing to be made available, to the Company, the Site in accordance with clause 5;
- 4.2.2 making available, or causing to be made available, to the Company, during the Concession Period (except for during Planned Outages or Unplanned Outages), water from the Head Regulator and KIII Conduit;
- 4.2.3 the due and proper application for, the diligent effort to obtain, and the receipt of, all Approvals and all renewals thereof that are required to be obtained in the name of KW&SC in connection with the transactions contemplated by this Agreement;
- 4.2.4 executing the Relevant Agreements to which it is a party in a timely manner; and

- 4.2.5 delivering to the Independent Appointees and the Company, each of the documents required to be delivered in accordance with parts 1 and 2 of appendix 4 not later than the time for delivery thereof set out therein.

4.3 GoS' Obligations

The GoS shall cause and be responsible for:

- 4.3.1 as reasonably requested by the Company, discussing the Project with and providing publicly available and/or non-confidential information about GoS Parties to financial institutions interested in providing financing for the Project, provided that the GoS Parties shall not be required to make any representations, warranties or undertakings or otherwise incur any liability in connection with any such discussion or in connection with the Financing Documents; and
- 4.3.2 executing the Relevant Agreements in a timely manner.

4.4 Sub-contractors

- 4.4.1 The appointment of the EPC Contractor or the O&M Contractor or any other contractor or supplier shall not relieve the Company of any of its obligations under this Agreement.
- 4.4.2 All references in this Agreement to any act, default, omission, breach or negligence of the Company shall be construed to include any such act, default, omission, breach or negligence of the Contractors or any other contractor or supplier of the Company or those of the Contractors.
- 4.4.3 The Company shall ensure that the EPC Contract and O&M Contract contain provisions required in terms of the appendix 12 and which further provide for such contracts to be, at the option of the GoS, novated or assigned to the GoS or its nominee without any further consent or approval from the Company or the Contractor, or entitle the GoS or its nominee to step into such contract, in substitution of the Company, if this Agreement is terminated prior to the Term Expiry Date, provided that the step-in rights of the GoS shall be subject to any substitution rights of the Financing Parties under the Concession and License Direct Agreement.
- 4.4.4 The Company shall at all times comply and shall procure that any third-party contractors and subcontractors comply, with the Environmental and Social Requirements, in relation to the performance of the Project Activities.

4.5 GoS and KW&SC Representatives

Each of the GoS Parties shall be entitled from time to time to appoint one or more representatives to support it or represent it in connection with the implementation of the Project. Each GoS Party shall notify the Company from time to time of its appointed representatives and their roles and responsibilities. Unless and to the extent specified by a GoS Party in writing to the contrary, no such representative shall have authority to act on a GoS Party's behalf for

the purpose of giving any instruction or notice under this Agreement or otherwise taking any action binding on a GoS Party for any purpose in connection with this Agreement.

4.6 KW&SC Site Facilities

The Company shall ensure that office(s) and related facilities are provided at the Site for the use of KW&SC and its representative, in accordance with the requirements set out in appendix 1.

4.7 Biodiversity Action Plan

If a Biodiversity Action Plan has been prepared as a Commencement Conditions Precedent, the Company shall ensure compliance with the Biodiversity Action Plan throughout the Concession Period.

4.8 Water Access Points

4.8.1 The Company shall:

4.8.1.1 maintain, throughout the Concession Period, the Water Access Points for delivery of water to the Water Access Point Consumers; and

4.8.1.2 ensure that the volume of water made available at each of the Water Access Points in any Day is equal to the volume stated in the Water Volume Notification.

4.8.2 KW&SC shall:

4.8.2.1 notify the Company in writing at least twenty (20) Days prior to the Commencement Date, the volume of water to be made available at each of the Water Access Points in any Day of the Concession Period. KW&SC may from time to time revise the volume of water stated in such notification, provided that such revision shall come into effect seven (7) Days after the revised notification is received by the Company;

4.8.2.2 be responsible for the delivery of water to the relevant Stakeholders; and

4.8.2.3 coordinate with the Water Access Point Consumers for filtration of water supplied under clause 4.8.2.1.

4.9 Human Resource Policies and Resources

4.9.1 The Company shall (and shall procure that each Contractor shall) develop and maintain written human resource policy and procedures in accordance with the Legal Requirements, including the E&S Standards (the “**HR Policy and Procedure**”). The HR Policy and Procedure shall be prepared and submitted to the Independent Engineer within two (2) Months following the Mobilisation Date.

4.9.2 The HR Policy and Procedures shall clearly describe, in relation to the Company, the working conditions, terms of employment, management of workers’ relationship, grievance redress mechanism, and the roles and responsibilities of the Company and its employees.

- 4.9.3 The HR Policy and Procedures developed in terms of clause 4.9.1 shall be made available to the respective employees of the Company and each of the Contractors.

4.10 Stakeholder Engagement Plan

- 4.10.1 KW&SC shall engage with the Settlements in order to:
- 4.10.1.1 share information regarding the Project;
 - 4.10.1.2 confirm the water needs of the Settlements and their willingness and/or ability to pay for the water delivered from the KWC;
 - 4.10.1.3 assess the infrastructure needs of the Settlements and available water storage facilities at community and household levels; and
 - 4.10.1.4 address any concerns over the portability of the water from KWC to the Settlements.
- 4.10.2 KW&SC, if required, shall also liaise with the Competent Authorities to ensure that the Settlements are delivered water from the KWC in accordance with the requirements of each Settlement.
- 4.10.3 KW&SC shall develop and implement in coordination with the Company a stakeholder engagement plan (the “**Stakeholder Engagement Plan**”) in compliance with the Legal Requirements and the E&S Standards and accounting for all consultations and engagements conducted pursuant to clauses 4.10.1 and 4.10.2. The Stakeholder Engagement Plan shall include the Grievance Redress Mechanism developed in accordance with clause 25.5.1.2.

4.11 Employee Redeployment Plan

- 4.11.1 KW&SC shall develop an employee redeployment plan prior to the Mobilisation Date in compliance with the Legal Requirements, including the E&S Standards, to manage the redeployment of its employees (the “**Employee Redeployment Plan**”).
- 4.11.2 The Employee Redeployment Plan shall include:
- 4.11.2.1 details of the number of staff to be redeployed within KW&SC and the conditions for their redeployment;
 - 4.11.2.2 documentation of the selection process for alternative projects;
 - 4.11.2.3 timely consultation measures amongst KW&SC, its employees and their representatives to communicate the details of the redeployment and the alternative measures available to the employees in lieu of such redeployment; and
 - 4.11.2.4 documentation of compliance with all Legal Requirements in terms of notice of dismissal, severance payments, payment of outstanding back pays and social security, pension benefits and contributions and other relevant considerations.

4.12 Temporary Land

4.12.1 The Company shall procure and use any temporary land identified by the Environmental and Social Impact Assessment as required by the Company for the Project Activities.

4.12.2 The procurement or use of any land in terms of clause 4.12.1 shall be subject to an Environmental and Social Impact Assessment conducted for such land and compliance with the Environmental and Social Requirements, including IFC Performance Standard 5.

4.13 Settlement Water Access

4.13.1 KW&SC will ensure that Settlements have continued access to water from the KWC through planning, construction, and operation.

4.13.2 KW&SC will be responsible for determining Settlement water requirements, with an assessment to be conducted every five (5) years (from the Commencement Date) to confirm whether supply levels are sufficient to meet Settlement needs.

5. SITE

5.1 Access

If the Company (or its Contractors) require access to the Site prior to execution of the License Agreement, for the purposes of conducting preliminary activities such as investigations of the geotechnical or hydrological conditions of the Site, KW&SC will support the Company in granting such access. If agreed, such access will be granted to the Company (or its Contractors) on the terms and conditions to be agreed and recorded in writing between the Company and KW&SC. If and when such access is granted, the indemnities set out in clause 23 shall become fully effective in respect of the access to and activity on the Site.

5.2 License Agreement

With effect from the Mobilisation Date, KW&SC shall procure that the Site is made available to the Company upon and subject to the terms of the License Agreement.

5.3 Access for GoS Parties and their Designees

The Company shall permit, and shall procure that its Contractors permit the GoS Parties, the Independent Appointees, and the GoS or KW&SC representatives and designees to enter upon the Site at any time:

5.3.1 to monitor, sample, or otherwise investigate the nature and volume of discharges or other emissions from the KWC;

5.3.2 to ensure that any interconnection to any utility system is not adversely affecting or will not adversely affect such system;

5.3.3 in response to a fire, explosion or any other like event at the Site, to preserve the safety or health of persons, materials or equipment at the KWC, or elsewhere on the Site;

- 5.3.4 to permit the GoS Parties, as may be required, to exercise their rights and comply with their obligations under this Agreement and the other Relevant Agreements;
- 5.3.5 to permit KW&SC to comply with any applicable Legal Requirements; or
- 5.3.6 in connection with an Archaeological Delay Event, for the purposes of liaising with any Competent Authority in connection with the removal of Archaeological Items from the Site.

5.4 Exercise of Access Rights

In exercising the right of access under clause 5.3, each GoS Party shall cause its representatives and designees to comply with all applicable Legal Requirements and the reasonable directions of the Company. Each GoS Party shall exercise its access rights for the purposes specified in clause 5.3 in a manner that does not interfere with, or increase the cost of, the Company's activities on the Site and shall adhere to the reasonable safety rules and procedures of the Company that are consistent with Good International Industry Practices.

5.5 Access Routes and Transportation

- 5.5.1 The Company shall be responsible for the selection and usage of all transportation means, transportation routes, roads, bridges, highways and routes to and from the Site in respect of performance of its obligations under this Agreement, and the GoS Parties shall not be responsible for any claims attributable to Company in respect of the same.
- 5.5.2 The Company shall be responsible for obtaining and maintaining all necessary Approvals required for usage of routes and transportation means as contemplated in clause 5.5.1.
- 5.5.3 The Company shall at all times ensure that the access roads are adequate and suitable for the Project Activities and should be maintained in accordance with the Legal Requirements and in consultation with the Competent Authorities, each at the cost of the Company.
- 5.5.4 The Company shall develop and implement a plan, as part of the Environmental and Social Management System, to ensure the safe movement of traffic during the Project Activities, and to allow the Settlements safe access for crossing of KWC, as outlined in part 2 of appendix 12 (the "**Traffic and Pedestrian Safety Plan**").

5.6 Site Risks

- 5.6.1 KW&SC has made available to the Company the information in KW&SC's possession in connection with the Site and the KWC as set out in appendix 1 (the "**Site Information**").
- 5.6.2 The Company shall be deemed to have obtained all necessary information as to the risks, contingencies and other circumstances which may influence or affect the implementation of the Project at the Site.
- 5.6.3 The Company shall also be deemed to have inspected and examined the Site and its surroundings, analysed and verified the accuracy and reliability of the Site Information and to have satisfied itself as to all the relevant matters including:

- 5.6.3.1 the nature of the Site, including the subsurface, hydrological, climatic and general physical conditions of the Site;
- 5.6.3.2 the suitability of the Site for undertaking the Project Activities;
- 5.6.3.3 the extent, nature and availability of labour, material, transport, accommodation, storage facilities and other facilities and resources necessary to undertake the Project;
- 5.6.3.4 the nature of design, construction work and operations and maintenance services necessary for the performance of its obligations under this Agreement;
- 5.6.3.5 the Legal Requirements for undertaking the Project;
- 5.6.3.6 the risk of injury or damage to the Adjoining Property and to the occupiers thereof or any other risk;
- 5.6.3.7 the suitability and adequacy of any access roads to the Site and other utilities and facilities to be provided by the relevant Competent Authority; and
- 5.6.3.8 all other matters that may affect the performance of its obligations under this Agreement.

The Company acknowledges and agrees that except as otherwise provided in this Agreement, if any error or discrepancy is subsequently discovered in the data, including the Site Information, made available by KW&SC or any other person on its behalf, then, such error or discrepancy shall not entitle the Company to any change in the Implementation Schedule, and/or compensation for Increased Costs or any other costs it may incur. Further, any misinterpretation of the data, studies and reports provided by KW&SC or any other person on its behalf shall not relieve the Company from the performance of its obligations under this Agreement.

5.7 Disclaimer

- 5.7.1 The Company acknowledges that it has, after a complete and careful examination, made an independent evaluation of the RFP, the scope of the Project, this Agreement, the Site, the Site Information, existing structures, local conditions and all information provided by KW&SC (or any other person on its behalf) or obtained, procured or gathered otherwise and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The GoS Parties make no representations whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by either GoS Party and the Company confirms that it shall have no claim whatsoever against either GoS Party in this regard.
- 5.7.2 The Company acknowledges and hereby accepts the risk of any inadequacy, mistake or error in or relating to any of the matters specified in clause 5.7.1 and hereby acknowledges and agrees that the GoS Parties shall not be liable for the same in any

manner whatsoever to the Company or any person claiming through or under any of them.

- 5.7.3 Any mistake or error in or relating to any of the matters specified in clause 5.7.1 shall not vitiate this Agreement or render it voidable.
- 5.7.4 In the event that either Technical Party becomes aware of any mistake or error relating to any of the matters specified in clause 5.7.1, that Technical Party shall immediately notify the other Technical Party, specifying the mistake or error; provided, however, that a failure on part of KW&SC to give any notice pursuant to this clause 5.7.4 shall not prejudice the disclaimer contained in clause 5.7.1 and shall not in any manner reallocate to the GoS Parties any risks, obligations or liabilities assumed by the Company pursuant to this Agreement.
- 5.7.5 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Company and the GoS Parties shall not be liable in any manner for such risks or the consequences thereof.

5.8 Site Security

- 5.8.1 From the Commencement Date, the Company shall be responsible for making all necessary arrangements to secure the Site, and all persons, and moveable and immoveable properties present at or forming part of the Site.
- 5.8.2 The KW&SC shall provide reasonable security outside the Site premises during the C&O Period, as and when requested by the Company, provided that the Company makes a written request fifteen (15) Days prior to when the support from KW&SC is required and furnish reasonable details in the request as to the nature, time, and location where such security is to be provided.
- 5.8.3 The Company shall ensure that employment of direct or contracted workers to provide security for the Site will be undertaken following an assessment of risks posed by its security arrangements to those within and outside the Site.
- 5.8.4 All security arrangements shall be guided by the principles of proportionality and Good International Industry Practice, including the requirements set out under IFC Performance Standard 4.

6. CONSTRUCTION AND REHABILITATION

6.1 Construction Documents

- 6.1.1 The Company shall be responsible for preparing the Construction Documents in a manner consistent with the requirements of appendix 1 and other provisions of this Agreement, Good International Industry Practices, the Environmental and Social Requirements and in accordance with any other relevant Legal Requirements.
- 6.1.2 The Construction Documents shall be prepared in English language.
- 6.1.3 Within seven (7) Months of the Effective Date, the Company shall prepare, and submit to the Independent Engineer (with a copy to the GoS Parties) for its approval, the proposed Detailed Engineering Design and the proposed Construction Drawings (the

“Proposed Construction Documents”). Within thirty (30) Days of receipt thereof, the Independent Engineer shall review the Proposed Construction Documents, and (following consultation with the GoS Parties), either approve the Proposed Construction Documents or reject the Proposed Construction Documents and convey comments/observations (if any) relating to the same, to the Company, provided, that the Independent Engineer may only refuse to approve the Proposed Construction Documents if the same fail to comply with the requirements of clause 6.1.1.

- 6.1.4 The Company shall (at its own cost and expense) re-submit the revised Proposed Construction Documents no later than five (5) Days from receipt of the rejection and/or comments/observations under clause 6.1.3, and the approval process under this clause 6.1 shall be repeated until all comments/observations are addressed and the Proposed Construction Documents have been approved.
- 6.1.5 If any errors, omission, ambiguities, inconsistencies, inadequacies, or other defects are found in the Construction Documents, such Construction Documents and any resultant error in the construction and rehabilitation of KWC shall be corrected at the Company’s cost, notwithstanding any consent or approval under this clause 6.1.
- 6.1.6 Unless the Independent Engineer (after consulting the GoS Parties) permits, the Company shall not commence any construction or rehabilitation activities for the KWC until the Proposed Construction Documents have been approved in terms of this clause 6.1.

6.2 Construction and Rehabilitation of KWC

- 6.2.1 The Company shall undertake the C&O Activities in accordance with the parameters set out in appendix 1 and appendix 5 such that the KWC is:
 - 6.2.1.1 free from all defects in design, materials, and workmanship;
 - 6.2.1.2 safe, reliable and fit for purpose; and
 - 6.2.1.3 capable of supplying water up to the Contracted Availability.
- 6.2.2 All obligations of the Company to be undertaken during the C&O Period shall be consistent with the Construction Documents, Good International Industry Practices, Environmental and Social Requirements, and in accordance with any relevant Approvals, the Legal Requirements and the Accounting Principles.
- 6.2.3 The Company shall rectify any defects and/or deficiencies in the KWC, including any defects and/or deficiencies identified by the Independent Engineer or KW&SC and shall bear all costs of remedying such defects and deficiencies and retesting the relevant part of the KWC and shall not be entitled to any extension of time or additional costs for remedying such defects or deficiencies or for retesting the relevant part of the KWC.
- 6.2.4 The Company shall ensure that an adequate number of suitably skilled and experienced contractors, architects, workmen and other personnel are engaged to undertake the Project. The Company shall be solely responsible for the work performed by any staff and labour engaged by it to execute the Project and for payment of all applicable labour charges, fees, and cess payable in accordance with the Legal Requirements (including

labour welfare legislations). The Company shall ensure that its Contractors provide all necessary amenities and welfare facilities for the staff and labour engaged by them at the Site and comply with all applicable labour laws. The Company shall indemnify and hold harmless the GoS Parties from and against all claims, liabilities, expenses, costs and losses suffered or incurred by each of the GoS Parties due to the Company's or any Contractor's failure to comply with any Legal Requirements (including labour welfare legislations).

- 6.2.5 The Independent Appointees and KW&SC (and its representatives) shall have the right, at all times, to attend and be present at the Site and to observe the progress of the C&O Activities.

6.3 Change in Scope

- 6.3.1 Any Party, following the Effective Date, may propose a Change in Scope, provided that, no Party shall propose a Change in Scope which would, if implemented:
- 6.3.1.1 materially and adversely affect the health and safety of any person;
 - 6.3.1.2 infringe any Legal Requirement;
 - 6.3.1.3 be a departure from Good International Industry Practices;
 - 6.3.1.4 cause any Approval to be revoked or become unobtainable;
 - 6.3.1.5 require a new Approval which will not be obtainable by the Company despite it using all reasonable endeavours; or
 - 6.3.1.6 materially affect the Project Activities in a manner that cannot be compensated for under this Agreement.
- 6.3.2 Within fifteen (15) Days of receipt of a request for Change in Scope from the GoS Parties, the Company shall submit a proposal to the GoS Parties and the Independent Appointees setting out in sufficient detail the implications of the proposed Change in Scope, including any implications on the Implementation Schedule and the Scheduled Project Commercial Operations Date, any additional costs, including any increase in the Financing Due, incurred in undertaking the Change in Scope, or any Savings resulting from the Change in Scope.
- 6.3.3 Based on their review of the proposal submitted by the Company, the GoS Parties may, at their sole discretion: (a) accept the proposal and the corresponding adjustment to the Implementation Schedule and/or the additional costs or reduction in the costs for undertaking the Change in Scope; (b) provide comments on the proposal seeking amendments and/or justification for the implications put forth by the Company; or (c) reject the proposal submitted by the Company and withdraw the proposed Change in Scope, within fifteen (15) days from the date of receipt of the Company's proposal under clause 6.3.2.
- 6.3.4 To the extent the GoS Parties or the Independent Appointees seek amendments and/or justification in the proposal submitted by the Company, the Company shall incorporate or address, in writing, such comments and submit a revised proposal.

- 6.3.5 On approval of the proposal or the revised proposal, as the case may be, by the GoS Parties, the GoS Parties shall issue a Change in Scope Order and the Company shall proceed with the Change in Scope in accordance with the Change in Scope Order.
- 6.3.6 If the Parties are unable to agree on the implications of a Change in Scope proposed by the GoS Parties, which in the GoS Parties' view is necessary or desirable for the Project, as determined by the Independent Appointees, the GoS Parties shall have the right to require the Company to carry out the proposed Change in Scope at the cost determined by the Independent Appointees. Any Dispute on the terms of the Change in Scope (including the method of payment and funding or application of Savings or reductions) will be resolved in accordance with clause 27.
- 6.3.7 On implementation of a Change in Scope Order, the Company shall be entitled to the agreed adjustment to the Implementation Schedule and the Scheduled Project Commercial Operations Date, payment of additional amounts, and/or any adjustment to the permissible Financing Due, if any, set out in the Change in Scope Order. The economic benefit of any reduction or Savings in the cost arising from a Change in Scope shall be shared by the Commercial Parties in the ratio and manner agreed by the Commercial Parties.
- 6.3.8 The method of payment for and funding of any additional costs that become payable by the GoS or the application of reduction or Savings in the costs, in relation to a Change in Scope Order, shall be agreed by the Commercial Parties and included in the Change in Scope Order.
- 6.3.9 If, after the Effective Date, the Company wishes to effect any Change in Scope, the Company shall obtain the prior written approval of the GoS Parties, such approval not to be unreasonably withheld or delayed. On approval by the GoS Parties, the GoS Parties shall issue a Change in Scope Order and the Company shall proceed with the Change in Scope in accordance with the Change in Scope Order. Any such change will be effected at the Company's own risk and cost.
- 6.3.10 Notwithstanding anything to the contrary in this clause 6.3, the Company shall be bound to implement any Change in Scope that is necessitated by a Change in Law and any consequent adjustment to the Implementation Schedule, and Increased Costs or Savings shall be determined in accordance with clause 20.
- 6.3.11 No Change in Scope shall invalidate this Agreement.

6.4 Drawings, Test Results, Documentation

- 6.4.1 The Company shall obtain and maintain at the Site in an orderly manner and in accordance with the Operating and Maintenance Procedures and Good International Industry Practices, complete and up to date copies of all:
- 6.4.1.1 operation and maintenance manuals and other technical documentation (including electronic files) for all items of equipment incorporated into the KWC as identified in appendix 1;
- 6.4.1.2 test results (including electronic files) for tests performed on the KWC in accordance with:

- (A) this Agreement;
- (B) the EPC Contract; and
- (C) the O&M Contract,

6.4.1.3 as-built drawings (including electronic files) for the KWC, including for the civil and architectural works; and

6.4.1.4 detailed technical documents (including electronic files) related to the design, engineering, construction, rehabilitation, operation and maintenance of the KWC.

7. IMPLEMENTATION SCHEDULE AND DELAYS

7.1 Compliance with Implementation Schedule

The Company shall achieve the timely implementation of the Project in accordance with the Implementation Schedule. The Company shall promptly inform the Independent Appointees and each of the GoS Parties of any actual or anticipated material deviations from the dates stipulated in the Implementation Schedule. Without prejudice to the Parties' rights and obligations under clauses 7.2, 7.3 or 7.4, as the case may be, the Company shall provide the Independent Appointees and each GoS Party with a remedial programme setting out the actions to be taken by the Company to mitigate the adverse effect of any such deviation on its ability to undertake the Project in accordance with the Implementation Schedule.

7.2 Adjustment of Implementation Schedule

7.2.1 If a Relief Event causes a delay that has, or is reasonably likely to have, the effect of delaying the achievement of the Commencement Date by the Scheduled Commencement Date or the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date (as applicable), then, subject to clause 7.2.2, the Scheduled Commencement Date or the Scheduled Project Commercial Operations Date (as applicable) and the Implementation Schedule shall be adjusted equitably by the Independent Engineer to take into account the ability of the Company to re-schedule its activities to minimise the delay and the effect of such Relief Event on the ability of the Company to achieve the relevant milestone by the respective scheduled date, provided that such scheduled date shall not be extended to the extent that such delay would have nevertheless been experienced had such Relief Event not occurred.

7.2.2 The Company must notify the Independent Appointees and the GoS Parties in writing promptly (and in any event within fourteen (14) Days) after becoming aware of the occurrence of a Relief Event, and together with such notice or as soon as possible (and in any event within fourteen (14) Days) following such notice), the Company shall provide full details of the Relief Event and its consequences including sufficient details to confirm the existence of a Relief Event and its impact on the Scheduled Commencement Date or the Scheduled Project Commercial Operations Date (as applicable) and the Implementation Schedule. As soon as practicable (and in any event within fourteen (14) Days after receiving the Company's detailed information and justification), the Independent Appointees shall confirm whether (and to what extent)

they agree to adjust the Scheduled Commencement Date or the Scheduled Project Commercial Operations Date (as applicable) and the Implementation Schedule.

- 7.2.3 If the Company does not deliver the notices as required by clause 7.2.2 in accordance with the terms thereof, the Company shall not be entitled to invoke the benefits of clause 7.2.1 or deemed commissioning under clause 8.4 in respect of the relevant Relief Event.
- 7.2.4 If a Force Majeure Event causes a delay that has, or is reasonably likely to have, the effect of delaying:
 - 7.2.4.1 the achievement of the Commencement Date, then the provisions of clause 3.6 shall apply; or
 - 7.2.4.2 the achievement of the Project Commercial Operations Date, then the provisions of clause 19.7 shall apply.

7.3 Company Liquidated Damages for Delay

- 7.3.1 The Company acknowledges that the GoS Parties will each suffer actual damages if, for any reason not otherwise excused under this Agreement, the Company fails to achieve the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date. In that event, and without prejudice to the GoS Parties' rights under clause 21, the Company shall pay liquidated damages to the GoS for each Day (or any part thereof) of delay at a rate of Pakistani Rupees five million only (PKR 5,000,000/-) per Day, commencing from the Scheduled Project Commercial Operations Date until the earlier of:
 - 7.3.1.1 the Project Commercial Operations Date; and
 - 7.3.1.2 the Long Stop Date.
- 7.3.2 Any liquidated damages payable pursuant to this clause 7.3 shall be paid by the Company within fifteen (15) Days of the date of the Company's receipt of an invoice from GoS setting out the amount of liquidated damages which are then due and payable by the Company. If the Company fails to pay such liquidated damages when due, the GoS shall be entitled to claim such amounts under the C&O Performance Security, plus interest at the Late Payment Rate, accruing from the due date of such payment until the GoS is actually paid such amounts. To the extent that the Company's liability for liquidated damages under clause 7.3.1 exceeds the then current balance of the C&O Performance Security, the GoS shall be entitled to take steps to recover such amounts (plus any applicable interest) as a debt due from the Company to GoS (including by way of set-off against any amounts due to the Company from GoS or KW&SC) under any Relevant Agreement.
- 7.3.3 In addition, if the Company fails to achieve the Scheduled Project Commercial Operations Date by the Long Stop Date, the GoS shall be entitled to encash the C&O Performance Security up to the face amount.
- 7.3.4 The Parties agree that:

- 7.3.4.1 the delay liquidated damages payable pursuant to this clause 7.3 represent the actual losses, liabilities, damages, costs, charges or expenses that the GoS Parties will suffer as a result of the failure of the Company to achieve the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date;
- 7.3.4.2 there is, in any event, a commercial justification and legitimate interest in imposing such liquidated damages as a payment for the failure of the Company to achieve the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date which would not be satisfied by a right to recover damages on an unliquidated basis for such default; and
- 7.3.4.3 the payment or deduction of delay liquidated damages payable pursuant to this clause 7.3 shall not relieve the Company from its obligations to complete the C&O Activities, or from any of its other duties, obligations, or responsibilities under this Agreement. The Company shall use and continue to use its best endeavours to avoid or reduce further delay in completing the C&O Activities.

7.4 Company Liquidated Damages for Abandonment

- 7.4.1 If Abandonment occurs, in addition to any rights or remedies that the GoS may have pursuant to clause 21, the Company shall pay to the GoS as liquidated damages the following amount:
 - 7.4.1.1 in case of Abandonment prior to the Project Commercial Operations Date, an amount equal to the face amount of the C&O Performance Security as at the date Abandonment occurs, after any amounts paid or payable under clause 7.3 have been paid; and
 - 7.4.1.2 in case of Abandonment on or following to the Project Commercial Operations Date, an amount equal to the face amount of the O&M Performance Security as at the date Abandonment occurs.
- 7.4.2 Any liquidated damages payable pursuant to this clause 7.4 shall be paid by the Company within fifteen (15) Days of the date of the Company's receipt of an invoice from the GoS setting out the amount of liquidated damages which are then due and payable by the Company. If the Company fails to pay such liquidated damages when due, the GoS shall be entitled to claim such amounts under the Performance Securities or to take steps to recover such amounts as a debt due from the Company to the GoS, plus interest at the Late Payment Rate, accruing from the due date of such payment until the GoS is actually paid such amounts. To the extent that the Company's liability for liquidated damages under clause 7.4.1 exceeds the face amount of the Performance Securities, at the date of issue of a demand thereunder, the GoS shall be entitled to take steps to recover such amounts (plus any applicable interest) as a debt due from the Company to GoS (including by way of set-off against any amounts due to the Company from GoS or KW&SC) under any Relevant Agreement.
- 7.4.3 The Parties agree that:

7.4.3.1 the liquidated damages payable pursuant to this clause 7.4 represent the actual losses, liabilities, damages, costs, charges or expenses that the GoS Parties will suffer as a result of Abandonment by the Company; and

7.4.3.2 there is in any event a commercial justification and legitimate interest in imposing such liquidated damages as a payment for Abandonment by the Company which would not be satisfied by a right to recover damages on an unliquidated basis for such default.

7.5 General Damages

7.5.1 If either of clauses 7.3.1 or 7.4.1 is found for any reason to be void, invalid or otherwise inoperative so as to disentitle GoS from claiming liquidated damages under such clause(s), the GoS is entitled to claim against the Company for general damages at law for the Company's failure to achieve the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date or for Abandonment, subject to the limitation that such damages must not exceed the amounts set out in clause 7.3.1 for any Day of delay or clause 7.4.1 for Abandonment, as the case may be.

8. MOBILISATION, START-UP AND COMMERCIAL OPERATION

8.1 Test Procedures

8.1.1 The Company shall be responsible for the development and implementation of detailed testing procedures for each test during the mobilisation, construction, rehabilitation, inspection, start-up and commissioning, including performance testing, reliability testing and capacity demonstration, of the KWC, in accordance with appendix 5 (the "**Test Procedures**") and shall notify the Independent Appointees and each GoS Party in advance of all such testing and carry out all Test Procedures in accordance with appendix 5.

8.1.2 The Independent Appointees and designees of each GoS Party shall be entitled to be present at any such testing as provided in appendix 5.

8.2 Issuance of Mobilisation Testing Acceptance Certificate

8.2.1 The Company shall carry out the Mobilisation Testing in accordance with the procedure set out in appendix 5. The Mobilisation Testing Acceptance Certificate shall be issued by the Independent Engineer in accordance with the procedure set out in appendix 5.

8.2.2 During any testing conducted pursuant to this clause 8.2, upon at least three (3) Days' prior notice by the Company, KW&SC shall arrange for such quantity of water to be delivered at each Input Water Connection Point to allow the Company to be able to conduct such tests (as determined by the Independent Engineer). If, despite compliance with the foregoing, KW&SC fails to deliver water as foresaid, in accordance with the Test Procedures and appendices 1 and 5, and such failure causes a delay in achieving the Commencement Date by the Scheduled Commencement Date, the provisions of clause 7.2.1 shall apply mutatis mutandis.

8.3 Project Commercial Operations Testing

- 8.3.1 The commercial operations date for the KWC (the “**Project Commercial Operations Date**”) shall occur on the Day following the date on which the Independent Engineer issues to the Company the Project Commercial Operations Certificate, in accordance with the procedure set out in appendix 5.
- 8.3.2 During any testing conducted pursuant to this clause 8.3, upon at least three (3) Days’ prior notice by the Company, KW&SC shall arrange for such quantity of water to be delivered at each Input Water Connection Point to allow the Company to be able to conduct such tests (as determined by the Independent Engineer). If, despite compliance with the foregoing, KW&SC fails to deliver water as foresaid, in accordance with the Test Procedures and appendices 1 and 5, and such failure causes a delay in achieving the Project Commercial Operation Date by the Scheduled Project Commercial Operation Date, the provisions of clause 7.2.1 and clause 8.4 shall apply mutatis mutandis.

8.4 Deemed Project Commercial Operations Date

- 8.4.1 If, due to a Relief Event or a Political Force Majeure Event (each a “**Deemed Commissioning Event**”), the Company is unable to conduct or conclude Project Commercial Operations Testing for the KWC on the date selected therefor in accordance with appendix 5, then provided that the Company shall have made all reasonable efforts, as determined by the Independent Engineer, to prevent and/or mitigate the effect of such Deemed Commissioning Event, on and from the date on which the Company would have been able to achieve the Project Commercial Operations Date but for such event until the date the Project Commercial Operations Date is actually achieved:
- 8.4.1.1 subject to clause 8.4.2, the Project Commercial Operations Date shall be deemed to have been achieved; and
- 8.4.1.2 the KWC shall be deemed to be providing water equivalent to Contracted Availability (subject to deduction for Outages determined by the Independent Appointees) and GoS shall compensate the Company for the consideration set out in appendix 8 for such deemed Contracted Availability.
- 8.4.2 If the Project Commercial Operations Date shall have been deemed to be achieved pursuant to clause 8.4.1, and thereafter:
- 8.4.2.1 when the Test Procedures are conducted in accordance with appendix 5, the KWC does not attain the minimum criteria required under appendix 5 for the achievement of the Project Commercial Operations Date, then:
- (a) the KWC shall cease to be deemed commissioned and (if the Scheduled Project Commercial Operations Date has passed) the Company shall be in breach of its obligation to achieve the Project Commercial Operations Date by the Scheduled Project Commercial Operations Date and, if the Long Stop Date has passed, clause 21.5.1 shall also apply;

- (b) the GoS shall have no further obligation to make payments under clause 8.4.1.2;
- (c) the Company shall be obliged to repay the GoS the Availability Payments paid by GoS under clause 8.4.1.2 together with commission accrued thereon at the Late Payment Rate, and the GoS shall have the right to deduct such amounts from future payments to be made pursuant to appendix 8 in the immediately following Billing Period(s) until the full amount shall have been deducted, or recover such amounts from the C&O Performance Security or the O&M Performance Security; and
- (d) the GoS shall have the right to pursue any other remedy available to it under this Agreement or under the Law.

8.4.3 The Parties shall undertake all reasonable measures to ensure that any Project Commercial Operations Testing that is delayed due to any of the circumstances described in clause 8.4.1 shall be undertaken as soon as possible after the circumstances that resulted in such delay are no longer in effect.

8.4.4 The Company shall not be entitled to the benefit of clause 8.4.1 where, and to the extent that a Deemed Commissioning Event, results (in whole or in part) from a delay or default by the Company or the Sponsors or is concurrent with a delay or default by the Company or the Sponsors of an obligation of the Company or the Sponsor under any Project Agreement.

9. ELECTRICITY AND OTHER UTILITIES

9.1 Utilities

9.1.1 The Company shall be responsible for:

9.1.1.1 procuring, at its risk and cost, all electricity and other utilities and any fuel required for: (a) the Project Activities; and (b) the reinstatement of the Site in accordance with the Handover Conditions following the Final Expiry Date in accordance with clause 21.10; and

9.1.1.2 coordinating with the relevant utility provider to relocate any utility infrastructure under or over the Site, and the cost of such relocation shall be borne by the Company.

9.1.2 Electricity required for the operation and maintenance of the KWC shall either be procured from the Electricity Supplier or generated by the Solar Plant. Electricity shall not be procured or generated from any other source.

9.1.3 During the Concession Period, the Company shall be responsible for securing all supplies of telecommunication and all waste disposal services required for the Project, either from its own resources or from the applicable authorities at published tariffs and in accordance with the standard terms and conditions of supply and pay for such supplies in accordance with such terms and conditions.

- 9.1.4 KW&SC will use its best endeavours to assist the Company in the relocation of existing utilities required for the Project, at the risk and cost of the Company.
- 9.1.5 The Company shall share any benefits generated from the Project relating to carbon credits with GoS as per a formula mutually agreed between the GoS and the Company.

9.2 Actual Electricity Consumption

- 9.2.1 The Company shall provide access to the Independent Engineer and KW&SC from time to time to inspect the electricity meters installed to measure the supply of Electricity to the KWC and to read or attend any reading of such meters. The Company shall supply details of all readings of such meters within two (2) Business Days after such readings are carried out.
- 9.2.2 The Company shall procure that the Independent Engineer and KW&SC are notified of and invited to attend any reading of the electricity meters.
- 9.2.3 The Company shall take all reasonable commercial measures to ensure that the Electricity supplied to the KWC is accurately measured and shall, if so required by the Independent Engineer or KW&SC, exercise any rights in order to achieve the foregoing.

9.3 Electricity Price

The Company shall notify the Independent Appointees and each GoS Party as soon as possible (and in any event within seven (7) Days) after it becomes aware of any change in the Electricity Price and shall provide the Independent Appointees and each GoS Party with full details of the change and the dates when it became or will become effective.

10. OPERATION AND MAINTENANCE

10.1 O&M Obligations

The Company shall:

- 10.1.1 ensure that the KWC is, at all times, capable of transmitting the Contracted Availability to the Output Water Connection Point;
- 10.1.2 carry out all O&M Activities in a manner consistent with this Agreement, Good International Industry Practices, Environmental and Social Requirements, and in accordance with any relevant Approvals, applicable Legal Requirements, Accounting Principles, and the Operating and Maintenance Procedures;
- 10.1.3 employ in and at the KWC all safety devices and safety practices required by applicable Legal Requirements, the requirements of appendix 1, all Insurance Policies, and Good International Industry Practices;
- 10.1.4 undertake the Project Activities in accordance with the parameters set out in appendix 1 and appendix 5 such that the KWC is:
 - 10.1.4.1 free from all defects in design, materials, and workmanship;
 - 10.1.4.2 safe, reliable and fit for purpose; and

- 10.1.4.3 capable of supplying water up to its Contracted Availability;
- 10.1.5 operate and maintain the KWC so as to prevent the release or leaching of any Hazardous Substances affecting the Site or surrounding environs (including the soil, subsoil, surface water, or groundwater);
- 10.1.6 as soon as reasonably practicable, inform the GoS Parties of any instances of fire, explosion or any other like event at the Site;
- 10.1.7 to the extent consistent with Good International Industry Practice, keep accurate and up to date records of any accidents or other occurrences at the Site that result in injury to persons or damage to property for a minimum period of ten (10) years from the occurrence of such event, and shall provide to the Independent Engineer and KW&SC reasonable access to such records, subject to requirements of confidentiality;
- 10.1.8 ensure that its personnel are on duty at the KWC at all times (twenty-four (24) hours a Day and seven (7) Days a week) during the Concession Period;
- 10.1.9 promptly provide KW&SC with accurate Unavailability Notice(s), by 11:00 am on the Day prior to Planned Outages or Unplanned Outages, and issue superseding Unavailability Notice(s) as soon as it is known that a previously issued Unavailability Notice(s) must be updated;
- 10.1.10 if and when requested by KW&SC in exceptional circumstances, use its best endeavours to deliver water in excess of the Contracted Availability; and
- 10.1.11 ensure that the debt-to-equity ratio of the Company (as determined on the basis of Accounting Principles and confirmed by the Independent Auditor) shall not exceed 80:20.

10.2 Co-ordination

The Company shall:

- 10.2.1 promptly inform the Independent Appointees and each GoS Party of any material issues with the KWC;
- 10.2.2 where required by the Independent Appointees and KW&SC, promptly and in any event within ten (10) Days after being so requested, submit a remediation programme setting out the actions to be taken by the Company to mitigate the adverse effect of any material issues notified in accordance with clause 10.2.1 and abide by such remediation programme once instructed by the Independent Appointees and KW&SC, provided that the submission of any remediation programme and instructions issued by the Independent Appointees and KW&SC shall in no way relieve the Company of any liability that would have otherwise accrued;
- 10.2.3 maintain operating communications between the KWC and KW&SC in accordance with the Operating and Maintenance Procedures; and
- 10.2.4 keep a daily operations log for the KWC, which shall include information known to it on the KWC, and any outages or de-ratings, and circuit breaker trip operations requiring a manual reset, and any significant events related to the foregoing. The Independent

Engineer and KW&SC shall have the right to review logs not in their possession at all reasonable times and upon reasonable notice to the Company.

10.3 Operating and Maintenance Procedures

- 10.3.1 The Company shall, at its own costs and expense, develop written operating and maintenance procedures for the KWC in accordance with this clause 10.3 (the “**Operating and Maintenance Procedures**”).
- 10.3.2 The Operating and Maintenance Procedures shall:
- 10.3.2.1 be based on the design parameters of the KWC and other requirements specified in appendix 1;
 - 10.3.2.2 incorporate Operating and Maintenance Procedures specified or recommended by the KWC equipment suppliers and manufacturers in their operators’ manuals;
 - 10.3.2.3 provide a comprehensive procedure for sampling and testing of water at specified locations along the KWC by third-party laboratories (as approved by the GoS in consultation with the Independent Engineer);
 - 10.3.2.4 provide for coordination with KW&SC for release of water from the KIII Conduit;
 - 10.3.2.5 be consistent with Good International Industry Practice; and
 - 10.3.2.6 provide comprehensive procedures for all operational interfaces between (i) KW&SC, the Pakistan Water and Power Development Authority, and (ii) the Company, including in relation to the delivery of Electricity prior and subsequent to the Project Commercial Operations Date.
- 10.3.3 The Company shall submit a draft of the Operating and Maintenance Procedures to the Independent Engineer and KW&SC no later than sixty (60) Days prior to the Scheduled Commencement Date and no later than ninety (90) Days prior to the Scheduled Project Commercial Operations Date.
- 10.3.4 Within sixty (60) Days after its receipt thereof, the Independent Engineer and KW&SC shall have the right to provide comments on the draft Operating and Maintenance Procedures.
- 10.3.5 If, within such sixty (60) Day period, the Independent Engineer and KW&SC do not provide any comments, the draft proposed by the Company shall become the Operating and Maintenance Procedures.
- 10.3.6 If the Independent Engineer or KW&SC provide comments on the draft Operating and Maintenance Procedures within such sixty (60) Day period, the Company shall, within thirty (30) Days of its receipt of such comments, either incorporate the requested changes to the draft Operating and Maintenance Procedures or request a meeting with the Independent Engineer or KW&SC to discuss any outstanding requested changes. Any Dispute over the requested changes still not resolved within ten (10) Days following any such meeting shall be referred for resolution pursuant to clause 27.

10.3.7 The Company acknowledges and agrees that no review or approval by the Independent Engineer or KW&SC of the Operating and Maintenance Procedures shall relieve the Company from any liability it would otherwise have under this Agreement, and that neither the Independent Engineer nor the GoS Parties nor any of their representatives shall be liable to the Company or any other person by reason of their review or approval of the Operating and Maintenance Procedures.

10.4 Scheduled Maintenance

10.4.1 The Company shall undertake all scheduled KWC maintenance in accordance with this Agreement, Good International Industry Practice, Environmental and Social Requirements, and in accordance with any relevant Approvals, applicable Legal Requirements, Accounting Principles, Operating and Maintenance Procedures, and the maintenance appendices (each, a “**Maintenance Schedule**”) developed pursuant to this clause 10.4.

10.4.2 The Company shall submit to the Independent Engineer and KW&SC the proposed Maintenance Schedule for the KWC at least forty-five (45) Days prior to:

10.4.2.1 the Scheduled Commencement Date, in respect of the first Contract Year;
and

10.4.2.2 the commencement of each subsequent Contract Year, in respect of such Contract Year,

in each case, setting out:

(a) its Planned Outages; and

(b) a forecast of the Net Water Output that could be delivered to the Output Water Connection Point on each Day in the forthcoming Contract Year.

10.4.3 The Company shall:

10.4.3.1 plan its Maintenance Schedule so as to minimise interruptions of the supply of Net Water Output; and

10.4.3.2 not undertake scheduled KWC maintenance resulting in an outage of the KWC during the Summer Period.

10.4.4 Within thirty (30) Days of receipt of the proposed Maintenance Schedule, the Independent Engineer and KW&SC shall notify the Company whether the proposed Maintenance Schedule is acceptable.

10.4.5 If Independent Engineer and KW&SC do not, within such thirty (30) Day period, accept the proposed Maintenance Schedule in whole or in part, the Independent Engineer and KW&SC shall advise the Company of a period or periods when the maintenance can be rescheduled, provided that the Independent Engineer and KW&SC shall seek to make such rescheduled period or periods as close as reasonably practicable to the Maintenance Schedule proposed by the Company and, provided further, that the rescheduled period or periods shall be of equal duration to the period or periods proposed by the Company. In the event that the Independent Engineer and KW&SC

fail to provide such advice within the time period stipulated in this clause 10.4, KW&SC shall be deemed to have accepted the proposed Maintenance Schedule.

10.4.6 With respect to each Planned Outage, the Company shall (in addition to the requirement to issue an Unavailability Notice pursuant to clause 10.1.9):

10.4.6.1 confirm ninety (90) Days; and

10.4.6.2 reconfirm thirty (30) Days,

prior to the planned date for such outage.

10.4.7 KW&SC may, upon sixty (60) Days prior written notice, request the Company to reschedule a Planned Outage and the Company shall use its best efforts to accommodate such requested rescheduling. The Company shall notify KW&SC within fifteen (15) Days of its receipt of a request for rescheduling of a Planned Outage whether the Company is able to comply with such request.

10.4.8 If the Company is unable to comply with the request for rescheduling of a Planned Outage, it shall provide KW&SC with the reasons therefor and provide alternative periods in which the Planned Outage may be rescheduled. In such event, KW&SC shall advise the Company whether it would prefer that the Planned Outage occur on the initial date or on a rescheduled date.

10.4.9 The Company shall, within thirty (30) Days of the end of each Planned Outage, provide to KW&SC a report detailing the activities carried out during the Planned Outage and the results for any tests carried out during such Planned Outage.

10.5 Maintenance during Unplanned Outages

10.5.1 The Company, during any Unplanned Outage, shall undertake KWC maintenance in a manner consistent with this Agreement, Good International Industry Practices, Environmental and Social Requirements, and in accordance with any relevant Approvals, applicable Legal Requirements, Accounting Principles, and Operating and Maintenance Procedures.

10.5.2 The Company shall (in addition to the requirement to issue an Unavailability Notice pursuant to clause 10.1.9), promptly inform the Independent Engineer and KW&SC of the need for any Unplanned Outage as soon as it becomes aware thereof, detailing the reason for the Unplanned Outage and each component of the KWC that is affected, and submit to the Independent Engineer (with a copy to KW&SC) a program detailing:

10.5.2.1 the start date and duration of the Unplanned Outage; and

10.5.2.2 the activities, and tests (if any) to be carried out during the Unplanned Outage (the “**Unplanned Outage Maintenance Program**”).

10.5.3 The Independent Engineer, keeping in consideration the scheduled start date for the Unplanned Outage, as soon as reasonably practicable:

10.5.3.1 shall notify the Company whether the Unplanned Outage Maintenance Program is acceptable; or

10.5.3.2 may prescribe changes to the Unplanned Outage Maintenance Program.

10.5.4 If the Independent Engineer prescribes any changes to the Unplanned Outage Maintenance Program under clause 10.5.3.2, the Company shall be obligated to carry out the KWC maintenance during the Unplanned Outage in accordance with the changes prescribed.

10.5.5 In preparation of the Unplanned Outage Maintenance Program and the execution of the maintenance works during the Unplanned Outage, the Company shall endeavour to reduce the duration of the Unplanned Outage and the costs associated with the maintenance works, to the extent possible, without adversely impacting the integrity of the maintenance works.

10.5.6 The Company shall, within thirty (30) Days of the end of each Unplanned Outage, provide to KW&SC a report detailing the activities carried out during the Unplanned Outage and the results for any tests carried out during such Unplanned Outage.

10.6 Test Procedures – Post Project Commercial Operations Date

The Company and KW&SC shall develop and implement the Test Procedures for testing the KWC after the Project Commercial Operations Date in accordance with the requirements of appendix 5.

10.7 Reservoir

The Company shall at all times ensure that the water in the Reservoir meets the Reservoir Capacity, provided that the Independent Engineer has confirmed KW&SC has supplied the necessary Net Water Input and sufficient time has been given to the Company to refill the Reservoir following an Electricity Supply Failure.

11. SALE AND PURCHASE

11.1 Contracted Availability and Output

11.1.1 During the C&O Period, in consideration of the Company undertaking the operation and maintenance activities and delivering the Net Water Output to KW&SC, the GoS shall make payments in accordance with appendix 8.

11.1.2 During the Operating Period, in consideration of the Company:

11.1.2.1 maintaining the Contracted Availability;

11.1.2.2 delivering the Net Water Output to KW&SC; and

11.1.2.3 performing the O&M Activities,

the GoS shall make payments in accordance with appendix 8.

11.2 Risk of Loss

The risk of loss on any Net Water Output shall pass from the Company to KW&SC, at the Output Water Connection Point.

11.3 Effect of Relief Event

Subject to clause 11.4, if a Relief Event:

- 11.3.1 affects the ability of the Company to meet the Contracted Availability, the GoS shall, for the RE Period, continue to pay:
 - 11.3.1.1 during the Operating Period, the Availability Payments in respect of the Deemed Availability (without applying the Deduction for Reduced Water Availability); and
 - 11.3.1.2 during the Concession Period, the Output Payments in respect of the Net Water Output; or
- 11.3.2 does not affect the ability of the Company to meet the Contracted Availability, but affects the ability of the Company to deliver Net Water Output, the GoS shall, for the RE Period, continue to pay:
 - 11.3.2.1 during the Operating Period, the Availability Payments; and
 - 11.3.2.2 during the Concession Period, the Output Payments in respect of the Net Water Output.

11.4 Notice of Relief Event

- 11.4.1 If a Relief Event occurs after the Commencement Date, the Company must notify the Independent Appointees and the GoS Parties in writing promptly (and in any event within fourteen (14) Days) after becoming aware of the occurrence of a Relief Event. Together with such notice or as soon as possible (and in any event within fourteen (14) Days) following such notice, the Company shall provide full details of the Relief Event and its consequences including sufficient details to confirm the existence of a Relief Event and its impact on the ability of the Company to meet the Contracted Availability or deliver Net Water Output.
- 11.4.2 As soon as practicable (and in any event within fourteen (14) Days after receiving the Company's detailed information and justification) pursuant to clause 11.4.1, the Independent Appointees shall confirm whether or not (and if so, to what extent) they agree that a Relief Event has occurred and the extent of its impact on the ability of the Company to meet the Contracted Availability or deliver Net Water Output.
- 11.4.3 Any Dispute as to whether or not a Relief Event has occurred, or the extent of its impact, may be referred by any Party for resolution pursuant to clause 27.
- 11.4.4 If the Company does not deliver a notice as required by clause 11.4.1 in accordance with the terms thereof, the Company shall not be entitled to invoke the benefits of clause 11.3 in respect of the relevant Relief Event.

12. PAYMENT ACCOUNTS AND SBP DEBIT AUTHORITY

12.1 Establishment and GoS Funding of Payments Accounts

- 12.1.1 The GoS shall establish and maintain the GoS Payment Account until the Final Expiry Date in accordance with and subject to, the terms of this Agreement.
- 12.1.2 The Independent Appointees shall determine the GoS Payment Account Required Balance within thirty-five (35) Days prior to each GoS Account Funding Date and notify the Commercial Parties thereof (the “**GoS Payment Account Certificate**”).
- 12.1.3 Subject to clause 12.1.9, on each GoS Account Funding Date that falls prior to the Final Expiry Date, the GoS shall procure that the balance standing to the credit of the GoS Payment Account is equal to the GoS Payment Account Required Balance.
- 12.1.4 The GoS Payment Account shall be operated in accordance with the GoS Payment Account Standing Instructions.
- 12.1.5 Upon establishing the GoS Payment Account, the GoS shall issue the GoS Payment Account Standing Instructions containing instructions to the GoS Payment Account Bank to debit the GoS Payment Account:
- 12.1.5.1 on each Payment Date with the amount set out in the Service Payment Certificate as payable on such Payment Date;
 - 12.1.5.2 subject to clause 21.9.2, after the Termination Payment Date with the amount of the applicable unrecovered Termination Payment, as set out in the certificate duly issued by the Independent Appointees (the “**Unrecovered Termination Payment Amount Certificate**”), not otherwise recovered by the Company; and
 - 12.1.5.3 upon receipt of the Lien Enforcement Certificate, with the amount of the Financing Due component of the applicable Termination Payments (other than Value D and Value E) *less* any Deductible Termination Amounts, as specified in the Lien Enforcement Certificate, not otherwise recovered by the Company pursuant to clause 12.1.5.2.
- 12.1.6 Subject to clause 12.1.7, the GoS Payment Account Standing Instructions issued by the GoS shall remain effective, in each case, until the Final Expiry Date.
- 12.1.7 Prior to the Final Expiry Date, the GoS Payment Account Standing Instructions issued by the GoS may be revoked pursuant to a written revocation notice duly executed and confirmed by:
- 12.1.7.1 the authorized representatives of the Commercial Parties;
 - 12.1.7.2 the GoS, if this Agreement is terminated under clause 21 and the Termination Payments have been made; or
 - 12.1.7.3 the GoS, if the GoS exercises its option to establish the GoS Service Payment Account SBLC in terms of clauses 12.1.9, 12.1.10 and 12.1.11.

- 12.1.8 The GoS Payment Account Standing Instructions may be amended at any time pursuant to a notice issued by the GoS to the GoS Payment Account Bank instructing amendment of the GoS Payment Account Standing Instructions (or any part thereof) and the same shall be confirmed and acknowledged by the GoS Payment Account Bank, provided, that such notice shall only be effective if the same is also duly signed by the authorized representatives of the Commercial Parties.
- 12.1.9 At any time, the GoS shall have the option of replacing the amount in the GoS Payment Account with a GoS Service Payment SBLC provided that at all times:
- 12.1.9.1 the balance standing to the credit of the GoS Payment Account shall not fall below an amount equal to one-quarter (1/4) of the GoS Payment Account Required Balance; and
- 12.1.9.2 the sum of the balance standing to the credit of the GoS Payment Account and the face amount of the GoS Service Payment SBLC is equal to the GoS Payment Account Required Balance.
- 12.1.10 The provisions applicable to withdrawals of funds from the GoS Payment Account shall apply *mutatis mutandis* to encashment of the GoS Service Payment SBLC.
- 12.1.11 Without prejudice to the requirements stated in clauses 12.1.9 and 12.1.10, the Commercial Parties may agree to additional terms relating to the GoS Service Payments SBLC.
- 12.1.12 The GoS agrees to create a lien and right of set-off over the GoS Payment Account in favour of the Financing Parties (including any agent / trustee of the same) in terms of a letter of lien substantially in form set out in appendix 13, to secure payment of the Financing Due component of the applicable unrecovered Termination Payments (other than Value D and Value E) *less* any Deductible Termination Amounts (the “**GoS Payment Account Letter of Lien**”). The GoS Payment Account Letter of Lien shall be issued by the GoS simultaneously with the GoS Payment Account Standing Instructions.
- 12.1.13 The GoS Payment Account Letter of Lien shall only be enforceable by the Financing Parties upon written confirmation by the Independent Appointees (the “**Lien Enforcement Certificate**”) issued to the agent of the Financing Parties and the GoS stating that the Financing Due component of the applicable unrecovered Termination Payments (other than Value D and Value E) *less* any Deductible Termination Amounts, as specified in the Unrecovered Termination Payment Amount Certificate has not been paid to the Company in accordance with 12.1.5.2.

12.2 SBP Debit Authority

- 12.2.1 The GoS shall issue to the SBP (with a copy to the Company), in terms of paragraph 6.1 of part 2 of appendix 4, a debit authority (the “**SBP Debit Authority**”) authorising the SBP to debit the GoS Account One with an amount equal to the lower of: (a) the Unpaid Termination Payment Amount (as stated in the Unpaid Termination Payment Amount Certificate); and (b) the GoS Termination Secured Amount, on demand from the Company, provided the demand is made in writing, duly signed by an authorised representative of the Company and a copy of the Unpaid Termination Payment Amount

Certificate or the certificate of the Independent Auditor certifying the GoS Termination Secured Amount (as applicable), is attached thereto (the “**Company Demand**”). The SBP Debit Authority shall, subject to this clause 12.2.1, remain irrevocable, valid and effective until the earlier of the Financing Termination Date and the date when payments are made to the Company from GoS Account One in terms of this clause 12.2. The GoS shall ensure that there are sufficient funds available in the GoS Account One to satisfy the Company Demand.

- 12.2.2 At any time, the GoS shall have the option of replacing the SBP Debit Authority with the GoS Termination SBLC. The GoS Termination SBLC should be maintained until the earlier of the Financing Termination Date and the date when payment is made to the Company following a demand, in accordance with and subject to, the terms of this Agreement.
- 12.2.3 The GoS Termination SBLC shall be fully secured by the GoS as a principal debtor and not as surety, without any recourse to the Company, its assets or properties. All costs, expenses, fees and other charges of any nature associated with the issuance and maintenance of the GoS Termination SBLC shall be borne by the GoS.
- 12.2.4 The GoS Termination SBLC shall be unconditional and irrevocable and shall be payable on first written demand without any prior notice, reference or recourse to the GoS or any other entity.
- 12.2.5 The GoS Termination SBLC shall only be encashed in the following circumstances:
- 12.2.5.1 pursuant to clause 12.2.8; and
- 12.2.5.2 pursuant to clause 12.2.9.2.
- 12.2.6 Where the GoS elects to establish the GoS Termination SBLC (in place of the SBP Debit Authority), at least five (5) Days prior to the start of each Contract Year (the “**GoS Termination SBLC Renewal Date**”), the Independent Auditor shall issue a certificate to the GoS (with a copy to the Company) setting out the GoS Termination SBLC Amount (the “**GoS Termination SBLC Certificate**”).
- 12.2.7 On each GoS Termination SBLC Renewal Date, the GoS shall adjust the face amount of the GoS Termination SBLC such that it equals the GoS Termination SBLC Amount as set out in the applicable GoS Termination SBLC Certificate.
- 12.2.8 Each GoS Termination SBLC shall be valid for at least twelve (12) Months from issuance thereof (the “**GoS Termination SBLC Validity Period**”). Within thirty (30) Days prior to expiry of a GoS Termination SBLC, the GoS shall extend the validity of the GoS Termination SBLC, so as to keep it valid for the GoS Termination SBLC Validity Period. In the event of failure by the GoS to extend the validity of a GoS Termination SBLC in accordance with this clause 12.2.8, as certified by the Independent Auditor in its certificate (the “**GoS Termination SBLC Failure Certificate**”), the Company shall have the right, upon issuance of its first written demand (together with the GoS Termination SBLC Failure Certificate) to encash the GoS Termination SBLC to its full outstanding value (the “**Encashed Sums**”). The Company shall, within three (3) Days, return the Encashed Sums to the GoS on the GoS re-establishing the GoS Termination SBLC for the GoS Termination SBLC

Validity Period, with a face amount equal to the GoS Termination SBLC Amount. Any failure to return the Encashed Sums to the GoS as aforesaid, shall constitute a Company Event of Default.

12.2.9 In the event of termination of this Agreement pursuant to clause 21 and to the extent Financing Due (or part thereof) is due and payable and remains outstanding (the **“Unpaid Termination Payment Amount”**) on the Termination Payment Date as certified in writing by the Independent Auditor (the **“Unpaid Termination Payment Amount Certificate”**), the Company shall be entitled to:

12.2.9.1 issue the Company Demand in accordance with clause 12.2.1; or

12.2.9.2 where the GoS Termination SBLC is established, encash the GoS Termination SBLC for an amount that is the lower of: (a) the Unpaid Termination Payment Amount; and (b) the face amount of the GoS Termination SBLC.

12.2.10 Commencing from the date of issuance of the SBP Debit Authority and until the Financing Termination Date, the GoS shall share with the Company on a semi-annual basis, a statement setting out the limits allowed by National Economic Council and any guarantees issued on the GoS Account One.

13. INVOICING AND PAYMENT

13.1 Invoices Issued by the Company

Within five (5) Business Days of the end of each Billing Period, the Company shall issue to the Independent Appointees and the GoS itemised invoices together with all supporting data necessary to verify and calculate the Service Payments (including any applicable Deductions) payable in any given Billing Period, in accordance with appendix 8. The Independent Appointees and the GoS may request for any additional information reasonably necessary to verify and calculate such amounts.

13.2 Invoices Issued by GoS

Save as otherwise provided in this Agreement, GoS shall issue an itemised invoice to the Company in relation to any amounts due and payable by the Company under this Agreement within thirty (30) Days of the end of a Billing Period in which any such amounts accrue. Such invoices shall be accompanied by supporting documents.

13.3 Payment Date

Save as otherwise provided in this Agreement, each invoice issued pursuant to this Agreement shall be due and payable five (5) Business Days after the date on which it is received by the receiving Party (each such date, a **“Payment Date”**), provided that, in the case of Service Payments due to the Company, the Company has complied with the requirements of GoS Payment Account Standing Instructions or GoS Service Payment SBLC, as applicable.

13.4 Method of Payment

13.4.1 All amounts payable by the GoS against invoices for the Service Payments, as set out in the Service Payment Certificates, shall be payable in accordance with the GoS

Payment Account Standing Instructions or in terms of the GoS Service Payment SBLC, as applicable.

- 13.4.2 All amounts payable by the Company against invoices issued by GoS pursuant to clause 13.2 shall be paid by the Company on or before the Payment Date, by wire transfer of immediately available funds to such account or accounts specified by the GoS for such purpose.

13.5 Service Payment Certificate

- 13.5.1 On submission by the Company of its invoices for Service Payments (including supporting data) in terms of clause 13.1, the Independent Appointees shall review and verify the same and issue a certificate to the Commercial Parties setting out the amount of Service Payment that is payable by the GoS to the Company (the “**Service Payment Certificate**”), prior to the Payment Date.

- 13.5.2 Notwithstanding anything to the contrary in this Agreement, the Independent Appointees shall have no obligation to issue a Service Payment Certificate if:

13.5.2.1 any of the Performance Securities is not valid and in effect;

13.5.2.2 the insurances to be obtained by the Company in accordance with clause 18 are not valid and in effect;

13.5.2.3 the required Approvals are not in full force and effect, unless the withdrawal or cancellation of any Approval is not attributable to the Company’s failure to comply with the Legal Requirements; and

13.5.2.4 if there is a subsisting Company Event of Default.

13.6 Disputed Payments

- 13.6.1 If a Commercial Party receiving an invoice or a Service Payment Certificate (the “**Receiving Party**”) Disputes any portion or amount of such invoice or Service Payment Certificate, then the Receiving Party shall:

13.6.1.1 inform the other Commercial Party (the “**Invoicing Party**”) and the Independent Appointees of the reason for the Dispute, specifying the amount(s) disputed; and

13.6.1.2 pay to the Invoicing Party the undisputed amounts contained in such invoice or Service Payment Certificate on or before the relevant Payment Date, provided that in the case of invoices relating to Service Payments, the Independent Appointees shall issue the Service Payment Certificate setting out such amount that is not disputed.

Each Commercial Party agrees that the invoices rendered by the other Commercial Party may only be disputed on bona fide grounds.

- 13.6.2 No previously undisputed invoice, Service Payment Certificate, or payment may be disputed by:

13.6.2.1 the Company, more than sixty (60) Days after the applicable Payment Date;
or

13.6.2.2 the GoS, more than three hundred and sixty-five (365) Days after the applicable Payment Date.

13.6.3 The Commercial Parties shall use their reasonable endeavours to resolve the payment Dispute by amicable negotiation, provided that if the Commercial Parties are unable to resolve the Dispute within ten (10) Days of the Payment Date, then either Commercial Party may refer the Dispute for resolution pursuant to clause 27.

13.6.4 If it is agreed or determined that a Commercial Party has:

13.6.4.1 underpaid an invoice, such Commercial Party shall pay to the other Commercial Party the full amount of the underpayment, together with the commission thereon at the Late Payment Rate accrued from, but excluding, the relevant Payment Date to, and including, the Day on which such underpayment is paid; or

13.6.4.2 overpaid an invoice, the Commercial Party who has received the overpayment shall be obliged to repay the other Commercial Party the full amount of such overpayment, together with commission thereon at the Late Payment Rate accrued from, but excluding, the Day the amount of such overpayment was originally paid to, and including, the Day on which the amount of such overpayment is fully repaid. If agreed or determined that GoS has overpaid an invoice, GoS shall have the right to deduct the amount of such overpayment from future payments in the immediately following Billing Period(s) until the full amount of the overpayment shall have been deducted.

13.7 Late Payments

Any amount under any invoice that is not paid in accordance with this clause 13 on or before the Payment Date therefor shall bear commission at the Late Payment Rate accrued from, but excluding, the relevant Payment Date, and including the Day on which such payment is made. The GoS shall not be liable to pay any amount under this clause 13.7 if payment of any invoice is delayed due to the Company's failure to submit a demand for payment in accordance with the GoS Payment Account Standing Instructions or in terms of the GoS Service Payment SBLC, as applicable.

13.8 Set-Off

The GoS shall be entitled to set off against any sum payable by the GoS to the Company under this Agreement or any other Relevant Agreement, any debt or other moneys due and owing (other than any amounts (including any liquidated damages) that are the subject of an on-going Dispute) from the Company to GoS under or in accordance with this Agreement or any other Relevant Agreement.

13.9 Taxes and Royalties

13.9.1 The Service Payments are inclusive of all Taxes.

- 13.9.2 The GoS may deduct from the Service Payments and any other amounts due to the Company, any income tax or withholding tax that is required to be deducted at source in accordance with the Legal Requirements.
- 13.9.3 The Company shall be responsible for the payment of all applicable Taxes and complying with all procedural requirements related to the payment of Taxes pursuant to this Agreement and shall be solely responsible for any proceedings initiated by any Competent Authority in respect of any non-payment or short payment of Taxes.
- 13.9.4 The Company shall be responsible for payment of all applicable royalties on any fine and coarse aggregate, core sand, fine sand, grit and any other minerals extracted and/or used by the Company or any Contractor and furnish proof of payment of such royalties to the GoS along with the invoices for the Service Payments, as the case may be.
- 13.9.5 Upon a request from the Company, the GoS will provide all relevant certificates and information it has on record to enable the Company to obtain any Tax exemptions available in relation to the Project. It is clarified that the GoS shall not be responsible in any manner for ensuring that any applicable Tax exemptions are available to the Company.
- 13.9.6 The Company shall indemnify the GoS Parties from and against any cost or liability that may arise due to the Company's failure to pay all applicable Taxes, in connection with the Project.
- 13.9.7 Any Taxes payable in relation to the Site shall be borne by KW&SC.

14. METERING SYSTEMS AND MONITORING SYSTEMS

14.1 Electricity Metering Systems

- 14.1.1 The Metering Systems and associated equipment to measure the delivery of electrical energy to the KWC that exists as of the Effective Date shall continue to be operated and maintained by the Electricity Supplier.
- 14.1.2 The Company shall, at its own expense, procure, install, test, commission, complete, own, operate and maintain, at the Electricity Connection Point, Back Up Metering Systems and associated equipment in accordance with the Legal Requirements to measure the delivery of electrical energy to the KWC.

14.2 Water Output Metering and Monitoring Systems

The Company shall, at its own expense:

- 14.2.1 procure, install, operate and maintain at the HD Water Connection Point, one or more electronic metering systems and associated equipment to measure the volume of water entering the WAPDA Canal from the Hub Dam in accordance with appendix 1 (the "**HD Input Water Metering System**");
- 14.2.2 procure and install immediately upstream of the Input HD Water Connection Point, one or more electronic metering systems and associated equipment to measure the volume of water entering the KWC from the WAPDA Canal in accordance with appendix 1 (the "**Primary HD Input Water Metering System**");

- 14.2.3 procure, install, own, operate and maintain immediately downstream of the Input HD Water Connection Point, one or more electronic back-up metering systems and associated equipment to measure the volume of water entering the KWC from the WAPDA Canal in accordance with appendix 1 (the “**Back-up HD Input Water Metering System**”);
- 14.2.4 procure, install, own, operate and maintain at Input HD Water Connection Point, one or more electronic metering systems and associated equipment to measure the quality of water entering the KWC from the WAPDA Canal in accordance with appendix 1 (the “**HD Input Online Quality Monitoring System**”);
- 14.2.5 procure and install immediately upstream of Input KIII Water Connection Point, one or more electronic metering systems and associated equipment to measure the volume of water entering KWC from the KIII Conduit in accordance with appendix 1 (the “**Primary KIII Input Water Metering System**”);
- 14.2.6 procure, install, own, operate and maintain immediately downstream of Input KIII Water Connection Point, one or more electronic Back-Up Metering Systems and associated equipment to measure the volume of water entering KWC from the KIII Conduit in accordance with appendix 1 (the “**Back-up KIII Input Water Metering System**”);
- 14.2.7 procure, install, own, operate and maintain at Input KIII Water Connection Point, one or more electronic metering systems and associated equipment to measure the quality of water entering the KWC from the KIII Conduit in accordance with appendix 1 (the “**KIII Input Online Quality Monitoring System**”);
- 14.2.8 procure and install immediately downstream of each Water Access Point, an electronic metering system and associated equipment to measure the volume of water supplied to each Water Access Point in accordance with appendix 1 (each, the “**Primary Water Access Point Metering System**”);
- 14.2.9 procure, install, own, operate and maintain immediately upstream of each Water Access Point, one or more electronic Back-Up Metering Systems and associated equipment to measure the volume of water supplied to each Water Access Point in accordance with appendix 1 (each, the “**Back-up Water Access Point Metering System**”);
- 14.2.10 procure, install, own, operate and maintain immediately upstream of the Pumping Station, one or more electronic metering systems and associated equipment to measure the volume of water reaching the Pumping Station (before mixing with water from the KIII Conduit) in accordance with appendix 1 (the “**Pumping Station Metering System**”);
- 14.2.11 procure, install, own, operate and maintain immediately upstream of the Pumping Station, one or more electronic metering systems and associated equipment to measure the quality of water reaching the Pumping Station (before mixing with water from the KIII Conduit) in accordance with appendix 1 (the “**Pumping Station Online Quality Monitoring System**”);

- 14.2.12 procure, install, own, operate and maintain at the Mixed Water Monitoring Point, one or more electronic metering systems and associated equipment to measure the volume of mixed water from the Hub Dam and the KIII Conduit entering the KWC in accordance with appendix 1 (the “**Mixed Water Metering System**”);
- 14.2.13 procure, install, own, operate and maintain at the Mixed Water Monitoring Point, one or more electronic metering systems and associated equipment to measure the quality of mixed water from the Hub Dam and the KIII Conduit entering the KWC in accordance with appendix 1 (the “**Mixed Online Quality Monitoring System**”);
- 14.2.14 procure, install, own, operate and maintain immediately upstream of the Reservoir, one or more electronic metering systems and associated equipment to measure the volume of water reaching the Reservoir in accordance with appendix 1 (the “**Reservoir Water Metering System**”);
- 14.2.15 procure, install, own, operate and maintain immediately upstream of the Reservoir, one or more electronic monitoring systems and associated equipment to measure the quality of water reaching the Reservoir in accordance with appendix 1 (the “**Reservoir Online Quality Monitoring System**”);
- 14.2.16 procure and install downstream of the last Bypass Water Connection Point, one or more electronic metering systems and associated equipment to measure the Bypass Water Output in accordance with appendix 1 (the “**Primary Bypass Output Water Metering System**”);
- 14.2.17 procure, install, own, operate and maintain upstream of the last Bypass Water Connection Point, one or more electronic back-up metering systems and associated equipment to measure the Bypass Water Output in accordance with appendix 1 (the “**Back-up Bypass Output Water Metering System**”);
- 14.2.18 procure and install immediately downstream of the Output Water Connection Point, one or more electronic metering systems and associated equipment to measure Net Water Output in accordance with appendix 1 (the “**Primary Output Metering System**”);
- 14.2.19 procure, install, own, operate and maintain immediately upstream of the Output Water Connection Point, one or more electronic back-up metering systems and associated equipment to measure Net Water Output in accordance with appendix 1 (the “**Back-up Output Metering System**”); and
- 14.2.20 procure, install, own, operate and maintain at the Output Water Connection Point, one or more electronic monitoring systems and associated equipment to measure the quality of Net Water Output in accordance with appendix 1 (the “**Online Output Quality Monitoring System**”).

14.3 General

- 14.3.1 Each of the Metering Systems and the Monitoring Systems shall be jointly sealed by the Technical Parties (in the presence of the Independent Engineer).

14.3.2 The Company shall ensure that the procurement, installation, operation, and maintenance of the Back-up Metering Systems shall not interfere with the operations and maintenance of the Primary Metering Systems and the Online Output Quality Monitoring System, and physical testing and analysis of water samples required to be conducted in terms of the Operating and Maintenance Procedures.

14.3.3 Upon installation, the Company shall transfer each of the Primary Metering Systems (together with any related warranties or guarantees) at no cost to KW&SC, and following such transfer, KW&SC shall be responsible for the ownership, operation and maintenance of the same.

14.4 Reading of Meters

14.4.1 The Independent Engineer shall read each of the Primary Metering Systems at 23:59 hours on the last Day of each Month for the purpose of determining the Net Water Output managed by the Company up to the Output Water Connection Point since the last meter reading. The Company shall be entitled to have a representative present during any such reading.

14.4.2 The Independent Engineer shall make all records derived from the Metering Systems, Monitoring Systems, and the physical testing facilities, available to the Parties upon reasonable request for inspection and verification.

14.4.3 The metered data derived from the Primary Metering Systems and the Online Output Quality Monitoring System shall be telemetered to the distribution control system within the KWC, and, subject to clause 14.5.1, shall be used as the binding measurement of the Net Water Output delivered at the Output Water Connection Point.

14.4.4 The Company shall maintain and calibrate the Metering Systems and Monitoring Systems in accordance with the requirements of appendix 1.

14.5 Defective Metering Events and Corrections

14.5.1 If there is a Defective Metering Event in relation to any of the Primary Metering Systems, then subject to clause 14.5.2, the binding measurements referred to in clause 14.5.3 shall be provided by the readings of the respective Back-up Metering Systems.

14.5.2 If there is a Defective Metering Event in relation to both the Primary HD Input Water Metering System and the Back-up HD Input Water Metering System, the Primary KIII Input Water Metering System and the Back-up KIII Input Water Metering System, the Primary Water Access Point Metering System and the Back-up Water Access Point Metering System, the Primary Bypass Output Water Metering System and the Back-up Bypass Output Water Metering System, or the Primary Output Metering System and the Back-up Output Metering System, then any error in the readings from the relevant Primary Metering System shall be corrected in accordance with the following:

14.5.2.1 if the Independent Engineer is able to determine the amount of the error, if any, then all measurements made by the relevant Primary Metering System shall be corrected by such amount; or

- 14.5.2.2 if the Independent Engineer is unable to determine the amount of the error, if any, then the percentage error for which the relevant Primary Metering System is to be corrected, for the period determined in accordance with clause 14.5.3, shall be determined if:
- (a) the percentage of error is ascertainable, by calibration, tests, or mathematical calculation; or
 - (b) the percentage of error is not ascertainable, on the basis of the readings taken under similar conditions during the period before the last test.
- 14.5.3 If a correction is to be made pursuant to clause 14.5.2.2, then such correction shall be made to the readings given by the relevant Metering System from the period commencing on:
- 14.5.3.1 the Day of the Defective Metering Event, if such Day can be established by the Independent Engineer; or
 - 14.5.3.2 if the Day of the Defective Metering Event cannot be established by the Independent Engineer, the Day which is halfway between the Day of the immediately preceding test of such metering device and the Day the Defective Metering Event was discovered.
- 14.5.4 If, as a result of any corrections pursuant to clause 14.5.2:
- 14.5.4.1 it is determined that the GoS is required to pay any additional amounts to the Company, then the Company shall include such additional amounts in the next invoice to be delivered by the Company in accordance with clause 13.1; or
 - 14.5.4.2 it is determined that GoS has overpaid the Company, the Company shall be obliged to repay such overpaid amount, and the GoS shall have the right to deduct the amount of such overpayment from future payments in the immediately following Billing Period(s) until the full amount of the overpayment shall have been deducted.

14.6 Repair, Replacement and Recalibration

- 14.6.1 If a Defective Metering Event occurs, or a Metering System is otherwise found to be functioning improperly in accordance with the design and equipment parameters, the Independent Engineer shall instruct the Technical Party owning such Metering System to promptly recalibrate, repair or replace such system at the relevant Technical Party's expense.
- 14.6.2 A Technical Party wishing to recalibrate, repair or replace a Metering System shall notify the other Technical Party and the Independent Engineer so that any recalibration, repair or replacement of a Metering System may be witnessed by the Technical Party not owning such Metering System (and the Independent Engineer) and, upon completion of any such recalibration, repair or replacement, such Metering System shall be jointly sealed by the Technical Parties (in the presence of the Independent Engineer).

14.7 Testing and Access

- 14.7.1 Either Technical Party shall be entitled to request at any time a test of any component of a Metering System. The Technical Party calling for such test shall be responsible for all costs associated with such test unless such test discloses that the accuracy of the tested component is outside the Metering Tolerance, in which case, the Technical Party that owns such component shall bear all such costs and shall repair, replace or recalibrate such component as necessary.
- 14.7.2 Each Technical Party or its representatives or designees shall be entitled to be present at, and to receive reasonable advance notice of, any test, inspection, maintenance and replacement of any part of any Metering System owned by the other Technical Party.
- 14.7.3 The Independent Engineer and KW&SC and its designees shall have the right to enter upon the Site or enter the KWC at such times as may reasonably be required to enjoy its rights or perform its obligations pursuant to this clause 14 and for the purposes of maintaining any equipment on the Site owned or operated by it. When so doing, KW&SC and the Independent Engineer shall (and shall ensure that any of its designees shall) act in accordance with Good International Industry Practices and the Company's reasonable safety regulations and procedures.

14.8 Water Quality

- 14.8.1 The Company shall perform water quality tests on a continuous basis by means of:
- 14.8.1.1 the Monitoring Systems; and
 - 14.8.1.2 physical testing and analysis of water samples by an authorised third party approved by the GoS Parties in writing at least once a Day;
- each in accordance with appendix 1 and the Operating and Maintenance Procedures.
- 14.8.2 For the purposes of calculating the Deduction for Off-Spec Output Water and determination of Bypass Input Water, Bypass Off-Spec Mixed Water, Off-Spec Mixed Water, Off-Spec Input Water, Off-Spec Output Water, and Within Spec Input Water, the results obtained through physical testing and analysis of water samples by an authorised third party approved by the GoS Parties in writing in accordance with the Operating and Maintenance Procedures, shall apply. All payments to be made to such third party shall be borne by the Company.
- 14.8.3 The Company warrants that no Bypass Input Water or Bypass Off-Spec Mixed Water shall be delivered to KW&SC at the Output Water Connection Point. Determination of whether water constitutes Bypass Input Water or Bypass Off-Spec Mixed Water shall be made in accordance with appendix 1.
- 14.8.4 If water delivered or proposed to be delivered to the Output Water Connection Point does not conform to the Output Water Quality Specifications, the Independent Engineer shall give notice to the Company, as soon as practicable upon becoming aware of such failure, confirming whether, such water is to be accepted or rejected. If the Independent Engineer rejects any water that does not conform to the Output Water Quality Specifications, the provisions of clause 14.8.5 shall apply. If the Independent Engineer

accepts any water that does not conform to the Output Water Quality Specifications, the provisions of appendix 8 shall apply to determine the extent to which the Company is compensated for such supply.

14.8.5 The Company shall ensure that all Bypass Input Water, Bypass Off-Spec Mixed Water and water rejected in terms of clause 14.8.4 is discharged to the Bypass Water Connection Point.

15. RECORDS, REPORTING AND AUDIT

15.1 Monitoring Rights

15.1.1 The Independent Appointees and the GoS Parties and their duly appointed representatives shall have the right to:

15.1.1.1 monitor the Project; and

15.1.1.2 review and make copies of all materials required to be obtained and retained by the Company pursuant to clause 6.4 and all materials pertinent to the exercise of audit rights pursuant to clause 15.2.

15.1.2 The purpose of such monitoring and review shall be to determine:

15.1.2.1 in the case of C&O Activities, whether the KWC is (or is being) designed, engineered, manufactured, supplied, procured, transported, erected, constructed, rehabilitated, installed, tested and commissioned in accordance with the design and equipment parameters set out in appendix 1, and to observe the progress of the Mobilisation Activities and the C&O Activities; and

15.1.2.2 in the case of O&M Activities, to determine whether the KWC is being operated and maintained in accordance with the terms of this Agreement.

15.1.3 The Company shall permit the Independent Engineer and KW&SC and their duly appointed representatives to conduct such monitoring and review at any time and, following the Project Commercial Operations Date, during normal operating hours, in each case, upon reasonable notice to the Company.

15.1.4 Such monitoring and review shall be conducted in the presence of and, in the case of inquiries addressed to the Company's employees and contractors, through suitably qualified, appropriate representative(s) of the Company designated by the Company for this purpose.

15.1.5 The Company agrees to designate such a representative or representatives and to make such representative(s) available for all such monitoring and review. In the case of monitoring of equipment or supplies, the Independent Engineer and KW&SC shall have the right to conduct such monitoring with the prior approval of the Company, which shall not be unreasonably withheld or delayed, in the presence of a representative of the Company, at any and all locations inside or outside Pakistan at which such equipment and supplies are designed, manufactured, assembled or tested.

- 15.1.6 The Company shall ensure that the EPC Contract and the O&M Contract provide for such rights and shall require the EPC Contractor and the O&M Contractor to require that their contracts with subcontractors and suppliers provide for such rights.
- 15.1.7 The foregoing provisions shall be without prejudice to the Independent Engineer's and KW&SC's inspection, monitoring and review rights with respect to the KWC (or any part thereof) in connection with testing pursuant to appendix 5 or as otherwise provided in this Agreement.
- 15.1.8 The Company shall provide to the Independent Appointees and the GoS Parties, promptly, and in any event within seven (7) Days of becoming aware, a report describing the occurrence of any act or condition materially affecting the Project or the Company's ability to perform any of its obligations under this Agreement and any other Project Agreements to which the Company is a party.
- 15.1.9 The Company hereby agrees that:
- 15.1.9.1 any monitoring or review by any of the Independent Appointees or the GoS Parties (or their representatives) pursuant to this clause 15.1 is solely for information, and by conducting any such monitoring or review, neither the Independent Appointees nor the GoS Parties (or their representatives) make (or shall be construed to make) any endorsement of the design, or representation or warranty of the safety, durability, or reliability of the KWC or any part thereof; and
 - 15.1.9.2 it shall in no way represent to any third party that, as a result of any monitoring or review by Independent Appointees and the GoS Parties (or their representatives) pursuant to clause 15.1, the Independent Appointees and the GoS Parties (or their representatives) are in any way responsible for the engineering, design or construction soundness of the KWC.

15.2 Books and Records and Audit Rights

- 15.2.1 The Company shall comply with the Accounting Principles and maintain proper books, data and records in accordance with the Law and this Agreement.
- 15.2.2 The Independent Appointees and the GoS Parties (and their duly appointed representatives) may at reasonable times, and at their expense, audit the Company's books, data and records in relation to testing, metering, invoicing, payments, Claims, claims for Increased Costs, termination payments, reimbursements and any other charges to GoS, in all such cases for the purpose of determining whether the Company's charges to GoS have been computed in accordance with this Agreement.
- 15.2.3 The Independent Appointees and the GoS Parties shall have the right, upon reasonable prior notice to the Company, to examine and/or make copies of the books, data and records referred to in clause 15.2.2 during normal office hours during the period such books, data and records are required to be maintained pursuant to clause 15.2.4.
- 15.2.4 All books, data and records referred to in this clause 15.2 shall be maintained by the Company until the Final Expiry Date. The Company shall provide a notice to KW&SC thirty (30) Days prior to the Final Expiry Date for handing over custody of such books,

data and records to KW&SC, and KW&SC shall be entitled to take custody of the same within twenty (20) Days of the date of receipt of the notice provided by the Company hereunder.

15.2.5 The Company shall provide to the Independent Appointees and the GoS Parties, such information concerning the operational and financial performance of the Project and the Company, as the Independent Appointees and the GoS Parties may reasonably require.

15.2.6 The Company hereby agrees that:

15.2.6.1 any receipt, review or audit by any of the Independent Appointees or the GoS Parties (or their representatives) of any books, data, records or other documentation or information pursuant to this clause 15.2 is solely for information purposes and by such receipt, review or audit, neither the Independent Appointees nor the GoS Parties (or their representatives) make (or shall be construed to make) any endorsement as to the accuracy and completeness of any books, data or records; and

15.2.6.2 it shall in no way represent to any third party that, as a result of any receipt, review or audit by the Independent Appointees and the GoS Parties (or their representatives) of any books, data or records pursuant to this clause 15.2, the Independent Appointees and the GoS Parties (or their representatives) are in any way responsible for accuracy and completeness of any such books, data or records.

15.2.7 The Company shall provide to the Independent Appointees and the GoS Parties an updated financial model within three (3) Business Days after any update to the financial model is made following a reasonable request by any of the Independent Appointees or the GoS Parties.

16. COVENANTS

16.1 Licences, Permits and Consents

The Company shall, as soon as reasonably practicable and in any event within seven (7) Days of request, deliver to the Independent Appointees and KW&SC copies of all Approvals that have been issued to the Company and not previously delivered to the Independent Appointees and KW&SC.

16.2 Other Business

The Company shall not:

16.2.1 engage in any business activity other than as reasonably required to perform its obligations and enjoy its rights under this Agreement;

16.2.2 use the water from the KWC for any purpose other than the Project;

16.2.3 enter into any agreement of merger, consolidation or amalgamation with any entity; or

16.2.4 substantially amend or alter its memorandum of association and/or articles of association without the prior written approval of the Independent Appointees and the GoS.

16.3 Contractors' Appointment, Project Agreements, Financing Documents and Refinancing

16.3.1 Prior to the Mobilisation Date,

16.3.1.1 a change of the EPC Contractor (including any member of the EPC Contractor) shall be subject to the prior written approval of the GoS Parties. The proposed new EPC Contractor or the proposed new member of the EPC Contractor, as the case may be, must meet the relevant EPC Contractor Criteria as confirmed by the Independent Engineer and consented to by KW&SC, such confirmation not to be unreasonably withheld or delayed; and

16.3.1.2 Company shall ensure that the proposed O&M Contractor meets the O&M Contractor Criteria and the relevant documentation has been submitted to KW&SC for determination.

16.3.2 Drafts of the EPC Contract and O&M Contract to be entered into by the Company shall be provided to the Independent Engineer (with a copy to the GoS) for review at least thirty (30) Days prior to the Scheduled Mobilisation Date. The GoS shall, within ten (10) Business Days of its receipt of the proposed EPC Contract and the O&M Contract, provide its comments or observation on the same, if any, to the Independent Engineer. The Independent Engineer shall within fifteen (15) Days of the delivery of the proposed EPC Contract and O&M Contract, provide its comments on the same, in consultation with the GoS after addressing any objection by the GoS. Prior to execution of the EPC Contract or the O&M Contract, the Company shall address any comments made by the Independent Engineer. In the event the Independent Engineer fails to provide its comments on the proposed EPC Contract or O&M Contract within fifteen (15) Days of the delivery of the same by the Company, the EPC Contract or O&M Contract (as the case maybe) shall be deemed to have been approved by the Independent Engineer. Promptly following the execution and delivery of the EPC Contract and the O&M Contract, the Company shall deliver copies to the Independent Engineer and the GoS Parties.

16.3.3 The Company shall ensure that the Financing Documents conform to the debt financing term sheet of the Financing Parties submitted as part of the Proposal, unless otherwise approved in writing by the Independent Auditor and the GoS. Promptly following the execution and delivery of the Financing Documents, the Company shall deliver copies thereof to the Independent Appointees and the GoS Parties.

16.3.4 The Company may not enter into:

16.3.4.1 any material amendments, modifications or supplements to, or waivers under any of the Project Agreements; or

16.3.4.2 any material amendments, modifications or supplements to, or waivers under any of the Financing Documents; or

16.3.4.3 any material new contracts after the Commencement Date, including any new construction contract for construction activities on the Site,

without first giving the Independent Appointees and the GoS thirty (30) Days' notice (or sixty (60) Days' notice where clause 16.3.6 applies) of such matter (along with relevant documentation that may be necessary for assessment by the Independent Appointees and the GoS) and obtaining the prior written approval of the Independent Engineer and the GoS), which approvals shall not be unreasonably withheld or delayed and which shall be deemed to have been granted if the Independent Engineer and the GoS do not object to such matter within thirty (30) Days of receiving notice thereof, provided that:

- (i) no approval shall be deemed to have been granted by the Independent Appointees or the GoS if: (a) the Company shall have failed to provide such information as the Independent Appointees or the GoS may reasonably request to evaluate the matter proposed; or (b) the GoS Parties or the Independent Appointees consider that the substitute EPC Contractor does not meet (at minimum) the EPC Contractor Criteria or the substitute O&M Contractor does not meet (at minimum) the O&M Contractor Criteria ; and
- (ii) in relation to any proposed Refinancing, the GoS or the Independent Appointees may withhold approval at their absolute discretion if such changes adversely affect the GoS' rights or obligations under any Relevant Agreement (including giving rise to any increase in the GoS' financial obligations (whether actual or contingent) at any point in time under any Relevant Agreement) or the Company's or any Sponsor's ability to perform its obligations under any Project Agreement.

16.3.5 Promptly following the execution and delivery of any items referred to in clauses 16.3.4.1 to 16.3.4.3 (inclusive), the Company shall deliver a copy of all relevant documents to the Independent Appointees and the GoS Parties.

16.3.6 Not later than sixty (60) Days prior to the execution by the Company of any amendments, modifications or supplements to, or consent to any change of any provision of, or waiver under:

16.3.6.1 the EPC Contract or the O&M Contract that would result in:

- (a) a change of the EPC Contractor or the O&M Contractor;
- (b) a material change to the scope of work of the EPC Contractor or the O&M Contractor;
- (c) a material change to the performance standards to which the EPC Contractor or the O&M Contractor is subject; or
- (d) a change, in the case of the EPC Contract only, to:

- (i) the critical path schedule under the EPC Contract, to the extent such change could affect the ability of the Company to meet the Implementation Schedule; or
- (ii) a major piece of equipment as to either its manufacturer or country of origin; or

16.3.6.2 the Financing Documents that would result in a Refinancing,

the Company shall deliver to the Independent Appointees and the GoS Parties a notice executed by a duly authorised officer, setting out the terms of any of the foregoing in reasonable detail including calculations for consideration by the Independent Auditor for determination of any Refinancing Gains.

16.3.7 The Company acknowledges and agrees that no review or approval (actual or deemed) by the Independent Appointees or the GoS Parties of any amendments, modifications, supplements, waivers or new contracts pursuant to clause 16.3.4 shall in any way relieve the Company from any liability it would otherwise have under this Agreement, and that neither the Independent Appointees nor the GoS Parties (or any of their representatives) shall be liable to the Company, the relevant Contractor or the Financing Parties by reason of their review or approval of the amendments, modifications, supplements, waivers or new contracts.

16.3.8 The Company acknowledges and agrees that sixty percent (60%) of any economic benefit arising out of a Refinancing shall be shared with the GoS (the “**Refinancing Gain**”). The Refinancing Gain shall be determined by the Independent Auditor based on the calculations provided by the Company in respect of the proposed Refinancing and such other information and calculations as may be reasonably required by the Independent Auditor from the Company. The GoS shall select the mechanism for applying the Refinancing Gain (in the aforesaid ratio), through (one or a combination of the following):

16.3.8.1 upfront or staggered payments to the GoS;

16.3.8.2 reduction in Service Payments; or

16.3.8.3 any other mechanism agreeable to the Commercial Parties, which in each case, shall take effect from the date when the Refinancing Gain is realised.

16.3.9 The Company shall not introduce any form of balloon loan or balloon structure, in each case whether or not such balloon loan or balloon structure is supported by letters of credit or letters of guarantee of any form.

16.3.10 The Company shall pay, on behalf of the GoS, all reasonable costs and fees of external advisers appointed by the GoS for the purposes of considering any approval or review of any documents (including amendments, modifications or supplements to, or waivers pursuant to, any Financing Document or Project Agreement) as contemplated in this clause 16.3.

16.4 Compliance with Applicable Legal Requirements

Each Party agrees that all applicable Legal Requirements shall govern their performance of this Agreement, and each shall respectively comply in all material respects with the applicable Legal Requirements and shall keep in full force and effect all Approvals required to be in their respective names for the performance of their respective obligations under this Agreement and the other Project Agreements to which it is a party. Without limiting the generality of the foregoing, the Company specifically acknowledges that the applicable Legal Requirements may from time to time prohibit the import of goods or services manufactured, supplied, or performed from or by any Adverse Person and undertakes not to import any such goods or services. The Company, in addition to the foregoing, agrees to fully comply with the Asian Development Bank's Anticorruption Policy, 1998, as amended from time to time.

16.5 Site Related Undertakings

The Company agrees and undertakes that:

- 16.5.1 it shall take all necessary measures to confine the Project Activities, its personnel and equipment to the Site and not encroach on any Adjoining Property;
- 16.5.2 it shall make good any damage to any roads, footpaths, conduits, and other works on any Adjoining Property, which is caused by the Company or its Contractors or employees; and
- 16.5.3 it shall use all reasonable endeavours not to do or permit to be done anything which might:
 - (A) cause destruction, scarring or defacing of natural surroundings in the vicinity of the Site;
 - (B) be or become a danger or nuisance or give rise to liability in tort to any owners or occupiers of the Adjoining Property or to members of the public; or
 - (C) cause any contamination or damage to any Adjoining Property.

17. INDEPENDENT APPOINTEES

17.1 Selection of Independent Engineer

17.1.1 Within ten (10) Days from the Effective Date, the Company shall provide the GoS Parties with a list of three (3) reputable firms of engineers for appointment of the Independent Engineer (the "**First IE List**"). In the event the proposed Independent Engineer is a consortium of engineers then: (a) a lead consortium member shall serve as the lead Independent Engineer and shall be fully responsible for the overall management, coordination and implementation of the services under the Independent Engineer Contract; and (b) the consortium members shall be jointly and severally liable for the services under the Independent Engineer Contract.

17.1.2 Within seven (7) Days of receipt by the GoS Parties of the First IE List, the GoS Parties shall (subject to one (1) of the firms in the First IE List being acceptable to the GoS) select a firm of engineers from First IE List and the Parties shall finalise and execute the Independent Engineer Contract.

- 17.1.3 If the firms of engineers identified in the First IE List are not acceptable to the GoS Parties, the Parties shall select as the Independent Engineer a firm acceptable to them and the Parties shall finalise and execute the Independent Engineer Contract.
- 17.1.4 The Independent Engineer Contract shall be executed within thirty (30) Days from the Effective Date.
- 17.1.5 The Independent Engineer shall provide the services set out in the Independent Engineer Contract, which shall be in accordance with the Indicative Independent Engineer Terms of Reference, provided, however, upon execution of the Independent Engineer Contract, the terms and conditions including scope of work under the Independent Engineer Contract shall supersede.

17.2 Term of Appointment of the Independent Engineer

- 17.2.1 The appointment of the Independent Engineer shall initially be for a term not less than the C&O Period (the “**Independent Engineer Initial Term**”).
- 17.2.2 The Company shall ensure that until the Final Expiry Date, an Independent Engineer is retained for the purposes of carrying out the functions of the Independent Engineer under this Agreement.
- 17.2.3 Prior to the expiry of the Independent Engineer Initial Term, the Company, the Sponsors and the GoS shall have the option to extend the Independent Engineer Contract (on terms and conditions agreeable to the Company, the Sponsors, the GoS and the Independent Engineer) or appoint a new independent engineer (such appointment to be effective upon expiry of the Independent Engineer Initial Term). In the event a new Independent Engineer is to be appointed, the Parties shall follow the process set out in clause 17.1, *mutatis mutandis*, for appointment of a new independent engineer so as to ensure that at all times until the Final Expiry Date an Independent Engineer is retained.
- 17.2.4 The Parties shall have the right to terminate the Independent Engineer Contract in accordance with its terms, provided, however, that prior to such termination and subject to clause 17.5, the Commercial Parties shall endeavour to select and appoint a replacement Independent Engineer and execute (with KW&SC), the Independent Engineer Contract.
- 17.2.5 The Company shall ensure that all provisions of this Agreement pertaining to the Independent Engineer and its responsibilities in respect of the matters set out herein are duly incorporated in the Independent Engineer Contract.

17.3 Independent Engineer Authorized Signatories

- 17.3.1. The Parties shall require the Independent Engineer to designate and notify, suitably qualified and appropriate representatives, authorized to represent the Independent Engineer in all matters relating to this Agreement and sign for and on behalf of the Independent Engineer any communication or document required to be signed by the Independent Engineer (the “**Independent Engineer Authorized Representative(s)**”). Any document shall be valid and effective only if it is signed by such Independent Engineer Authorized Representative. The Independent Engineer, may by prior notice

in writing to the Parties, substitute the Independent Engineer Authorized Representative.

17.4 Decision of Independent Engineer & Dispute Resolution

- 17.4.1 Subject to clause 17.4.2, any advice, instruction, certification, approval or determination of the Independent Engineer shall be binding on the Parties.
- 17.4.2 In the event the GoS, KW&SC, the Sponsors or the Company disagree with any decision of the Independent Engineer, then it will be deemed as a Dispute under this Agreement and shall be resolved in accordance with clause 27.
- 17.4.3 The Company shall be responsible for procuring from the Independent Engineer any approval, consent, determination, certificate or other document or decision required or contemplated under any Relevant Agreement within the necessary timelines stated herein and any delay in the procurement of the same shall not give raise to any claim for extension in the Scheduled Mobilisation Date, Scheduled Commencement Date or Scheduled Project Commercial Operations Date, adjustment in the Implementation Schedule or any additional payments (including Increased Costs).

17.5 Independent Engineer Remuneration

17.5.1. Subject to funding in accordance with clause 17.5.2, the Company (and, until the Commencement Date, the Sponsors) shall be solely responsible for the payment of fees and expenses due to the Independent Engineer under the Independent Engineer Contract (the “**Independent Engineer Payments**”). In the event the Independent Engineer terminates the Independent Engineer Contract due to the Independent Engineer Payments not being paid, the GoS (without prejudice to its rights under clause 21) shall be entitled to appoint a third party to carry out the functions of the Independent Engineer (the “**GoS Appointed IE**”) and all fees and expenses relating to the same shall be payable on demand of the GoS by the Sponsors or the Company (as the case maybe). The GoS shall be entitled to encash the Performance Securities (to the extent demanded) or deduct such amounts from payments due by the GoS to the Company, in case the Sponsors or the Company fail to provide the necessary funds demanded by GoS to pay the GoS Appointed IE. Where a GoS Appointed IE is appointed by the GoS, all references to Independent Engineer herein shall be considered as a reference to the GoS Appointed IE.

17.5.2. The Independent Engineer Payments shall be funded by the:

17.5.2.1 Sponsors from the date of signing of the Independent Engineer Contract until the Commencement Date; and

17.5.2.2 Company from the Commencement Date until the Final Expiry Date.

17.6 Independent Engineer Payment Account

17.6.1 The Company shall establish and maintain the Independent Engineer Payment Account from the date of signing of the Independent Engineer Contract until the Final Expiry Date.

17.6.2 The Company shall issue standing instructions (that may be suspended, amended or revoked only with the consent of the Parties) to the Independent Engineer Payment Account Bank (the “**Independent Engineer Payment Account Standing Instructions**”) for making payments to the Independent Engineer in accordance with the Independent Engineer Contract.

17.7 Selection of Independent Auditor

17.7.1 Within ten (10) Days from the Effective Date, the Company shall provide the GoS with a list of three (3) reputable firms of auditors for appointment of the Independent Auditor (the “**First IA List**”). In the event the proposed Independent Auditor is a consortium of auditors then: (a) a lead consortium member shall serve as the lead Independent Auditor and shall be fully responsible for the overall management, coordination and implementation of the services under the Independent Auditor Contract; and (b) the consortium members shall be jointly and severally liable for the services under the Independent Auditor Contract.

17.7.2 Within seven (7) Days of receipt by the GoS of the First IA List, the GoS shall (subject to one (1) of the firms in the First IA List being acceptable to the GoS) select a firm of auditors from First IA List and the Parties shall finalise and execute the Independent Auditor Contract.

17.7.3 If the firms of auditors identified in the First IA List are not acceptable to the GoS, the Commercial Parties shall select as the Independent Auditor a firm acceptable to them and the Parties shall finalise and execute the Independent Auditor Contract.

17.7.4 The Independent Auditor Contract shall be executed within thirty (30) Days from the Effective Date.

17.7.5 The Independent Auditor shall provide the services set out in the Independent Auditor Contract which shall be in accordance with the Indicative Independent Auditor Terms of Reference, provided, however, upon execution of the Independent Auditor Contract, the terms and conditions including scope of work under the Independent Auditor Contract shall supersede.

17.8 Term of Appointment of the Independent Auditor

17.8.1 The appointment of the Independent Auditor shall initially be for a term not less than the C&O Period (the “**Independent Auditor Initial Term**”).

17.8.2 The Company shall ensure that until the Final Expiry Date, an Independent Auditor is retained, for the purposes of carrying out the functions of the Independent Auditor under this Agreement.

17.8.3 Prior to the expiry of the Independent Auditor Initial Term, the Company, the Sponsors and GoS shall have the option to extend the Independent Auditor Contract (on terms and conditions agreeable to the Company, the Sponsors, GoS and the Independent Auditor) or appoint a new independent auditor (such appointment to be effective upon expiry of the Independent Auditor Initial Term). In the event a new Independent Auditor is to be appointed, the Commercial Parties shall follow process set out in clause

17.7, *mutatis mutandis*, for appointment of a new independent auditor so as to ensure that at all times until the Final Expiry Date, an Independent Auditor is retained.

17.8.4 The Commercial Parties shall have the right to terminate the Independent Auditor Contract in accordance with its terms provided, however, that prior to such termination and subject to clause 17.11, the Commercial Parties shall endeavour to select and appoint a replacement Independent Auditor and execute (with KW&SC), the Independent Auditor Contract.

17.8.5 The Company shall ensure that all provisions of this Agreement pertaining to the Independent Auditor and its responsibilities in respect of the matters set out herein are duly incorporated in the Independent Auditor Contract.

17.9 Independent Auditor Authorized Signatories

17.9.1 The Parties shall require the Independent Auditor to designate and notify, suitably qualified and appropriate representatives, authorized to represent the Independent Auditor in all matters relating to this Agreement and sign for and on behalf of the Independent Auditor any communication or document required to be signed by the Independent Auditor (the **“Independent Auditor Authorized Representative(s)”**). Any document shall be valid and effective only if is signed by such Independent Auditor Authorized Representative. The Independent Auditor may, by prior notice in writing to the Parties, substitute the Independent Auditor Authorized Representative.

17.10 Decision of Independent Auditor & Dispute Resolution

17.10.1 Subject to clause 17.10.2, any advice, instruction, certification, approval or determination of the Independent Auditor shall be binding on the Parties.

17.10.2 In the event the GoS, KW&SC, the Sponsors or the Company disagree with any decision of the Independent Auditor, then it will be deemed as a Dispute under this Agreement and shall be resolved in accordance with clause 27.

17.10.3 The Company shall be responsible for procuring from the Independent Auditor any approval, consent, determination, certificate or other document or decision required or contemplated under any Relevant Agreement within the necessary timelines stated herein and any delay in the procurement of the same shall not give raise to any claim for extension in the Scheduled Mobilisation Date, Scheduled Commencement Date or Scheduled Project Commercial Operations Date, adjustment in the Implementation Schedule or any additional payments (including Increased Costs).

17.11 Independent Auditor Remuneration

17.11.1 Subject to funding in accordance with clause 17.11.2, the Company (and, until the Commencement Date, the Sponsors) shall be solely responsible for the payment of fees and expenses due to the Independent Auditor under the Independent Auditor Contract (the **“Independent Auditor Payments”**). In the event the Independent Auditor terminates the Independent Auditor Contract due to the Independent Auditor Payments not being paid, the GoS (without prejudice to its rights under clause 21) shall be entitled to appoint a third party to carry out the functions of the Independent Auditor (the **“GoS Appointed IA”**) and all fees and expenses relating to the same shall be payable on

demand of the GoS by the Sponsors or the Company (as the case maybe). The GoS shall be entitled to encash the Performance Securities (to the extent demanded) or deduct such amounts from payments due by the GoS to the Company, in case the Sponsors or the Company fail to provide the necessary funds demanded by GoS to pay the GoS Appointed IA. Where a GoS Appointed IA is appointed by the GoS, all references to Independent Auditor herein shall be considered as a reference to the GoS Appointed IA.

17.11.2 The Independent Auditor Payments shall be funded by the:

17.11.2.1 Sponsors from the date of signing of the Independent Auditor Contract until the Commencement Date; and

17.11.2.2 Company from Commencement Date until the Final Expiry Date.

17.12 Independent Auditor Payment Account

17.12.1 The Company shall establish and maintain the Independent Auditor Payment Account from the date of signing of the Independent Auditor Contract until the Final Expiry Date.

17.12.2 The Company shall issue standing instructions (that may be suspended, amended and/or revoked only with the consent of the Commercial Parties) to the Independent Auditor Payment Account Bank (the “**Independent Auditor Payment Account Standing Instructions**”) for making payments to the Independent Auditor in accordance with the Independent Auditor Contract.

18. INSURANCE

18.1 Insurance Policies

18.1.1 The Company, at its sole cost and expense, shall obtain and maintain in effect such Insurance Policies and coverage as is required by the Legal Requirements, the Financing Documents, Good International Industry Practices, appendix 3 and this clause 18 (the “**Insurance Policies**”), provided that such coverage may be changed from time to time with the prior written consent of the GoS Parties (in consultation with the Independent Appointees), which consent shall not be unreasonably withheld or delayed. Nothing under this clause 18.1 shall prevent the Company, at its sole cost and expense, from procuring insurance cover in addition to those required under this clause 18.1.

18.1.2 Subject to clause 18.4 and compliance with the Legal Requirements, any Insurance Policies or cover placed by the Company shall:

18.1.2.1 be placed through a competitive process; and

18.1.2.2 subject to compliance with other applicable Laws, include reinsurance to the extent of ninety-five percent (95%) of one hundred percent (100%) of sum insured with reputable underwriters having not less than Standard & Poor’s A-/AM Best A- or equivalent rating.

18.2 Policy Endorsements

18.2.1 The Company shall cause the insurers to provide the following endorsement items in the Company's 'Third-Party Liability' Insurance Policy (as provided in appendix 3) and, if applicable, umbrella or excess liability Insurance Policies, relating to the ownership, construction, rehabilitation, operation and maintenance of the KWC:

18.2.1.1 the GoS Parties and the Independent Appointees shall each receive at least thirty (30) Days prior notice of any cancellation of the Insurance Policies except in the event of non-payment of premium, in which case the prior notice of cancellation period shall be ten (10) Days and any such notice shall be delivered by facsimile and confirmed in writing delivered by first class mail or, if sent from an office outside Pakistan, by international courier;

18.2.1.2 the insurance shall be primary with respect to the interest of each GoS Party and any other insurance maintained by it is excess and not contributory with such Insurance Policies; and

18.2.1.3 a cross-liability clause shall be made a part of the policy to provide that in the event of claims being made by reason of:

(a) personal or bodily injuries suffered by any employee of one insured thereunder for which another insured thereunder is or may be liable; or

(b) damage to property belonging to any insured thereunder for which another insured thereunder is or may be liable,

then the policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies had been issued to each insured thereunder, except with respect to the limits of insurance.

18.2.2 The Company shall cause its insurers to waive all rights of subrogation against the GoS Parties (and their employees and contractors) and the Company (and its employees and Contractors) in respect of a claim arising under its Insurance Policies.

18.2.3 The Company shall be responsible for all deductibles under all policies.

18.3 Evidence of Cover

18.3.1 Not later than thirty (30) Days after the date any of the Insurance Policies and coverage required to be in effect in accordance with this clause 18 are issued, or renewed in accordance with their terms, the Company shall cause its insurers or agents to provide the GoS Parties and the Independent Appointees with such Insurance Policies, and where the Insurance Policies are being renewed, provide Insurance Policies evidencing the same terms and conditions as the expiring policies and coverage.

18.3.2 The Company shall provide the GoS Parties and the Independent Appointees with copies of receipts or statements from the Company's insurers evidencing payment by the Company of the premiums in respect of such Insurance Policies, reinsurance policies and cover.

18.4 Compliance with Insurance Obligations

- 18.4.1 With regard to clauses 18.1 to 18.3, to the extent that the Company is in compliance with insurance obligations under the Financing Documents which provide wider coverage, terms more favourable to the Company and include the policy endorsements set out in clause 18.2, the Company shall be deemed to be in compliance with its obligations under clauses 18.1 to 18.3.
- 18.4.2 Failure by the Company to obtain the insurance coverage or Insurance Policies required by clauses 18.1 or 18.3, respectively, shall not relieve the Company of its obligations under this clause 18 or in any way relieve or limit the Company's obligations and liabilities under any other provision of this Agreement.
- 18.4.3 If the Company fails to procure or maintain any insurance required pursuant to this clause 18, then the GoS Parties shall have the right to procure such insurance at the Company's expense, provided that the GoS Parties shall provide a twenty (20) Days prior notice to the Company of their intention to exercise such right, unless such intention arises from the Company's non-payment of premiums for existing insurance, in which case the GoS Parties shall provide at least five (5) Days' prior notice of such intention.
- 18.4.4 If the Company fails to reimburse the GoS Parties for such premiums within seven (7) Days of being notified to so do, the GoS Parties shall be entitled to payment of such amount(s) under the Performance Securities or by deducting such amount(s) from any payments due to the GoS Parties by the Company.

18.5 Application of Proceeds

Subject to clause 19.10, the Company shall apply any and all insurance proceeds received in connection with the damage to or loss of the KWC, toward the repair, reconstruction or replacement of the KWC, in accordance with the provisions of this Agreement.

19. FORCE MAJEURE

19.1 Force Majeure Event

A "**Force Majeure Event**" means any circumstance, event or condition (or combination thereof) beyond the reasonable control, directly or indirectly, of the Affected Party but only to the extent that:

- 19.1.1 such circumstance, event or condition, despite the exercise of diligence, cannot be prevented, avoided or overcome by the Affected Party;
- 19.1.2 such circumstance, event or condition prevents the performance by the Affected Party of its obligations under or pursuant to this Agreement (save for payment obligations);
- 19.1.3 such circumstance, event or condition was not foreseeable, or if foreseeable, could not have been prevented or avoided or overcome by the Affected Party having taken all reasonable precautions and due care;

- 19.1.4 the Affected Party has taken all reasonable precautions, due care and measures to prevent, avoid or overcome the effect of such circumstance, event or condition on its ability to perform its obligations under this Agreement and to mitigate its consequences;
- 19.1.5 such circumstance, event or condition is not the direct or indirect result of a breach or failure by the Affected Party to perform any of its obligations under this Agreement or any other Project Agreement (as the case may be);
- 19.1.6 such circumstance, event or condition is without fault or negligence of the Affected Party; and
- 19.1.7 the Affected Party has given the other Party notice in accordance with clause 19.5.1, and shall consist of “Natural Force Majeure Events” and “Political Force Majeure Events”.

19.2 Natural Force Majeure Event

A “**Natural Force Majeure Event**” means a Force Majeure Event which is not a Political Force Majeure Event, including:

- 19.2.1 lightning, fire, earthquake, unusual flood, storm, cyclone, tornado, tsunami, typhoon or other natural disaster or act of God;
- 19.2.2 pandemic, epidemic or plague;
- 19.2.3 accident, explosion or chemical contamination;
- 19.2.4 strikes, works to rule or go-slows (other than solely by employees of the Affected Party or its Affiliates);
- 19.2.5 the discovery of hydrocarbons on, under or within the Site; and
- 19.2.6 the discovery of unexploded bombs or munitions on or within the Site.

19.3 Political Force Majeure Event

A “**Political Force Majeure Event**” means:

- 19.3.1 acts of war (whether declared or not), invasion, armed conflict, act of foreign enemy or blockade in each case occurring within Pakistan or directly involving Pakistan;
- 19.3.2 acts of rebellion, riot, civil commotion, strikes of a political nature, act or campaign of terrorism, or sabotage of a political nature, in each case, occurring within Pakistan;
- 19.3.3 any boycott, sanction, embargo penalty or other restriction imposed directly on Pakistan by the government of **[insert main equipment and materials countries of origin]** during the period up to and including the latest of the Project Commercial Operations Date or the expiry of the relevant warranty period stipulated in the EPC Contract;
- 19.3.4 any action or failure to act by a Competent Authority, including any action or failure that results in any Approval:

19.3.4.1 ceasing to remain in full force and effect; or

19.3.4.2 not being issued or renewed in a timely manner upon due application having been made,

provided that the proper exercise of any rights of a Competent Authority in response to a Company default under or breach of the terms of any Approval, or any breach of any Legal Requirements by the Company, shall not constitute a Political Force Majeure Event; and

19.3.5 a Change in Law.

19.4 Certain Events Not Force Majeure Events

Notwithstanding that a Force Majeure Event may otherwise exist, the provisions of this clause 19 shall not excuse:

19.4.1 failure to make a payment of money in accordance with the Party's obligations under this Agreement;

19.4.2 any failure by the Company or its Contractors to obtain or maintain any Approval due to negligence or default by the Company or such Contractor;

19.4.3 any failure to research, consider, plan for or take into account reasonably foreseeable ground and weather conditions at the Site;

19.4.4 any failure by a Contractor which results in the failure or inability of the Company to perform its obligations under this Agreement where the cause of such failure by the Contractor would not otherwise constitute a Force Majeure Event pursuant to this Agreement;

19.4.5 late performance by the Company or any Contractor, caused by the failure of the Company or such Contractor for any reason, including failure to engage qualified sub-contractors and suppliers, failure to hire an adequate number of personnel or labour, or any failure of sub-contractors hired by the Company to perform their respective obligations;

19.4.6 late delivery of equipment, machinery, plant or materials caused by default, negligent acts or omissions on part of the Company or any Contractor;

19.4.7 inability to obtain or maintain adequate funding for the Project;

19.4.8 mechanical or electrical breakdown or failure of equipment, machinery or plant owned or operated by any Party due to the manner in which the equipment, machinery or plant has been operated or maintained;

19.4.9 delays resulting from reasonably foreseeable unfavourable weather (including monsoon) or sea conditions or other similar reasonably foreseeable adverse conditions;

19.4.10 delay or non-performance of any Project Activities as a result of SARS-CoV-2, except where the Company is restricted from undertaking Project Activities at the Site due to measures imposed by a Competent Authority, in which case such delay or non-

performance shall be treated as a Natural Force Majeure Event provided the Company has complied with the requirements of this clause 19 (as applicable to a Natural Force Majeure Event); and

19.4.11 submission of documents and/or drawings for approval by the GoS Parties or the Independent Appointees at a time which does not leave sufficient time for review thereof by the GoS Parties or the Independent Appointees within the time periods provided therefor in this Agreement.

19.5 Obligations

19.5.1 If a Party (the “**Affected Party**”) desires to invoke a Force Majeure Event as a cause for delay or failure in performance of any of its obligations under this Agreement (other than payment of money), it shall:

19.5.1.1 as soon as reasonably practicable (and in any event no later than ten (10) Days) after the Affected Party first had knowledge of the occurrence of a Force Majeure Event, as a condition precedent to its entitlement under this clause 19, give notice to the other Parties and the Independent Appointees of the circumstance, event or condition which it alleges constitutes the Force Majeure Event and an estimate of its likely duration. If the Affected Party does not deliver such notice in accordance with the terms hereof, such Affected Party shall not be entitled to invoke the benefits of clauses 3.3.1, 3.6.1, 8.4.1, 19 or 20 of this Agreement in respect of the relevant Force Majeure Event;

19.5.1.2 within ten (10) Days of the date of a notice issued pursuant to clause 19.5.1.1, provide a written report identifying the Force Majeure Event and the Affected Party’s understanding of its effects, including particulars of the circumstance, event or condition, a general description of the obligations likely to be affected, an estimate of its likely duration and a statement of the actions to be taken in order to comply with its obligations under this clause 19. If the Affected Party does not deliver such report in accordance with the terms hereof, such Affected Party shall not be entitled to invoke the benefits of clauses 3.3.1, 3.6.1, 8.4.1, 20 or 21 of this Agreement in respect of the relevant Force Majeure Event; and

19.5.1.3 from time to time, at reasonable intervals, and upon any reasonable request from any other Party, provide updates as to the matters set out in clause 19.5.1.2.

19.5.2 The Affected Party shall:

19.5.2.1 make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any Force Majeure Event, including recourse to alternate sources of services, equipment and materials, provided that, if there occurs a Force Majeure Event, the effects of which cannot be mitigated by the Company, and results in the KWC not delivering (wholly or partially) Net Water Output, the GoS Parties shall have the right to take such actions as are necessary to resume delivery of Net Water Output to ensure water is provided to end-consumers;

- 19.5.2.2 as soon as reasonably possible, and in accordance with Good International Industry Practice, ensure the resumption of normal performance of this Agreement after the cessation of any Force Majeure Event or its effects and shall otherwise perform its obligations under this Agreement to the extent not excused under this clause 19; and
- 19.5.2.3 within three (3) Days following the cessation of any Force Majeure Event, submit to the other Parties reasonable proof of the nature of such delay and its effect upon the performance of its obligations under this Agreement.
- 19.5.3 With respect to the Company only, if a Force Majeure Event occurs that affects the Company, such event may only be invoked with respect to the part of the Project affected by such event and not with respect to any other part of the Project not so affected, provided that, with respect to the operation of any part of the Project not so affected, such part of the Project is capable of independent or partial operation in accordance with Good International Industry Practice.

19.6 Effects of a Force Majeure Event Generally

The Affected Party shall not be liable for any delay or failure in performing its obligations under this Agreement due to a Force Majeure Event, provided that no relief shall be granted to the Affected Party pursuant to this clause 19 to the extent that such failure or delay:

- 19.6.1 would have nevertheless been experienced by the Affected Party had the Force Majeure Event not occurred; or
- 19.6.2 was caused by the failure of the Affected Party to comply with its obligations under clause 19.5.1.

19.7 Effects of a Force Majeure Event during C&O Period

If, during the C&O Period, a Force Majeure Event occurs which results in material damage to or loss of the KWC (while in the custody, care and control of the Company) or a delay in achieving the Project Commercial Operations Date, in addition to any remedies the Company may have under clause 8.4 or clause 20:

- 19.7.1 the Parties and the Independent Appointees shall consult with one another as soon as practicable after the giving of a notice as provided in clause 19.5.1.1 concerning the effect of such Force Majeure Event upon the Implementation Schedule, and the Implementation Schedule shall be adjusted equitably taking into account the effect which the Affected Party reasonably demonstrates is properly attributable to such Force Majeure Event and the ability of such Party to re-schedule its activities to minimise the overall delays to the Implementation Schedule resulting from such event;
- 19.7.2 if the Parties and the Independent Appointees are unable to agree upon the equitable adjustment to the Implementation Schedule within a period of sixty (60) Days from the date the notice referred to in clause 19.7.1 is received, the Dispute shall be referred for resolution pursuant to clause 27 for the determination of the adjustment to the Implementation Schedule; and

19.7.3 the GoS shall, during the C&O Period, continue to make Output Payments in respect of Net Water Output.

19.8 Effects of a Force Majeure Event After Project Commercial Operations Date

19.8.1 On and from the Project Commercial Operations Date:

19.8.1.1 if a Natural Force Majeure Event affects the ability of:

- (a) the Company to meet the Contracted Availability; or
- (b) KW&SC to perform its obligations under this Agreement,

GoS shall, during the NFME Period, continue to make:

- (i) Availability Payments based on the extent the KWC is capable of delivering Net Water Output as determined by the Independent Engineer (regardless of whether KW&SC is able to take delivery of Net Water Output at the Output Water Connection Point and without applying the Deduction for Reduced Water Availability); and
- (ii) Output Payments, in respect of Net Water Output;

19.8.1.2 if a Political Force Majeure Event affects the ability of the Company to meet the Contracted Availability, the GoS shall, during the PFME Period, continue to make:

- (a) Availability Payments in respect of Deemed Availability (without applying the Deduction for Reduced Water Availability); and
- (b) Output Payments in respect of Net Water Output;

19.8.1.3 If a Political Force Majeure Event does not affect the ability of the Company to meet the Contracted Availability, but affects the ability of the Company to deliver Net Water Output to KW&SC, the GoS shall, during the PFME Period, continue to make:

- (a) Availability Payments; and
- (b) Output Payments in respect of Net Water Output; and

19.8.1.4 if a Political Force Majeure Event affects the performance of KW&SC's obligations under this Agreement, GoS shall, during the PFME Period, continue to make:

- (a) Availability Payments; and
- (b) Output Payments in respect of the Net Water Output.

19.8.2 If the Company has incurred or suffered any Increased Cost as a result of a Political Force Majeure Event, the provisions of clause 20 shall apply.

19.9 Extension of Term

19.9.1 Without prejudice to the foregoing, if on or after the Project Commercial Operations Date:

19.9.1.1 there occurs a Natural Force Majeure Event affecting the Company, the Concession Period shall be extended by the period equivalent to the period during which the Contracted Availability (subject to deduction for Outages determined by the Independent Appointees) cannot be met (such extension to be reduced proportionately to the extent the KWC is partially Available and/or to the extent the Company receives insurance proceeds in respect of loss of revenue, compensating it for such Unavailability); and

19.9.1.2 there occurs a Political Force Majeure Event, the Concession Period may, at the GoS Parties' option, be extended by a period equivalent to any period of relief for a Political Force Majeure Event during which GoS has continued to pay the Availability Payments, provided that during any such extension period, GoS shall be obliged to pay only Component BW of the Availability Payment (determined pursuant to appendix 8) in respect of Contracted Availability, respectively.

19.9.2 Any extension period under clause 19.9.1.2 shall run successively with any extension granted under clause 19.9.1.1.

19.10 Reinstatement of the KWC

19.10.1 If a Force Majeure Event causes an Event of Loss, the Company shall rebuild, repair and/or restore the KWC, using all insurance proceeds or other amounts actually received on account of the Event of Loss, except proceeds from delay in start-up or business interruption insurance (collectively, "**Casualty Proceeds**"), together with any other amounts that are available to the Company for such rebuilding, repair and/or restoration, in accordance with this clause 19.10.

19.10.2 All Casualty Proceeds received by the Company shall be deposited by the Company into a restoration account segregated from all other funds of the Company (the "**Restoration Account**") to be applied as provided in clause 19.10.5. The Company:

19.10.2.1 shall diligently pursue all of its rights to compensation against any person with respect to such Event of Loss;

19.10.2.2 may, in the reasonable judgement of the Company, compromise or settle any claim against any person with respect to such Event of Loss; and

19.10.2.3 shall hold all amounts of Casualty Proceeds (including financial instruments) received by the Company in respect of any Event of Loss (after deducting all reasonable expenses incurred by the Company in litigating, arbitrating, compromising or settling any claims) in the Restoration Account.

19.10.3 As soon as reasonably practicable but no later than the date of receipt by the Company of any Casualty Proceeds, the Company shall make a good faith determination as to whether:

- 19.10.3.1 the KWC or such portion thereof that has been affected by the Event of Loss can be rebuilt, repaired, or restored to permit operations of the KWC or such portion thereof on a commercially feasible basis; and
- 19.10.3.2 the Casualty Proceeds, together with any other amounts that are available to the Company for such rebuilding, repair and/or restoration, are sufficient to permit such rebuilding, repair and/or restoration of the KWC or such portion thereof.
- 19.10.4 The determination of the Company under clause 19.10.3 shall be evidenced by a certificate of a responsible officer of the Company to be delivered to the Independent Appointees and the GoS Parties which, in the event the Company determines that the KWC or such portion thereof can be rebuilt, repaired and/or restored to permit operation thereof on a commercially feasible basis, shall also set out a reasonable good faith estimate by the Company of the total cost of such rebuilding, repair and/or restoration.
- 19.10.5 If the Parties agree or the Independent Appointees determine under clause 19.10.3 that:
- 19.10.5.1 the KWC cannot be rebuilt, repaired and/or restored to permit operations on a commercially feasible basis or that the Casualty Proceeds, together with any other amounts that are available to the Company for such rebuilding, repair and/or restoration, are not sufficient to permit such rebuilding, repair and/or restoration, then any Commercial Party may elect to terminate this Agreement in accordance with clause 21.8.3 and all of the Casualty Proceeds shall be distributed in the following order of priority:
- (a) first, to the payment of costs and expenses actually incurred and duly evidenced by the Company in the performance of its obligations under clause 19.10.7 and not already compensated for by way of payments otherwise received by the Company;
 - (b) second, to the payment of any amount due to the GoS Parties under the Project Agreements; and
 - (c) third, to the Company or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, any surplus then remaining from such proceeds;
- 19.10.5.2 only a portion of the KWC can be rebuilt, repaired and/or restored to permit operations on a commercially feasible basis and that the Casualty Proceeds, together with any other amounts that are available to the Company for such rebuilding, repair and/or restoration, are sufficient to permit such rebuilding, repair and/or restoration, then GoS may elect to terminate this Agreement in accordance with clause 21.8.3 and all of the Casualty Proceeds shall be distributed in the following order of priority:
- (a) first, to the payment of costs and expenses actually incurred and duly evidenced by the Company in the performance of its obligations under clause 19.10.7 and not already compensated for by way of payments otherwise received by the Company;

- (b) second, to the payment of any amount due to the GoS Parties under the Project Agreements; and
- (c) third, to the Company or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, any surplus then remaining from such proceeds;

or, if the GoS is not entitled to or does not elect to terminate this Agreement:

- (A) the amount equal to the estimate of the total cost of such rebuilding, repair and/or restoration agreed by the Parties or determined by the Independent Appointees shall be deposited in the Restoration Account to be applied towards the costs of rebuilding, repairing and/or restoring such portion of the KWC; and
- (B) the amount, if any, by which all of the Casualty Proceeds exceed the estimate of the total cost shall be distributed in the following order of priority:
 - (i) first, to the payment of any amount due to the GoS Parties under the Project Agreements; and
 - (ii) second, to the Company or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, any surplus then remaining from such proceeds; or

19.10.5.3 the KWC (if applicable) can be rebuilt, repaired and/or restored to permit operation on a commercially feasible basis and the Casualty Proceeds, together with any other amounts that are available to the Company for such rebuilding, repair and/or restoration, are sufficient to permit such rebuilding, repair and/or restoration, then all of the Casualty Proceeds, together with such other amounts as are available to the Company for such rebuilding, repair and/or restoration, shall be deposited in the Restoration Account to be applied toward the costs of rebuilding, repairing and/or restoring the KWC.

19.10.6 It is agreed that the Company shall not be required to deposit any Availability Payments payable by GoS under this Agreement, including in relation to:

19.10.6.1 Availability Payments under clause 8.4;

19.10.6.2 Contracted Availability under clause 19.8.1.1; and

19.10.6.3 Deemed Availability under clause 19.8.1.2,

into the Restoration Account or otherwise apply such Availability Payments to the rebuilding, repairing and/or restoring of the KWC or any part thereof pursuant to this clause 19.10.6 in an Event of Loss.

- 19.10.7 Upon the occurrence of an Event of Loss, the Company shall immediately take all necessary action, consistent with applicable Legal Requirements, to secure and make safe the KWC and the Site.
- 19.10.8 If the Company is required to restore the KWC, the Company shall promptly commence any restoration work and shall diligently pursue the same to completion, subject to a reasonable allowance for the time needed to adjust any insurance claims. Before the Company shall commence any such restoration, and at all times during the course of such restoration, the Company shall pay the GoS Parties all amounts due to the GoS Parties under the Project Agreements. In addition, at all times, the Company shall continue to perform and observe all of the terms, covenants, conditions, agreements and obligations of the Company to be performed under this Agreement and the other Project Agreements notwithstanding any Event of Loss.
- 19.10.9 If, at any time during restoration pursuant to clause 19.10.8, the Independent Engineer believes that the Company is not diligently pursuing the restoration activities, the Independent Engineer will specify a reasonable restoration timetable and if the Company subsequently fails to adhere to such timetable, the Company shall not be entitled to receive Availability Payments with respect to Deemed Availability pursuant to clause 19.8 until such time as restoration is complete and the Company has resumed normal performance of this Agreement in accordance with clause 19.5.2.2.
- 19.10.10 For the avoidance of doubt, in the event that only a part of the KWC is rebuilt, repaired and/or restored to allow operation on a commercially feasible basis as referred to in clause 19.10.5.2, the GoS shall continue to make Availability Payments under clause 19.8.1.2 in respect of the portion of the KWC that was unable to be rebuilt, repaired and/or restored, subject to clause 21.8.2.2.

20. INCREASED COSTS OR SAVINGS

20.1 Claim for Increased Costs or Savings

20.1.1 If:

20.1.1.1 any Party believes that:

- (a) a Political Force Majeure Event (other than a Change in Law) has occurred; or
- (b) a Change in Law has occurred;

that has resulted in Increased Costs or Savings; or

20.1.1.2 the Company believes that:

- (a) a failure to achieve the Commencement Date by the Scheduled Commencement Date (under the circumstances described in, and prior to any adjustment pursuant to, clause 3.6.1); or
- (b) a Relief Event;

has resulted in an Increased Cost,

then such Party shall promptly (and in any event within ten (10) Days after the affected Party first had knowledge of the relevant event or circumstance) and as a condition precedent to its entitlement to recover Increased Costs or Savings under this clause 20, issue a notice to the Independent Appointees, specifying:

- 20.1.1.3 the details of such Increased Costs or Savings;
- 20.1.1.4 details of the event or occurrence which gave or gives rise to such Increased Costs or Savings, providing reasonable evidence of the economic impact thereof which resulted in such Increased Costs or Savings; and
- 20.1.1.5 any other details required by this clause 20.1.

Such notification obligations shall be in addition to any notice or other requirements under clause 7 or clause 19 and shall be a condition precedent to a Party's entitlement to recover Increased Costs or Savings under this clause 20.

- 20.1.2 The Party that has made a claim for Increased Costs or Savings under clause 20.1.1 may thereafter, from time to time, deliver to the Independent Appointees additional notices identifying further Increased Costs or Savings that have resulted or are reasonably expected to result from the same circumstances, provided that any such additional notice shall be given not later than sixty (60) Days after the Party giving such notice, knew of, or should have known of, such additional Increased Costs or Savings.
- 20.1.3 The Company shall, acting in accordance with Good International Industry Practice, use all reasonable efforts to minimise any Increased Costs and maximise any Savings.
- 20.1.4 If the Parties are unable to agree with the Independent Appointees on contents of the notice(s) delivered pursuant to clause 20.1.1 or 20.1.2 within sixty (60) Days of receipt thereof, then the Dispute shall be referred for resolution pursuant to clause 27.
- 20.1.5 To the extent that a claim for Increased Costs or Savings under clauses 20.1.1 or 20.1.2 has been allowed by the Independent Appointees, or otherwise allowed under clause 27:
 - 20.1.5.1 with respect to an Increased Cost, if the Increased Cost occurs:
 - (a) prior to the Project Commercial Operations Date, the Company shall, to the extent available and permissible under the terms of the Financing Documents, draw on any funds under the Financing Documents, to fund such Increased Costs and/or request for injection of additional equity by the Shareholders; or
 - (b) during the Operating Period, the Company shall use its best efforts to raise additional capital to fund such Increased Costs; and
 - 20.1.5.2 the GoS shall (in consultation with the Independent Appointees) propose to the Company:

- (a) a mechanism to adjust (upward or downwards) either or both of the Availability Payments or Output Payments, as appropriate;
- (b) a mechanism to compensate the Company or the GoS (as applicable) through the payment of a lump-sum amount or staggered payments; and/or
- (c) an extension to the Concession Period,

which takes account of all relevant circumstances and is structured so as to put the Company into a neutral financial position which results in it deriving neither gain nor loss as a consequence of the relevant event giving rise to the claim under this clause 20.

20.1.6 Notwithstanding the foregoing, any:

20.1.6.1 Political Force Majeure Event; or

20.1.6.2 Relief Event;

that results in Increased Costs shall be funded:

- (a) by the Company drawing on any funds available under the Financing Documents or injection of additional equity by the Shareholders;
- (b) thereafter, by means of a lump-sum payment by the GoS under clause 20.1.5.2(b); and
- (c) in the event that the Company draws on any funds under the Financing Documents pursuant to clause 20.1.5.1(a), the GoS shall propose a mechanism to adjust (at the GoS' discretion) the Availability or Output Payments, as appropriate, as referred to in clause 20.1.5.2(a) to put the Company into a neutral financial position which results in it deriving neither gain nor loss as a consequence of the relevant event giving rise to the claim under this clause 20.

20.1.7 The Parties shall use reasonable endeavours to agree upon the appropriate adjustment or reimbursement mechanism within thirty (30) Days of the Company's receipt of the GoS' proposal under clause 20.1.5.2(b), failing which, the Dispute shall be referred for resolution pursuant to clause 27.2.

20.2 Claims in Aggregate

No Party shall be entitled to assert any claim for Increased Costs or Savings under this clause 20 until:

20.2.1 in the case of any claim for Increased Costs or Savings, asserted prior to the Project Commercial Operations Date, the earlier of: (a) the date thirty (30) Days after the end of the Construction Contract Year in which the relevant event or circumstance entitling the Party to claim Increased Costs or Savings occurred; and (b) the date on which the aggregate of all accrued and outstanding claims of such Party under this clause 20

exceeds the equivalent of Pakistani Rupees one hundred fifty million only (PKR 150,000,000/-); or

20.2.2 in the case of any claim for Increased Costs or Savings, asserted after the Project Commercial Operations Date, the earlier of: (a) the date thirty (30) Days after the end of the Operating Contract Year in which the relevant event or circumstance entitling the Party to claim Increased Costs or Savings occurred; and (b) the date on which the aggregate of all accrued and outstanding claims of such Party under this clause 20 exceeds the equivalent of Pakistani Rupees one hundred fifty million only (PKR 150,000,000/-),

at which time all accrued and outstanding claims of such Party may be asserted, provided that once such claims have been asserted, no future claims may be asserted until such time as all future claims again exceed such threshold, or the next annual deadline is reached.

21. TERMINATION

21.1 Expiry of the Term

Unless terminated earlier in accordance with this clause 21, this Agreement shall expire on the Term Expiry Date.

21.2 Termination due to Non-occurrence of the Mobilisation Date

21.2.1 If the Mobilisation Date is not achieved by the Scheduled Mobilisation Date (as may be extended pursuant to clause 3.3.3) then, provided that the Parties have first used their reasonable endeavours to adjust the Scheduled Mobilisation Date in accordance with clause 3.3.1, any Commercial Party may terminate this Agreement by issuing a Termination Notice to the other Parties, whereupon this Agreement shall terminate on the Termination Date or such later date as the Commercial Parties may agree in writing and, thereafter no Party shall have any liability to the other, provided that if such failure is due to: (a) reasons solely attributable to the Company, the Parties acknowledge and agree that GoS may draw upon and retain the full amount of the C&O Performance Security as payment of liquidated damages for such termination; or (b) reasons attributable to any of the GoS Parties, the GoS shall refund to the Company an amount in Pakistani Rupees equal to Value E on the Termination Payment Date converted into PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Day immediately preceding the Termination Date.

21.2.2 The Parties agree that:

21.2.1.1 the full amount of the C&O Performance Security are the actual losses that the GoS Parties will suffer in the event this Agreement is terminated for reasons solely attributable to the Company as set out in this clause 21.2; and

21.2.1.2 there is in any event a commercial justification and legitimate interest in imposing such liquidated damages as a payment for the termination of this Agreement for reasons set out in this clause 21.2 which would not be satisfied by a right to recover damages on an unliquidated basis for such default.

21.3 Termination due to Non-occurrence of the Commencement Date

21.3.1 If the Commencement Date is not achieved by the Scheduled Commencement Date (as may be extended pursuant to clause 3.6.3) then, provided that the Parties have first used their reasonable endeavours to adjust the Scheduled Commencement Date in accordance with clause 3.6.1, either Commercial Party may terminate this Agreement by issuing a Termination Notice to the other Parties, whereupon this Agreement shall terminate on the Termination Date or such later date as the Commercial Parties may agree in writing and, thereafter no Party shall have any liability to the other except for any amounts payable by the GoS in terms of clause 2.3.2 of the EFU Agreement (the “**Value D**”) and provided that if such failure is due to reasons solely attributable to the Company, the Parties acknowledge and agree that the GoS may draw upon and retain the full amount of the C&O Performance Security as payment of liquidated damages for such termination. On payment by the GoS of Value D to the Company, all the Company’s right, title and interest in the Project shall stand transferred to the GoS (or its nominee).

21.3.2 The Parties agree that:

21.3.2.1 the full amount of the C&O Performance Security are the actual losses that the GoS Parties will suffer in the event that this Agreement is terminated for reasons solely attributable to the Company as set out in this clause 21.3; and

21.3.2.2 there is in any event a commercial justification and legitimate interest in imposing such liquidated damages as a payment for the termination of this Agreement for reasons set out in this clause 21.3 which would not be satisfied by a right to recover damages on an unliquidated basis for such default.

21.4 Termination for Convenience

21.4.1 The GoS may at its absolute discretion and at any time, terminate this Agreement for convenience by giving at least two (2) Months’ Termination Notice to the Company, whereupon this Agreement shall terminate on the date of termination specified therein.

21.4.2 If the GoS exercises its right to terminate this Agreement for convenience pursuant to clause 21.4.1, during the Mobilisation Period, the Company shall sell, and the GoS shall purchase (on behalf of KW&SC), the Company’s right, title and interest in the Project for Value D.

21.4.3 If the GoS exercises its right to terminate this Agreement for convenience pursuant to clause 21.4.1, after the Commencement Date, the Company shall sell, and the GoS shall purchase (on behalf of KW&SC), the Company’s right, title and interest in the Project for Value A.

21.4.4 If the GoS exercises its right to terminate this Agreement for convenience pursuant to clause 21.4.1, prior to the Mobilisation Date, the GoS shall refund to the Company an amount in Pakistani Rupees equal to Value E on the Termination Payment Date converted into PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Day immediately preceding the Termination Date.

21.5 Company Event of Default

Except where the relevant event occurs as a consequence of a Relief Event or a GoS Event of Default, each of the following events shall constitute a “**Company Event of Default**”:

- 21.5.1 a failure by the Company to achieve the Project Commercial Operations Date on or before the Long Stop Date;
- 21.5.2 a failure by the Company to ensure that the Net Water Output meets the Output Water Quality Specifications, and such failure continues for ten (10) consecutive Days or for thirty (30) Days in a Billing Period;
- 21.5.3 in the C&O Period, the Actual NRW exceeds thirty-five percent (35%) during any four (4) consecutive Days period;
- 21.5.4 in the Operating Period, the Actual NRW exceeds fifteen percent (15%) during any four (4) consecutive Days period;
- 21.5.5 during the C&O Period, the Actual Loss of Water Output exceeds the Projected Losses of Net Water Output by six million eight hundred nineteen thousand one hundred thirty-five (6,819,135) m³ in any Billing Period or by one million seven hundred four thousand seven hundred eight three point seven five (1,704,783.75) m³ for five (5) consecutive Days;
- 21.5.6 during the Operating Period, the Actual Loss of Water Output exceeds the Projected Losses of Net Water Output by six million eight hundred nineteen thousand one hundred thirty-five (6,819,135) m³ in any Billing Period or by two million two hundred seventy-three thousand forty-five (2,273,045) m³ for five (5) consecutive Days;
- 21.5.7 in any Billing Period falling in the C&O Period, Deductions in such Billing Period exceed the Service Payment due in such period (before applying Deductions);
- 21.5.8 in any Billing Period falling in the Operating Period, Deductions in such Billing Period exceed the Availability Payment due in such period (before applying Deductions);
- 21.5.9 a failure by the Company to obtain and maintain any Approvals required under the Legal Requirements or by a Competent Authority in order for it to perform its obligations pursuant to this Agreement where the Company has failed to use all reasonable endeavours to obtain or renew such Approvals;
- 21.5.10 a failure by the Company to pay any undisputed liquidated damages within the time periods specified therefor under clauses 7.3 or 7.4, as applicable, or a failure by the Company to pay any other amount due under this Agreement within sixty (60) Days after such amount has become due and payable;
- 21.5.11 Abandonment;
- 21.5.12 a material breach by the Company of its obligations under this Agreement, which is not remedied within sixty (60) Days after notice from a GoS Party to the Company stating that a breach has occurred, identifying the breach and demanding remedy thereof provided that, notwithstanding the exercise of reasonable efforts by the Company, if such breach cannot be cured within the sixty (60) Days following the notice from the

GoS Party, the Company shall be afforded a further period of sixty (60) Days within which to cure such breach, provided always that the Company shall throughout such further sixty (60) Days period, exercise reasonable continuous efforts to cure the breach;

- 21.5.13 a material breach by the Company of the License Agreement;
- 21.5.14 a material breach by any Sponsor under the EFU Agreement;
- 21.5.15 termination of the Independent Engineer Contract by the Independent Engineer due to non-payment by the Company or the Sponsors, as applicable;
- 21.5.16 termination of the Independent Auditor Contract by the Independent Auditor due to non-payment by the Company or the Sponsors, as applicable;
- 21.5.17 the voluntary filing by the Company of a petition of bankruptcy, moratorium, winding up, or other similar relief and/or the passing of a resolution for the bankruptcy, insolvency, winding up, liquidation or other similar proceeding relating to the Company;
- 21.5.18 the appointment of a liquidator, custodian or similar person in respect of the Company in a proceeding referred to in clause 21.5.17, which appointment has not been stayed or set aside within sixty (60) Days of such appointment;
- 21.5.19 the making by a Competent Authority of an order for the winding up or otherwise confirming the bankruptcy or insolvency of the Company, which order has not been set aside or stayed within sixty (60) Days of such making;
- 21.5.20 a failure of the Company to return the Encashed Sums to the GoS in accordance with clause 12.2.8;
- 21.5.21 a failure of the Company to comply with its obligation to obtain and maintain the required insurances in accordance with clause 18;
- 21.5.22 a failure of the Company to establish, keep valid and maintain either of the Performance Securities in accordance with the terms of this Agreement;
- 21.5.23 a failure of the Company to increase the face amount of the O&M Performance Security by the Estimated Remedial Cost or extend the validity thereof, in each case, in accordance with the clause 21.10.3;
- 21.5.24 an event of default (howsoever described) has occurred under the Financing Documents;
- 21.5.25 any conditions to disbursement of debt by the Financing Parties under the Financing Documents have not been satisfied (unless waived in terms thereof);
- 21.5.26 termination of the Agreement in terms of clause 25.2.2; and
- 21.5.27 any event constituting a Company Event of Default under a Relevant Agreement.

21.6 GoS Event of Default

Except where the relevant event occurs as a consequence of a failure or delay on the part of the Company or a Company Event of Default, each of the following events shall constitute a “**GoS Event of Default**”:

- 21.6.1 a failure by the GoS to pay any undisputed Service Payments within thirty (30) Days from the due date therefor;
- 21.6.2 a failure by the GoS to make any undisputed payment under this Agreement, other than a Service Payment, within ninety (90) Days from the due date therefor;
- 21.6.3 the termination of the License Agreement due to a breach or default by KW&SC;
- 21.6.4 the termination of the EFU Agreement due to a breach or default by GoS;
- 21.6.5 the expropriation, nationalisation or compulsory acquisition of any material asset of the Company or any shares or other interest in the Company by any Competent Authority;
- 21.6.6 a material breach by a GoS Party of its obligations under this Agreement which is not remedied within sixty (60) Days after notice from the Company to the GoS Parties stating that a breach has occurred, identifying the breach and demanding remedy thereof provided that, notwithstanding the exercise of reasonable efforts by the relevant GoS Party, if such breach cannot be cured within sixty (60) Days following the notice from the Company, the GoS Party shall be afforded a further period of sixty (60) Days within which to cure such breach, provided always that the GoS Party shall throughout such further sixty (60) Days period, exercise reasonable continuous efforts to cure the breach;
- 21.6.7 a failure of the GoS to keep valid and maintain the GoS Payment Account in accordance with the terms of this Agreement;
- 21.6.8 a failure of the GoS to keep valid and maintain the GoS Service Payment SBLC (if applicable) in accordance with the terms of this Agreement;
- 21.6.9 prior the Financing Termination Date, the SBP Debit Authority is no longer valid and effective *unless* replaced with the GoS Termination SBLC in accordance with the terms of this Agreement;
- 21.6.10 where the GoS has established the GoS Termination SBLC, a failure of the GoS to keep valid and maintain the GoS Termination SBLC in accordance with the terms of this Agreement; and
- 21.6.11 the occurrence of an Unenforceability Event.

21.7 Termination due to an Event of Default

- 21.7.1 Upon the occurrence of a GoS Event of Default, the Company may give notice (the “**Company Notice of Intent to Terminate**”) to the GoS specifying in reasonable detail the relevant GoS Event of Default giving rise to such notice and the date upon which the Company proposes to terminate this Agreement, which date shall not be less than

thirty (30) Days after the date of the Company Notice of Intent to Terminate or such longer period as specified in this Agreement (the “**GoS Cure Period**”).

- 21.7.2 Upon the occurrence of a Company Event of Default, the GoS may give notice (the “**GoS Notice of Intent to Terminate**”) to the Company specifying in reasonable detail the relevant Company Event of Default giving rise to such notice and the date upon which the GoS proposes to terminate this Agreement, which date shall not be less than thirty (30) Days after the date of the GoS Notice of Intent to Terminate or such longer period as specified in this Agreement (the “**Company Cure Period**”), provided that upon the occurrence of any of the Company Events of Default under clauses 21.5.17, 21.5.18, or 21.5.19, the GoS may terminate this Agreement immediately.
- 21.7.3 During the Cure Period, the Commercial Parties shall consult as to what steps shall be taken, and the Defaulting Party shall use its reasonable efforts, to mitigate the consequences of, and cure, the relevant Event of Default.
- 21.7.4 If, upon the expiry of the Cure Period, the relevant Event of Default has not been cured, unless the Commercial Parties have otherwise agreed, the GoS or the Company (as the case maybe) may issue a Termination Notice to the Defaulting Party whereupon this Agreement shall terminate on the Termination Date or such later date as the Commercial Parties may agree in writing.
- 21.7.5 If this Agreement is terminated by the GoS due to a Company Event of Default:
- 21.7.5.1 the GoS shall have the right to encash the Performance Securities to their full outstanding value; and
- 21.7.5.2 the GoS shall purchase (on behalf of KW&SC) the Company’s right, title and interest in the Project for Value D where termination occurs during the Mobilisation Period and for Value B where termination occurs after the Commencement Date.
- 21.7.6 If this Agreement is terminated by the Company due to a GoS Event of Default, the Company shall require the GoS to purchase (on behalf of KW&SC) the Company’s right, title and interest in the Project for Value D where termination occurs prior to the Commencement Date and for Value A where termination occurs after the Commencement Date, and it shall do so by giving notice to the GoS, and the GoS shall be obliged to purchase (on behalf of KW&SC) the Company’s right, title and interest in the Project for such Value.
- 21.7.7 In the event that the circumstances giving rise to a Company Event of Default pursuant to clause 21.5.12 constitute a delay which directly impacts the Implementation Schedule and would, following the passage of time if not remedied, give rise to a Company Event of Default pursuant to clause 21.5.1, the GoS undertakes and agrees that it shall not terminate this Agreement with respect to such circumstances other than pursuant to clause 21.5.1 thereof.

21.8 Termination for a Prolonged Force Majeure Event

- 21.8.1 Subject to clause 21.8.4, the Company shall have the right to terminate this Agreement if a Political Force Majeure Event prevents KW&SC from performing any of its

obligations under this Agreement for a continuous period of one hundred twenty (120) Days, provided that, if the GoS elects in such event to continue paying the Availability Payments in respect of Deemed Availability beyond such one hundred twenty (120) Day period, the Company shall not have the right to terminate this Agreement pursuant to this clause 21.8.1.

- 21.8.2 Subject to clause 21.8.4, the GoS shall have the right to terminate this Agreement if:
- 21.8.2.1 a Political Force Majeure Event prevents KW&SC from performing any of its obligations under this Agreement for a continuous period of one hundred twenty (120) Days;
 - 21.8.2.2 a Political Force Majeure Event prevents the Company from performing any of its obligations under this Agreement for a continuous period of one hundred twenty (120) Days;
 - 21.8.2.3 one or more Political Force Majeure Events or a combination thereof, results in the GoS incurring Increased Costs; or
 - 21.8.2.4 a Natural Force Majeure Event prevents KW&SC or the Company from performing any of its obligations under this Agreement for a continuous period of one hundred twenty (120) Days.
- 21.8.3 Subject to clause 21.8.4, either Commercial Party shall have the right to terminate this Agreement if it is agreed, or determined that the KWC cannot be rebuilt, repaired and/or restored pursuant to clause 19.10.5.1, and the GoS shall have the right to terminate this Agreement if it is agreed, or determined that the KWC can only be partially rebuilt, repaired and/or restored pursuant to clause 19.10.5.2, in either case following an Event of Loss caused by a Force Majeure Event.
- 21.8.4 If a Commercial Party wishes to exercise its right to terminate this Agreement pursuant to clauses 21.8.1, 21.8.2 or 21.8.3, it shall issue a Termination Notice to the other Parties, whereupon this Agreement shall terminate on the Termination Date or such later date as the Commercial Parties may agree in writing.
- 21.8.5 If this Agreement is terminated after the Commencement Date by:
- 21.8.5.1 the Company pursuant to clause 21.8.1, the Company shall have the right to require the GoS to purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A, and it shall do so by giving notice to the GoS, and the GoS shall be obliged to purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for such Value;
 - 21.8.5.2 the GoS pursuant to clause 21.8.2.1, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A;
 - 21.8.5.3 the GoS pursuant to clause 21.8.2.2, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A;
 - 21.8.5.4 the GoS pursuant to clause 21.8.2.3, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A;

- 21.8.5.5 the GoS pursuant to clause 21.8.2.4 with respect to a prolonged Natural Force Majeure Event affecting the Company, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value C;
- 21.8.5.6 the GoS pursuant to clause 21.8.2.4 with respect to a prolonged Natural Force Majeure Event affecting KW&SC, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value C;
- 21.8.5.7 either Commercial Party pursuant to clause 21.8.3 with respect to an Event of Loss caused by a Political Force Majeure Event that prevents the Company from rebuilding, repairing and / or restoring the KWC (in whole) pursuant to clause 19.10.5.1, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A;
- 21.8.5.8 the GoS pursuant to clause 21.8.3 with respect to an Event of Loss caused by a Political Force Majeure Event that prevents the Company from rebuilding, repairing and / or restoring the KWC (in part) pursuant to clause 19.10.5.2, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value A;
- 21.8.5.9 either Commercial Party pursuant to clause 21.8.3 with respect to an Event of Loss caused by a Natural Force Majeure Event that prevents the Company from rebuilding, repairing and / or restoring the KWC (in whole) pursuant to clause 19.10.5.1, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value C; or
- 21.8.5.10 the GoS pursuant to clause 21.8.3 with respect to an Event of Loss caused by a Natural Force Majeure Event that prevents the Company from rebuilding, repairing and / or restoring the KWC (in part) pursuant to clause 19.10.5.2, the GoS shall purchase (on behalf of KW&SC) the Company's right, title and interest in the Project for Value C.

21.9 Payments on Termination

All amounts payable pursuant to this clause 21 shall be paid in Pakistani Rupees in immediately available funds as follows:

- 21.9.1 with respect to any amounts payable by the Company, immediately on the date of termination of this Agreement, by way of credit directly to a bank account designated therefor, in writing, by the GoS;
- 21.9.2 subject to clause 21.10.5, with respect to Termination Payments, as set out in the Termination Payment Amount Certificate, payable by the GoS, by the Termination Payment Date, by way of credit directly to a bank account in Pakistan designated therefor by the Company and advised to the GoS in writing; and
- 21.9.3 with respect to the Termination Payments to the extent not recovered by the Company in terms of clause 21.9.2,
 - 21.9.3.1 *firstly*, in terms of clause 12.2.9,

21.9.3.2 *secondly*, in terms of clause 12.1.5.2, clause 12.1.5.3 or clause 12.1.10 (as applicable).

The obligations of the GoS under this clause 21.9 shall survive termination of this Agreement until such time as all amounts due and owing by the GoS hereunder have been paid.

21.10 Transfer of the Project

21.10.1 Within eighteen (18) months prior to the Term Expiry Date or within one (1) Month following the Termination Date (as applicable), the Independent Appointees shall carry out such tests and inspections as set out in appendix 5 to determine if the KWC satisfies the Handover Conditions.

21.10.2 If, in the opinion of the Independent Appointees:

21.10.2.1 the KWC meets the Handover Conditions, making allowances for any Force Majeure Event or a GoS Event of Default that may have affected the KWC and for which the Company shall not be responsible, then the Independent Appointees shall issue a Handover Certificate, together with such inspection reports, tests and other data reasonably adequate to substantiate the conclusions reached in the Handover Certificate; or

21.10.2.2 the KWC does not meet the Handover Conditions, making allowances for any Force Majeure Event or a GoS Event of Default that may have affected the KWC and for which the Company shall not be responsible, then as soon as reasonably practicable, and in any event within six (6) Months prior to the Term Expiry Date or within two (2) Months following the Termination Date (as applicable), the Independent Appointees shall issue a report (the “**Remedial Report**”) providing to the Parties: (a) a list of the works and services required to be undertaken by the Company to meet the Handover Conditions (the “**Remedial Works**”); (b) a remediation plan, including the time period, for completing the Remedial Works (the “**Remedial Plan**”); and (c) an estimate of the costs of carrying out the Remedial Works (the “**Estimated Remedial Costs**”).

21.10.3 Immediately upon the issuance of a Remedial Report, the Company shall increase the face amount of the O&M Performance Security by the Estimated Remedial Costs and extend the validity thereof to the date falling six (6) Months following the estimated date stated in the Remedial Report for completion of the Remedial Works.

21.10.4 The Company shall complete all Remedial Works in accordance with the Remedial Plan at its own costs and expense. Upon completion of the Remedial Works in accordance with the Remedial Plan, as determined by the Independent Appointees, the Independent Appointees shall issue a Handover Certificate, together with such inspection reports, tests and other data reasonably adequate to substantiate the conclusions reached in the Handover Certificate. Where the Remedial Plan has been prepared following issuance of a Termination Notice, the Termination Payment Date shall be extended (by such period as determined by the Independent Appointees) to account for the timelines stated in the Remedial Plan.

- 21.10.5 Any Termination Payment due to the Company shall be made by the GoS subject to the issuance of the Handover Certificate.
- 21.10.6 If the Company fails to comply with the Remedial Plan, unless the Parties agree otherwise, the GoS shall have the option to:
- 21.10.6.1 encash the O&M Performance Security to the extent of the Estimated Remedial Costs; or
 - 21.10.6.2 deduct the Estimated Remedial Costs from any payments due to the Company from the GoS in terms of this Agreement,
- following which (and subject to full recovery of the Estimated Remedial Costs by the GoS), the Handover Certificate shall be deemed as issued.
- 21.10.7 Upon issuance or deemed issuance (in terms of clause 21.10.6) of the Handover Certificate and payment by the GoS of the Termination Payments under clause 21.9.2, or immediately following the Term Expiry Date, the Company shall transfer to KW&SC, free and clear of all liens and Encumbrances, at no cost to the GoS (other than payment of the Termination Payments, if applicable), all of the Company's right, title and interest in the Project, including insofar as they are a part of or used in the Project, all of the Company's right, title and interest in:
- 21.10.7.1 all raw materials, consumables and spare parts;
 - 21.10.7.2 all tangible personal property;
 - 21.10.7.3 all intangible personal property, including any Intellectual Property Rights;
 - 21.10.7.4 all buildings and fixtures;
 - 21.10.7.5 computerised and non-computerised records, reports, data, files, and information;
 - 21.10.7.6 all drawings, test results, and documents relating to the Project;
 - 21.10.7.7 all warranties of equipment, materials and work;
 - 21.10.7.8 all contract rights and Insurance Policies;
 - 21.10.7.9 all work in progress under contracts with vendors, suppliers, contractors and subcontractors; and
 - 21.10.7.10 all rights with respect to any insurance proceeds payable to or for the account of the Company, but unpaid at the date of termination of the Agreement, in respect of the Company's right, title and interest in the Project.
- 21.10.8 Following the Termination Date and until the issuance of the Handover Certificate, except for the termination of this Agreement pursuant to Company Events of Default under clauses 21.5.11, 21.5.17, 21.5.18, or 21.5.19, the Company shall continue to perform the relevant Project Activities in accordance with the requirements of this

Agreement and in consideration thereof, shall be entitled to receive the Output Payments in accordance with appendix 8.

21.11 Other Remedies

21.11.1 Except as otherwise expressly provided in this Agreement, upon termination of this Agreement, the Parties shall have no further obligations or liabilities hereunder, save those obligations or liabilities that arose on or before the date, or as a result of termination, shall survive until satisfied in full.

21.11.2 This clause 21 sets out the sole and exclusive grounds upon which this Agreement may be terminated, provided that upon the breach by any Party of any covenant or warranty hereunder, the Party damaged by any such default or breach may, in its sole discretion, in addition to exercising any other remedies provided for hereunder, proceed in accordance with clause 27 to protect and enforce its rights, to recover any damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy), or to seek specific performance by the other Party of such breaching Party's obligations under this Agreement and the other Project Agreements (as the case may be).

21.12 Survival

The provisions of clauses 12, 13, 14.5.4, 21, 22, 26, 27, and 29 shall survive the termination of this Agreement.

22. REINSTATEMENT

The Company shall reinstate the Site if and to the extent that it is required in accordance with the Remedial Report.

23. INDEMNITIES

23.1 Indemnification by the Company

The Company shall indemnify, defend and hold harmless the GoS Parties (and their Affiliates and contractors and respective shareholders, directors, officers, employees, agents or representatives (collectively the "**GoS Indemnified Parties**")), from and against all Claims made against or suffered by any of the GoS Indemnified Parties in relation to:

23.1.1 any loss of or damage to property or death or injury to persons (except for workers' compensation claims), resulting from any negligent act or omission of the Company or any of the Company Indemnified Parties, or that arising out of or in any manner connected with the performance of this Agreement, except to the extent that such loss, damage, injury or death is attributable to the negligence or misconduct of the GoS Indemnified Parties, or breach of this Agreement by the GoS Indemnified Parties, or the failure of the GoS Indemnified Parties, as applicable, to take reasonable steps in mitigation of the foregoing;

23.1.2 the violation of any Environmental and Social Requirements by any of the Company Indemnified Parties occurring at the Site or in any way related to the KWC, except to the extent that such Claim results from or arises out of:

- 23.1.2.1 the condition of the affected Site existing prior to the effective date of the License Agreement; or
- 23.1.2.2 any discharge, release or leaching of any Hazardous Substance on, in, over, under or otherwise affecting the Site (including the soil, subsoil, surface water or ground water on or beneath the Site and the air above the same) caused by a person other than the Company or any of the Company Indemnified Parties;
- 23.1.3 any use, presence, suspected presence, disposal, discharge, storage, treatment, transportation, handling, generation, leaching, release, or threatened release of any Hazardous Substance on, in, over, under or otherwise affecting the Site and their respective neighbouring properties (including the soil, subsoil, surface water or ground water on or beneath the Site and the surrounding environs and the air above the same):
 - 23.1.3.1 caused by the Company or any of the Company Indemnified Parties;
 - 23.1.3.2 originating from the Site after the Effective Date or, if earlier, the date of issue of the limited notice to proceed under the EPC Contract (if any); or
 - 23.1.3.3 in any way related to the KWC;
- 23.1.4 the violation of any Legal Requirements arising out of the Company's performance of the Project Activities, including the design, construction, testing, commissioning, operation or maintenance of the KWC;
- 23.1.5 the performance or non-performance by the Company or the Contractors of their obligations under any of the Project Agreements; and
- 23.1.6 the presence of the Company Indemnified Parties on the Site.

23.2 Indemnification by GoS

The GoS shall indemnify, defend and hold harmless the Company (and its Affiliates and Contractors and its or their respective shareholders, directors, officers, employees, agents or representatives (collectively the "**Company Indemnified Parties**"), from and against all Claims made against or suffered by the Company or any of the Company Indemnified Parties in relation to any loss of or damage to property or death or injury to persons (except for workers' compensation claims), resulting from any negligent act or omission of the GoS Parties or otherwise that arises out of or is in any manner connected with the performance of this Agreement, except to the extent such loss, damage, injury or death is attributable to the negligence or misconduct of the Company or any Company Indemnified Parties, or breach of this Agreement by the Company, or the failure of the Company or any of the Company Indemnified Parties, as applicable, to take reasonable steps in mitigation of the foregoing.

23.3 Liability

No Party shall be liable to the other in contract, tort, warranty, strict liability, or any other legal theory for any indirect, consequential, incidental, punitive, or exemplary damages, except as expressly provided herein.

23.4 Mitigation

The Parties shall make all reasonable endeavours to mitigate any loss, cost or expense they may suffer as a result of any breach of the other Party's material obligations under this Agreement.

23.5 Joint Negligence

In the event any injury or damage results from the joint or concurrent negligent or intentional acts or omissions of the Parties (as determined by the Independent Appointees), each Party shall be liable under this indemnification in proportion to its relative degree of fault, as determined by the Independent Appointees.

24. ASSIGNMENT

24.1 Assignment with Consent

Save as expressly provided otherwise in this Agreement, no Party shall be entitled to assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Parties.

24.2 Assignment to Financing Parties

24.2.1 The Company shall have the right, in accordance with the Legal Requirements and the Concession and License Direct Agreement, to assign its rights under this Agreement to any Financing Parties or to any third-party security agent or trustee nominated by the Financing Parties. Upon the Company's request, the GoS Parties shall provide such co-operation to the Financing Parties as may be requested by the Financing Parties, including providing acknowledgements and notices to the Financing Parties dealing with matters such as the respective rights and obligations of the Financing Parties and the Company under the Financing Documents, provided that:

24.2.1.1 such co-operation and the terms of such acknowledgements and notices shall not (except as expressly provided in this Agreement) be interpreted as diminishing the GoS Parties' rights and entitlements under this Agreement; and

24.2.1.2 by providing such co-operation, the GoS Parties shall not assume (and shall not be deemed to be assuming) any obligations under the Financing Documents (other than under any Concession and License Direct Agreement).

24.2.2 The GoS Parties agree to enter into the Concession and License Direct Agreement with the Financing Parties in respect of this Agreement as the Company, or the Financing Parties, may reasonably request in connection with the financing of the Project, provided that, in so doing, the GoS Parties shall not assume (and shall not be deemed to be assuming) any obligations under the Financing Documents (other than as expressly set out in the Concession and License Direct Agreement).

25. REPRESENTATIONS AND WARRANTIES

25.1 Company Representations and Warranties

The Company represents and warrants to each of the GoS Parties as follows:

- 25.1.1 it is duly incorporated and is validly existing and in good standing under the Legal Requirements;
- 25.1.2 it has the power and authority to enter into and perform its obligations under this Agreement;
- 25.1.3 it has the financial standing and capability to undertake and implement the Project in accordance with the terms of this Agreement;
- 25.1.4 the Sponsors have the financial standing and resources to comply with their obligations under the EFU Agreement;
- 25.1.5 neither the Company nor the Sponsors have committed a breach in respect of their payment obligations in relation to a financial indebtedness;
- 25.1.6 this Agreement has been duly authorised, executed and delivered by it and constitutes the legal, valid and binding obligation of it;
- 25.1.7 there is no pending or threatened litigation or claim which would materially impair its ability to perform its obligations under this Agreement;
- 25.1.8 the performance of its obligations under this Agreement will not result in the breach of any term or provision of, or constitute a default under, any judgment, decree, indenture, mortgage or other agreement or instrument to which it is a party or by which it is bound, nor will such performance conflict with any charter, by-law or similar provision applicable to it. There are no conflicts or violations of Legal Requirements which would materially affect its right or ability to comply with the terms of this Agreement;
- 25.1.9 it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Competent Authority which may result in any material impairment of its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would result in material impairment of its ability to perform its obligations under this Agreement;
- 25.1.10 it has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may materially impair its ability to perform its obligations under this Agreement;
- 25.1.11 no representation or warranty made by the Company and contained herein or in any other document furnished by it to the GoS or to any Competent Authority in relation to the Approvals contains any untrue or misleading statement of material fact or omits or will omit to state a material fact rendering such representation or warranty misleading;
- 25.1.12 it has not engaged in any fraudulent, collusive, coercive, or obstructive practices or other integrity violations (and is in full compliance with Asian Development Bank's

Anticorruption Policy, 1998, as amended from time to time) and no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any Person by way of fees, commission or otherwise, in each case for securing the Concession or entering into this Agreement or any other Project Agreement, or for influencing or attempting to influence any officer or employee of the GoS, KW&SC or any other Competent Authority in connection therewith; and

25.1.13 the Company has undertaken all acts and deeds necessary and complied with all Legal Requirements and the RFP for the award of the Concession to the Company and the performance of its obligations under this Agreement.

25.2 Breach of Representations and Warranties

25.2.1 In the event that any occurrence or circumstance renders any of its representations or warranties incorrect, the Company shall immediately notify the GoS Parties and the Independent Appointees of the same and take reasonable steps to ensure compliance with its representations or warranties. Such notification shall not have the effect of remedying any incorrect representation or warranty made by the Company nor shall it adversely affect or waive any right, remedy or obligation of the Parties under this Agreement.

25.2.2 In the event any statement, representation or warranty made by the Company in this Agreement is rendered incorrect, in any material respect, due to any occurrence or circumstance, when made or reaffirmed, and such incorrect statement, representation or warranty has materially impaired the Company's ability to perform its obligations under this Agreement, then such incorrect statement, representation or warranty shall give rise to a Company Event of Default pursuant to clause 21.5.

25.2.3 The representations and warranties under clause 25.1 shall be deemed repeated on the Mobilisation Date, the Commencement Date and each Payment Date.

25.3 GoS Parties' Representations and Warranties

Each GoS Party, severally, represents and warrants to the Company as follows:

25.3.1 it has the power and authority to enter into and perform its obligations under this Agreement;

25.3.2 this Agreement has been duly authorised, executed and delivered by it and constitutes its legal, valid and binding obligation;

25.3.3 there is no pending or threatened litigation or claim which would materially impair its ability to perform its obligations under this Agreement; and

25.3.4 the performance of its obligations under this Agreement will not result in the breach of any term or provision of, or constitute a default under, any judgment, decree, indenture, mortgage or other agreement or instrument to which it is a party or by which it is bound, nor will such performance conflict with any decree, charter, by-law or similar provision applicable to the GoS Party. There are no conflicts or violations of Legal Requirements that would materially affect its right or ability to comply with the terms of this Agreement.

25.4 Immunity

25.4.1 Each GoS Party unconditionally and irrevocably:

25.4.1.1 agrees that the execution, delivery and performance by it of this Agreement constitutes private and commercial acts and not public or governmental acts;

25.4.1.2 agrees that should any proceedings be brought against it or its assets (other than any of its assets which are significant in respect of national security of Pakistan (the “**GoS Protected Assets**”)) in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity, sovereign or otherwise, from such proceedings, execution, attachment or other legal process shall be claimed by or on behalf of itself or with respect to any of its assets (other than the GoS Protected Assets); and

25.4.1.3 waives any such right of immunity, sovereign or otherwise, which the GoS or its assets (other than the GoS Protected Assets) now has or may acquire in the future, in respect of proceedings under this Agreement.

25.4.2 The Company expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement and/or any matters arising hereunder including any obligation, liability, or responsibility hereunder.

25.5 Project Implementation Unit

25.5.1 The Project Implementation Unit shall:

25.5.1.1 oversee day to day implementation of the Project on behalf of the GoS Parties in accordance with the Legal Requirements;

25.5.1.2 together with KW&SC and the Company, develop and establish a grievance redress mechanism in accordance with the Legal Requirements and the E&S Standards (and accounting for all consultations and engagements conducted pursuant to clauses 4.10.1 and 4.10.2) to record, address, and manage grievances related to the Project Activities, including a focus on:

- (A) the Settlements;
- (B) KW&SC employees; and
- (C) other Stakeholders (the “**Grievance Redress Mechanism**”); and

25.5.1.3 forward any matter, which cannot be resolved in accordance with the Grievance Redress Mechanism, to the Public Private Partnership Policy Board for resolution.

25.5.2 The Company shall provide all necessary cooperation and coordination:

25.5.2.1 to the Project Implementation Unit to allow it to carry out its functions; and

25.5.2.2 to KW&SC and the Project Implementation Unit to ensure Stakeholder grievances (whether addressed to the Company or otherwise) are adequately and timely resolved.

26. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the Laws.

27. DISPUTE RESOLUTION

27.1 Negotiation

The Parties agree to attempt to resolve any Dispute promptly, amicably, and in good faith. Each Party shall designate a representative who shall be entitled to enter into discussions to resolve by amicable agreement any Dispute in connection with this Agreement.

27.2 Public Private Partnership Policy Board

If any Dispute is not finally resolved between the Parties pursuant to the clause 27.1 within thirty (30) Days from the date on which a Party receives notice from any of the other Parties that a Dispute exists, then the Parties shall endeavour to settle the Dispute in an amicable manner by mediation administered by an independent and impartial person appointed by the Public Private Partnership Policy Board. If any Dispute is not resolved between the Parties pursuant to this clause 27.2 within sixty (60) Days from the date on which the matter has been referred by the Public Private Partnership Policy Board to an independent and impartial person so appointed, then such Dispute shall be settled exclusively and finally in accordance with clause 27.3.

27.3 Arbitration

27.3.1 Each of the Parties unconditionally and irrevocably agrees in respect of a Dispute, which cannot be resolved by the Parties pursuant to clause 27.2:

27.3.1.1 to the submission of such Dispute to binding arbitration governed by the Arbitration Act 1940, by appointment of three (3) arbitrators, of which, one (1) shall be appointed jointly by the GoS Parties, one (1) shall be appointed by the Company, and one shall be appointed jointly by the two (2) arbitrators appointed by the GoS Parties and the Company (the “**Arbitrators**”). Any arbitration proceedings commenced pursuant to this clause 27.3.1 shall be referred to as Arbitration (“**Arbitration**”);

27.3.1.2 not to claim any right it may have under the Laws to hinder, obstruct, or nullify the submission of the Dispute to Arbitration; and

27.3.1.3 to accept the Award rendered by the Arbitrators and any judgment entered thereon by a court of competent jurisdiction as final and binding and not to hinder, obstruct or nullify the enforcement or execution of any decision rendered by the Arbitrators or court of competent jurisdiction.

27.3.2 The place of Arbitration shall be Karachi, Pakistan.

- 27.3.3 The language of Arbitration shall be English.
- 27.3.4 Any decision or award resulting from the Arbitration (“Award”) shall be final and binding upon the Parties.
- 27.3.5 The Parties hereby waive, to the extent permitted under the Laws, any rights to appeal or to review of such Award by any Competent Authority.
- 27.3.6 The fees and expenses of the Arbitrators and all other expenses relating to Arbitration shall be borne and paid by the respective Parties, unless the Award states otherwise. The Arbitrators may provide in the Award, for reimbursement to a Party, of its costs and expenses in bringing or defending the Arbitration claim, including legal fees and expenses incurred by such Party.
- 27.3.7 This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the Award for any Arbitration, which Award, if appropriate, shall determine whether and when any termination shall become effective.

27.4 Exclusive Jurisdiction

No Party shall have the right to, nor shall they, commence or maintain any legal proceedings in or outside of Pakistan, concerning a Dispute, until the Dispute has been resolved in accordance with clauses 27.2 or 27.3 and then only to enforce or execute an Award.

27.5 Obligations Continuing

Unless otherwise agreed in writing, the existence of a Dispute shall not relieve any Party from the performance of its obligations under this Agreement not the subject of the Dispute.

28. INTELLECTUAL PROPERTY RIGHTS

28.1 Company IPR

28.1.1 The Company (or its relevant licensor) shall retain exclusive ownership of the Company IPR and nothing in this Agreement (other than the licence granted under clause 28.1.2) shall operate to transfer to KW&SC or vest in KW&SC any licence to use or rights in the Company IPR.

28.1.2 The Company hereby grants to KW&SC a perpetual, irrevocable, royalty-free, and non-exclusive licence (with the free right to sub-licence and/or assign to any third party) to use, reproduce and maintain the Company IPR to the extent and for the duration necessary to enable KW&SC to exercise its rights and perform its obligations under this Agreement.

28.1.3 The Company shall ensure that KW&SC is provided with copies of such items of Company IPR as KW&SC may from time-to-time reasonably request.

28.2 Project IPR

28.2.1 The Company shall use its best endeavours to procure that any licence or other arrangement with a third party or a Contractor relating to the Project IPR permits the Company to:

28.2.1.1 grant the licence set out in clause 28.2.2; and

28.2.1.2 make the transfer required by clause 28.2.3.3.

If the Company, despite the use of its best endeavours, is unable to secure the rights described above, the Company shall notify KW&SC and shall (at its cost) take such other measures as are required to put KW&SC in the position it would have been in if such rights had been procured or as close thereto as is reasonably possible in the circumstances. The Company shall pay any costs resulting from the performance of this clause 28.2.1, save for any on-going fees payable for the maintenance in force of the Project IPR following the Final Expiry Date to the extent such fees are unaffected, directly or indirectly, by its transfer to KW&SC or its nominee, which fees shall, to that extent, be paid by KW&SC.

28.2.2 The Company hereby grants to KW&SC a royalty-free and non-exclusive licence (with the free right to sub-licence and/or assign to any third party) to use, reproduce and maintain the Project IPR to the extent and for the duration necessary to enable KW&SC to exercise its rights and perform its obligations under this Agreement.

28.2.3 On:

28.2.3.1 the Final Expiry Date where KW&SC has elected under the Handover Conditions that the Company should not fully reinstate in terms thereof; or

28.2.3.2 early termination of this Agreement for any reason where the GoS is obliged or has elected to purchase the Company's right, title and interest in the Project in accordance with clause 21.8 and has paid the purchase price in accordance with clause 21.9.2,

the Company shall deliver to KW&SC or its nominee copies of all Project IPR, in each case in the form utilised by the Company in the operation of the Project and either:

28.2.3.3 transfer by way of future assignment to KW&SC all Project IPR and execute a transfer or any other documents necessary to transfer absolutely such Intellectual Property Rights to KW&SC and otherwise to perfect KW'SB's title thereto; or

28.2.3.4 to the extent that Project IPR is capable of use by the Company in any project other than in respect of the Project, grant KW&SC a royalty free, non-exclusive, sub-licensable, irrevocable, perpetual and freely assignable licence to use the Project IPR for any purpose in connection with the Project or the KWC, any such licence to be effective from the Final Expiry Date.

28.3 Breaches of Intellectual Property Rights

28.3.1 The Company shall defend, indemnify and hold the GoS Indemnified Parties harmless against all Claims, costs, charges and expenses arising from or incurred by reason of any actual infringement or alleged infringement of the Company IPR or Project IPR licenced to KW&SC under clauses 28.1 or 28.2 because of the use by or on behalf of KW&SC of the rights granted under clauses 28.1 or 28.2 provided that such

infringement has arisen out of the use of the Company IPR or Project IPR otherwise than in accordance with the terms of this Agreement.

28.3.2 Without in any way limiting the foregoing provisions of this clause 28.3, in circumstances where the Company is liable to indemnify the GoS Indemnified Parties in accordance with clause 28.3.1, the Company shall at KW&SC's request but at the Company's own expense, complete one or more of the following without delay:

28.3.2.1 procure for KW&SC the right to continue to use the Intellectual Property Rights in question; or

28.3.2.2 modify or replace the subject-matter of the activities permitted by this Agreement (at no cost to KW&SC) so that it becomes non-infringing without loss of functionality or compatibility or affecting its use.

29. CONFIDENTIALITY

29.1 Confidentiality Obligation

During the term of this Agreement and after termination or expiry of this Agreement for any reason whatsoever, a Party shall:

29.1.1 keep the Confidential Information confidential;

29.1.2 not disclose the Confidential Information to any other person who is not a Party other than:

29.1.2.1 with the prior written consent of the other Parties; or

29.1.2.2 in accordance with clause 29.2; and

29.1.3 not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.

29.2 Disclosure

During the term of this Agreement and after termination or expiry of this Agreement for any reason, a Party may disclose the Confidential Information:

29.2.1 in the case of GoS Parties, to any of its ministers, civil servants, directors, officers and employees, and in the case of the Company, to its direct shareholders, directors, officers or employees (each a "**Recipient**") to the extent necessary to achieve the purposes of this Agreement, provided that:

29.2.1.1 the disclosing Party shall procure that each Recipient is made aware of and complies with the disclosing Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement; and

29.2.1.2 in no circumstances shall disclosure to the public be permitted pursuant to this clause 29.2.1;

- 29.2.2 if, and only to the extent, required to disclose such information by judicial, regulatory or administrative process or otherwise in accordance with any law or the rules of any recognised stock exchange applicable to the disclosing Party;
- 29.2.3 with the consent of the other Parties (not to be unreasonably withheld), in the interests of attracting debt or equity financing for the Project, provided that prior to making such disclosure, the disclosing Party obtains an appropriate confidentiality undertaking from the person to whom the Confidential Information is to be disclosed;
- 29.2.4 to its Contractors, provided that prior to making such disclosure, the disclosing Party obtains an appropriate confidentiality undertaking from the person to whom the Confidential Information is to be disclosed;
- 29.2.5 to its legal, financial and/or technical advisors or pursuant to the Financing Documents, provided that prior to making such disclosure, the disclosing Party obtains an appropriate confidentiality undertaking from the person to whom the Confidential Information is to be disclosed; or
- 29.2.6 in a legal action or proceeding brought by the disclosing Party in pursuit of its rights or in exercise of its remedies; or
- 29.2.7 to its insurers, provided that prior to making such disclosure, the disclosing Party obtains an appropriate confidentiality undertaking from the person to whom the Confidential Information is to be disclosed.

29.3 Exceptions

The obligations contained in clauses 29.1 and 29.2 shall not apply to any Confidential Information which:

- 29.3.1 is at the Effective Date in, or at any time after the Effective Date comes into, the public domain other than through breach of this Agreement by the disclosing Party or any Recipient;
- 29.3.2 can be shown by the disclosing Party to the reasonable satisfaction of the other Parties to have been known to the disclosing Party independently; or
- 29.3.3 on, before or after the Effective Date, has come lawfully into the possession of the disclosing Party from a third party.

29.4 Press Releases

This prohibition shall not forbid a Party, with the prior written consent of the other Parties, from issuing press releases containing Confidential Information in relation to the progress of the Project.

29.5 Definition

For the purposes of this clause 29, “**Confidential Information**” means this Agreement and all information concerning the Project and the other Parties (or their Affiliates), whether:

- 29.5.1 in writing, verbally or by any other means; or

29.5.2 acquired directly or indirectly before or after the Effective Date.

30. NOTICES

30.1 Addresses for Service

A notice and all other forms of written communication shall be personally delivered, sent by registered post, sent by facsimile transfer or sent by email to the relevant address below. Notice or communication by email shall only be valid if receipt is confirmed by the recipient acknowledging receipt of the email.

30.1.1 GoS

Address:	<input type="checkbox"/>
Attention:	<input type="checkbox"/>
Fax:	<input type="checkbox"/>
Email	<input type="checkbox"/>

30.1.2 KW&SC

Address:	<input type="checkbox"/>
Attention:	<input type="checkbox"/>
Fax:	<input type="checkbox"/>
Email	<input type="checkbox"/>

30.1.3 Company

Address:	<input type="checkbox"/>
Attention:	<input type="checkbox"/>
Fax:	<input type="checkbox"/>
Email	<input type="checkbox"/>

30.2 Deemed Service

A notice or communication shall be deemed to have been made or delivered:

30.2.1 in the case of any communication made by letter, when delivered by hand, by recognised courier or by mail (registered return receipt requested) at the address set out in clause 30.1.1, clause 30.1.2 or clause 30.1.3 (as applicable);

30.2.2 in the case of any communication made by facsimile, when transmitted properly addressed to the facsimile number set out in clause 30.1.1, clause 30.1.2 or clause 30.1.3 (as applicable) and the sender has received a sent receipt; and

30.2.3 in the case of any communication made by email, when transmitted properly addressed to the email address set out in clause 30.1.1, clause 30.1.2 or clause 30.1.3 (as applicable), and the sender has received a sent receipt.

30.3 Changes to Addresses for Service

If a Party changes its notice details set out in clause 30.1, it shall provide the other Parties with prompt notice of any such changes prior to effecting the same.

31. MISCELLANEOUS

31.1 Amendments

This Agreement may be amended only with the prior written consent of all the Parties.

31.2 No Implied Waiver

The failure of any Party to insist upon strict performance of any provisions of this Agreement shall not be construed as a waiver of any such provisions or the relinquishment of any such right for the future.

31.3 Invalidity

The invalidity or unenforceability of any provisions of this Agreement shall be determined in accordance with clause 27.3. The Parties hereby agree to use good faith efforts to negotiate an equitable adjustment to any provisions of this Agreement determined to be invalid or unenforceable with a view towards effecting the purposes of this Agreement, and the validity or enforceability of the remaining provisions of this Agreement shall not be affected by such determination.

31.4 Binding Effect

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns.

31.5 Relationship of the Parties

31.5.1 Nothing contained in this Agreement shall be construed to create an association, trust, partnership or joint venture between the Parties. Each Party shall be liable individually and severally for its own obligations under this Agreement.

31.5.2 Unless stated otherwise herein, the obligations of the GoS in this Agreement are limited to payments due to the Company. The GoS' obligations in this Agreement shall, in no event, extend to the performance obligations of KW&SC.

31.5.3 KW&SC shall not be responsible for any payments due to the Company pursuant to this Agreement by the GoS.

31.5.4 Obligations of the GoS and KW&SC under this Agreement and the Relevant Agreements to which they are a party, shall be several and not joint.

31.6 Expenses

Without prejudice to the terms of this Agreement, each Party shall pay its own costs and expenses (including the fees and expenses of its agents, representatives, advisors, counsel and accountants) necessary for the negotiation, execution, delivery, performance of, and compliance with this Agreement.

31.7 Language

This Agreement is being executed in the English language.

31.8 Entire Agreement

This Agreement and its appendices constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all previous understandings, representations, or agreements between the Parties, whether written or oral.

31.9 No Waiver

The granting of any consent, approval or review by the Independent Appointees or a GoS Party to any of the designs, works, plans or time programmes or the manner of implementation of the Project shall not relieve or reduce the Company's responsibility in performing its obligations as stipulated in the Agreement, or its responsibility to achieve the level of performance provided for in the Agreement.

31.10 Counterparts

The Parties may execute this Agreement in counterparts, which shall, in the aggregate, when signed by all the Parties constitute one and the same instrument; and thereafter, each counterpart shall be deemed to be an original instrument as against any Party who has signed it.

APPENDIX 1: TECHNICAL SPECIFICATIONS

[The appendix 1 to the Concession Agreement will comprise Volume II of the RFP and will be inserted at signing with any necessary changes for references to the Proposal.]

APPENDIX 2: IMPLEMENTATION SCHEDULE

1. MOBILISATION AND COMMENCEMENT

Milestones	Date
Effective Date (date of signing of Concession Agreement)	T
Scheduled Mobilisation Date	T + 2 months
Installation of Metering Systems and Monitoring Systems	T + 3 months
Finalization of ESIA, including all required studies	T + 6 months
Mobilisation Testing	T + 4 months
Project handover to the Company	T + 4 months
Scheduled Commencement Date	T + 6 months

2. PROJECT COMPLETION

Milestones	Date
Proposed Construction Documents submission by the Company	T + 7 months
Proposed Construction Documents approval by the Independent Engineer	T + 8 months
Project completion of:	
- KWC rehabilitation;	T + 12 months
- new pipeline and associated works;	T + 16 months
- pump stations;	T + 18 months
- rising mains;	T + 20 months
- Treatment Plant and Reservoir rehabilitation;	T + 19 months
- Solar Plant; and	T + 20 months
- SCADA, metering, and communications.	T + 21 months

3. COMMISSIONING

Milestones	Date
Commissioning of canal rehabilitation and connecting pipelines	
- Start of Performance Tests	T + 22 months
- Start of Reliability Test Runs	T + 23 months

Pumping station 1 <ul style="list-style-type: none"> - Start of Start-up Tests - Start of Performance Tests - Start of Reliability Test Runs 	T + 18 months T + 22 months T + 23 months
Pumping station 2 (if any) <ul style="list-style-type: none"> - Start of Start-up Tests - Start of Performance Tests - Start of Reliability Test Runs 	T + 18 months T + 22 months T + 23 months
Commissioning of the Solar Plant <ul style="list-style-type: none"> - Scheduled PV Provisional Acceptance Date 	T + 22 months
Commissioning of the water treatment plant including Reservoir <ul style="list-style-type: none"> - Start of Start-up Test - Start of Performance Test - Start of Reliability Run 	T + 19 months T + 22 months T + 23 months
Scheduled Project Commercial Operations Date	T + 24 months

APPENDIX 3: MINIMUM INSURANCE REQUIREMENTS

INSURANCE FOR CONSTRUCTION ACTIVITIES

1. Marine Cargo

Cover : Physical loss or damage to all materials, equipment, machinery, spares and other items for incorporation in the C&O Activities on an “all risks” basis whilst in transit by sea, air, or land from the country of origin anywhere in the world to the Site;

Cover is to be on the basis of Institute Cargo Clauses (A) plus war, strike, riot and civil commotion and should include a minimum of sixty (60) Days of storage on the Site.

Sum Insured : The value of largest shipment or the highest value in temporary storage (as part of the journey to the Site) plus insurance and freight (CIF) whichever is greater.

At any time, the shipment value shall not exceed United States Dollars ten million only (USD 10,000,000/-).

Deductibles : Not to exceed United States Dollars fifteen thousand only (USD 15,000/-) for each loss.

Period of Insurance : From commencement of first shipment to the unloading of final shipment at the Site.

Insured Parties : KW&SC, EPC Contractor and all other contractors and sub-contractors of any tier involved in the supply of goods, materials or equipment for incorporation into the Project Activities.

Extensions and Conditions : Cover to include:

- (i) Institute Cargo Clauses “A”;
- (ii) Institute Cargo Clauses (Air Cargo);
- (iii) Institute Strikes & War clauses (Cargo);
- (iv) Institute Strikes & War clauses (Air Cargo);
- (v) Institute Replacement clause;
- (vi) Institute Classification clause;
- (vii) 50/50 clause; and
- (viii) 200% accumulation clause.

2. Construction “All Risks”

Cover : Physical loss or damage to the assets installed or rehabilitated as part of the Mobilisation Activities or the C&O Activities, including all equipment, materials, plant, machinery, spares, temporary structures and all other property of whatsoever nature or description (but excluding the construction plant and equipment belonging to or the responsibility of the contractors) to be incorporated in, used or rehabilitated in connection with

- the Project, including testing and commissioning.
- Sum Insured*** : The full reinstatement or replacement value of the assets installed or rehabilitated as part of the Mobilisation Activities or C&O Activities, including any “free issue” items.
- Deductibles*** : Not to exceed for each and every occurrence:
- (i) United States Dollars twenty thousand only (USD 20,000/-) in respect of testing and commissioning, extended maintenance and defects coverage;
 - (ii) United States Dollars thirty thousand only (USD 30,000/-) in respect of storm, tempest, flood, tsunami; and
 - (iii) United States Dollars fifteen thousand only (USD 15,000/-) in respect of all other losses.
- Period of Insurance*** : From the earlier of the notice to proceed as defined in the EPC Contract, the Commencement Date or from the commencement of the construction activity at Site, until the Project Commercial Operations Date, plus cover for minimum twelve (12) Months extended maintenance.
- Insured Parties*** : The GoS Parties, the Company, the EPC Contractor and all other contractors and sub-contractors of any tier, including consultants for their activities on or about the Site only.
- Extensions and Conditions*** : To include:
- (i) Offsite storage;
 - (ii) Inland transit of locally procured materials wholly within Pakistan;
 - (iii) Strike, riot and civil commotion (unless covered under the Terrorism and Sabotage insurance);
 - (iv) Insurers to waive all rights of subrogation against the Karachi Water and Sewerage Corporation (KW&SC) and against all other Insured Parties as provided above;
 - (v) LEG 2/96 faulty design / defects coverage;
 - (vi) Escalation provision;
 - (vii) Inadvertent errors and omissions;
 - (viii) Claims will be paid in the currency in which the cost is incurred;
 - (ix) 50/50 clause;
 - (x) Removal of debris;
 - (xi) Expediting expenses;
 - (xii) Public authority requirements; and
 - (xiii) Professional fees,

and subject to sub-limits based on prevailing insurance market norms.

3. **Third Party Liability**

- Cover*** : Legal liability of the Insured Parties as provided below for death or bodily injury to third parties or loss or damage to third party property arising out of or in connection with the Mobilisation Activities and C&O Activities.
- Limit of Indemnity*** : No less than United States Dollars ten million only (USD 10,000,000/-) for each occurrence but in the aggregate in respect of sudden and accidental pollution risks.
- Deductibles*** : Not to exceed United States Dollars ten thousand only (USD 10,000/-) for each and every occurrence.
- Period of Insurance*** : As per the Construction All Risks insurance.
- Insured Parties*** : The GoS Parties, the EPC Contractor and all other contractors and sub-contractors of any tier and their respective directors, officers and employees, and including consultants for their activities on or about the Site only.
- Geographical Limits*** : Pakistan and including business trips worldwide in connection with the Project.
- Extensions and Conditions*** : To include:
- (i) Cross liability;
 - (ii) Worldwide jurisdiction subject to North American conditions; and
 - (iii) Sudden, unintended and unexpected seepage, pollution and contamination.

4. **Terrorism and Sabotage**

- Cover*** : Physical loss or damage and consequent loss of gross profit following delay to the anticipated Project Commercial Operations Date caused by an act of terrorism and/or sabotage to the Project.
- Sum Insured*** : A sum which is sufficient to cover the largest foreseeable loss scenario for full reinstatement value of such lost or damaged property.
- Indemnity Period*** : Twelve (12) Months from the anticipated Project Commercial Operations Date or as otherwise approved by the Independent Engineer.
- Deductibles*** : Not to exceed United States Dollars twenty-five thousand only (USD 25,000/-) in respect of physical loss or damage for each and every occurrence.
- Period of Insurance*** : As per the Construction All Risks insurance.
- Insured Parties*** : KW&SC, the EPC Contractor and all other contractors and sub-

contractors of any tier.

Geographical Limits : Pakistan.

5. **Marine Delay in Start-Up (“MDSU”) Insurance**

Cover : Loss of revenue following delay in start of commercial operations of the Project, as a direct result of physical loss or damage covered under the Marine Cargo Insurance above.

Sum Insured : Estimated gross revenue or an amount at least equal to the estimated amount due to Financing Parties under the Financing Documents and fixed expenses incurred during the Indemnity Period.

Indemnity Period : Not less than twelve (12) Months from the anticipated Project Commercial Operations Date.

Period of Cover : As per Marine Cargo insurance above.

Insured : The borrower and the lenders each for their respective rights and interests.

Deductibles : No more than forty-five (45) Days.

General : To include delay due to damage to the carrying vessel or conveyance.

6. **Delay in Start Up (“DSU”) Insurance**

Cover : Loss of revenue following delay in start of commercial operations of the Project as a direct result of physical loss or damage covered under Construction All Risk Insurance above.

Sum Insured : Estimated gross revenue or an amount at least equal to the estimated amount due to Financing Parties under the Financing Documents and fixed expenses during the Indemnity Period.

Indemnity Period : Not less than twelve (12) Months from the anticipated Project Commercial Operations Date.

Period of Cover : As per the Construction All Risks insurance.

Insured : The borrower and the lenders each for their respective rights and interests.

Deductible : No more than sixty (60) Days.

General : To include:
(a) Denial of access; and
(b) Customers’ and suppliers’ extensions (in respect of FLEXA perils.

7. **Miscellaneous**

Other insurance as is customary, desirable or necessary to comply with the Legal Requirements, such as workers’ compensation and employers’ liability insurance in relation to all workmen employed in the construction of the Project, and motor vehicle liability insurance for all vehicles owned, hired, leased, used or borrowed for use in Pakistan in connection with the Project.

**INSURANCE FOR OPERATIONS AND MAINTENANCE ACTIVITIES (*during the
Concession Period*)**

From the Commencement Date, as applicable, and renewable annually unless otherwise agreed by KW&SC:

1. **Property Damage “All Risks”**

- Cover*** : To cover physical loss or damage to all assets comprising the Project, including but not limited to, buildings and their contents, machinery, spares, fixtures, fittings and all other personal property, against “all risks” of physical loss or damage and machinery breakdown.
- Sum Insured*** : An amount sufficient to reinstate the KWC.
- Deductibles*** : Not to exceed for each and every occurrence:
- United States Dollars twenty-five thousand only (USD 25,000/-) in respect of storm, tempest, flood, tsunami; and
 - United States Dollars fifteen thousand only (USD 15,000/-) for all other losses.
- Period of Insurance*** : From the Project Commercial Operations Date and renewable annually till the Term Expiry Date.
- Insured Parties*** : The GoS Parties, the O&M Contractor and all other contractors and sub-contractors of any tier and including consultants for their activities on or about the Site only.
- Extensions and Conditions*** : To include:
- (i) Offsite storage;
 - (ii) Inland transit of locally procured materials wholly within Pakistan;
 - (iii) Strike, riot and civil commotion (unless covered under the Terrorism and Sabotage insurance);
 - (iv) Insurers to waive all rights of subrogation against KW&SC and, in respect of their Site activities only, against all other Insured Parties as provided above;
 - (v) Escalation provision;
 - (vi) Inadvertent errors and omissions;
 - (vii) Claims will be paid in the currency in which the cost is incurred;
 - (viii) Removal of debris;
 - (ix) Expediting expenses;
 - (x) Public authority requirements; and

(xi) Professional fees,
and subject to sub-limits based on prevailing insurance market norms.

2. **Third Party Liability**

- Cover*** : Legal liability of the Insured Parties, as provided below, for death or bodily injury to third parties or loss or damage to third party property arising out of or in connection with the ownership, operation, use or maintenance of the Project, including supply of products.
- Limit of Indemnity*** : No less than United States Dollars ten million only (USD 10,000,000/-) for each occurrence but in the aggregate in respect of sudden and accidental pollution risks.
- Deductibles*** : Not to exceed United States Dollars ten thousand only (USD 10,000/-) for each and every occurrence.
- Period of Insurance*** : As per the Property Damage All Risks insurance.
- Insured Parties*** : The GoS Parties, the O&M Contractor and all other contractors and sub-contractors of any tier and their respective directors, officers and employees, and including consultants for their activities on or about the Site only.
- Geographical Limits*** : Pakistan and including business trips worldwide in connection with the Project.
- Extensions and Conditions*** : To include:
- (i) Cross liability;
 - (ii) Worldwide jurisdiction subject to North American conditions; and
 - (iii) Sudden, unintended and unexpected seepage, pollution and contamination.

3. **Terrorism and Sabotage**

- Cover*** : Physical loss following interruption in the O&M Activities by an act of terrorism and/or sabotage to the Project.
- Sum Insured*** : A sum which is sufficient to cover the largest foreseeable loss scenario for full reinstatement value of such lost or damaged property.
- Indemnity Period*** : Twelve (12) Months from the anticipated Project Commercial Operations Date.
- Deductibles*** : Not to exceed United States Dollars twenty-five thousand only (USD 25,000/-) in respect of physical loss or damage for each and every occurrence.
- Period of Insurance*** : As per the Property Damage All Risks insurance.

Insured Parties : The GoS Parties, the O&M Contractor and all other contractors and sub-contractors of any tier.

Geographical Limits : Pakistan.

4. **Business Interruption Insurance**

Cover : Loss of revenue as a direct consequence of loss of or damage to the Project insured under Property All Risks Insurance.

Sum Insured : Gross revenue or an amount equal to the estimated amount due to Financing Parties under the Financing Documents due and fixed expenses incurred during the Indemnity Period.

Indemnity Period : Not less than twelve (12) Months.

Period of Cover : As per Property All Risks Insurance above.

Insured : The GoS Parties, the O&M Contractor and all other contractors and sub-contractors of any tier and including consultants for their activities on or about the Site only.

Deductibles : No more than thirty (30) Days for each and every loss.

General : To include denial of access.

5. **Miscellaneous**

Other insurances which are:

- (i) customary or necessary to comply with the Legal Requirements, such as contractual insuring responsibility, workers' compensation and employers' liability insurances in relation to all workmen employed in the Project or in connection with its operation; and motor vehicle liability insurance for all vehicles owned, hired, leased, used or borrowed for use in Pakistan in connection with the Project; and
- (ii) required by applicable Laws in Pakistan.

APPENDIX 4: CONDITIONS

Part 1: Mobilisation Conditions Precedent

1. Company's Responsibility

It shall be a condition precedent to the Mobilisation Date that each of the following conditions are satisfied and supplied to the Independent Appointees by the Company, unless any such condition precedent is waived or deferred in writing by the GoS:

- 1.1 copies of the corporate documents (*i.e.*, memorandum and articles of association, certificate of incorporation and certificate of commencement of business (if applicable)) of the Company, duly certified as true copies by the company secretary or director of the Company;
- 1.2 copies of the corporate documents (*i.e.*, memorandum and / or articles of association, certificate of incorporation, certificate of commencement of business, business license, charter and / or partnership deed (as the case may be) of the Sponsor(s), duly certified as true copies by the company secretary or director or other authorized person of the Sponsor(s);
- 1.3 copies of the Board Resolutions (or authority letters, in case the Sponsor(s) is a partnership) that duly authorize:
 - (a) the Company and the Sponsor(s) (as the case may be) to enter into the relevant Project Agreements (to which they are a party) and to undertake the obligations, liabilities, as set out in the applicable Project Agreements, and the transactions as contemplated by the Project Agreements (to which they are a party); and / or
 - (b) a specified person or persons to:
 - (i) execute the relevant Project Agreements, on behalf of the Company and the Sponsor(s), to which they are a party; and
 - (ii) undertake all other acts and to issue and / or execute any document / instrument, specifically relating to and / or under the Project Agreements (to which they are a party), as contemplated therein;
- 1.4 the Financial Model;
- 1.5 within thirty (30) Days of the Effective Date, the Company has signed and entered into a valid and effective:
 - (a) Independent Engineer Contract for the appointment of the Independent Engineer; and
 - (b) Independent Auditor Contract for the appointment of the Independent Auditor;
- 1.6 two (2) certified copies of the signed License Agreement;
- 1.7 evidence of establishment of the:

- (a) Independent Engineer Payment Account and issuance of the Independent Engineer Payment Account Standing Instructions; and
 - (b) Independent Auditor Payment Account and issuance of the Independent Auditor Payment Account Standing Instructions;
- 1.7(A)** evidence that the O&M Contractor meets the O&M Contractor Criteria;
- 1.8** two (2) certified copies of signed EPC Contract(s) and the O&M Contract(s), which are executed in accordance with Clause 16.3;
- 1.8(A)** in case of change of EPC Contractor (or a member of the EPC Contractor) prior to Mobilisation Date, evidence that the proposed new EPC Contractor or the proposed new member of the EPC Contractor (as the case may be) meets the relevant EPC Contractor Criteria;
- 1.9** two (2) certified copies of the licenses issued by the Pakistan Engineering Council to the EPC Contractor and the O&M Contractor, for construction and operation works (respectively) in respect of the Project;
- 1.10** copies of a full or limited notice to proceed (as applicable), in the event the Company has issued a full or limited notice to proceed to the EPC Contractor;
- 1.11** copies of the Approvals procured by the Company and the same are effective and valid and have not been cancelled and / or rescinded;
- 1.12** two (2) certified copies of the evidence of establishment of the Company Payment Account, certified by the bank in which Company Payment Account has been opened by the Company;
- 1.13** a legal opinion from the legal counsel of the Company confirming that: (a) the Company has been duly organized and is validly existing under the laws of Pakistan and has the requisite power and authority to enter into this Agreement and the EFU Agreement and to undertake the transactions as contemplated by this Agreement and the EFU Agreement and to assume the obligations as contained herein and the EFU Agreement and the enforceability of the same against the Company; (b) this Agreement and the EFU Agreement have been duly executed and are legally valid, binding and enforceable against the Company in accordance with the terms herein and the EFU Agreement; and (c) all consents and approvals or actions required to be undertaken, fulfilled and obtained (including the obtaining of any necessary Approvals on behalf of or in the name of the Company) in order for the Company to enter into and comply with its obligations under this Agreement and the EFU Agreement (as the case may be), have been undertaken, fulfilled or obtained;
- 1.14** a legal opinion from the legal counsel(s) of the Sponsor(s) confirming that: (a) the Sponsor(s) has / have been duly organized and is / are validly existing under the laws of the jurisdiction where it / they are incorporated and has / have the requisite power and authority to enter into the EFU Agreement and to undertake the transactions as contemplated by the EFU Agreement and to assume the obligations as contained in the EFU Agreement and the enforceability of the same against the Sponsor(s); (b) the EFU Agreement has been duly executed and is legally valid, binding and enforceable against the Sponsor(s) in accordance with the terms of the EFU Agreement; and (c) all consents and approvals or actions required to be undertaken, fulfilled

and obtained (including the obtaining of any necessary Approvals on behalf of or in the name of the Sponsor(s)) in order for the Sponsor(s) to enter into and comply with its / their obligations under the EFU Agreement, have been undertaken, fulfilled or obtained; and

1.15 such other documents which the GoS may require in connection with the above.

2. KW&SC's Responsibility

It shall be a condition precedent to the Mobilisation Date that each of the following conditions is satisfied and supplied to the Independent Appointees by KW&SC, unless any such condition precedent is waived or deferred in writing by the Company:

2.1 within thirty (30) Days of the Effective Date, KW&SC has signed and entered into a valid and effective:

- (a) Independent Engineer Contract for the appointment of the Independent Engineer; and
- (b) Independent Auditor Contract for the appointment of the Independent Auditor;

2.2 two (2) certified copies of the signed License Agreement.

3. GoS' Responsibility

It shall be a condition precedent to the Mobilisation Date that each of the following conditions is satisfied and supplied to the Independent Appointees by the GoS, unless any such condition precedent is waived or deferred in writing by the Company:

3.1 within thirty (30) Days of the Effective Date, GoS has signed and entered into a valid and effective:

- (a) Independent Engineer Contract for the appointment of the Independent Engineer; and
- (b) Independent Auditor Contract for the appointment of the Independent Auditor;

4. General Conditions Precedent

It shall be a condition precedent to the Mobilisation Date that by the Scheduled Mobilisation Date, as such date may be extended pursuant to the terms of this Agreement, or such later date as the Parties hereto may agree in writing, a closing certificate dated the date of the Mobilisation Date, from:

4.1 each Party hereto in favour of the other Parties to the effect that the representations and warranties of each of the GoS Parties and the Company, as the case may be, contained or incorporated by reference herein are true and correct in all material respects on and as of the Mobilisation Date with the same force as though made on and as of the Mobilisation Date; and

4.2 each party to the EFU Agreement in favour of the other parties to the EFU Agreement, to the effect that the representations and warranties of each of the parties to the EFU Agreement, contained or incorporated by reference in the EFU Agreement are true and correct in all material respects on and as of the Mobilisation Date with the same force as though made on and as of the Mobilisation Date.

Attachment A: O&M Contractor Criteria

1. O&M Contractor Criteria

1.1 O&M Contractor (or a Sponsor, in case a Sponsor intends to undertake the relevant operations and maintenance works for the Project itself) must have undertaken operations and maintenance works for at least:

- (a) one (1) water supply project which include canal with more than 5 km length and with a design flow of at least 50 MGD or one (1) large dam following the ICOLD (International Commission of Large Dams) definition, or one (1) hydropower project of 25 MW or more, that includes a spillway chute, a forebay or diversion structures;
- (b) one (1) water pumping station with a design flow of at least 50 MGD;
- (c) one (1) water filtration/sewage treatment/wastewater treatment/desalination plant having a design flow of at least 50 MGD; and
- (d) in case solar PV plant is proposed, one (1) solar PV plant, with a minimum capacity of 5 MW.

1.2 A proposed O&M Contractor shall be required to have a Net Worth of at least USD 20,000,000/-¹², based on latest financial statements calculated as follows:

- (a) “*Net Worth*” shall be calculated as the proposed O&M Contractor’s (or in case of consortium, each consortium member’s) “*Total Assets*” minus its: (i) “*Total Liabilities*”; and (ii) “*Revaluation Surplus*” (or similar entry) on a consolidated basis.
- (b) “*Total Assets*” shall be calculated as the total consolidated assets of such entity measured in accordance with either International Financial Reporting Standards or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the proposed O&M Contractor (or in case of consortium, each consortium member) is incorporated.
- (c) “*Total Liabilities*” shall be calculated as the total consolidated liabilities of such entity measured in accordance with either International Financial Reporting Standards or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the proposed O&M Contractor (or in case of consortium, the relevant consortium member) is incorporated.
- (d) “*Revaluation Surplus*” (or similar entry) shall be calculated as the total consolidated figure for any upward changes in the value of the capital / fixed assets of such entity measured in

¹² **Note:** For conversion of values in USD, the exchange rate will be calculated using the month-end exchange rates as specified in the ‘Month-End Ex for the relevant year for which the financial statements are provided. For example, financial statement of December 2023, the exchange rate of December 29, 2023 will be used. Rates in ‘US \$’ tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls.

accordance with either International Financial Reporting Standards or any other similar accounting or public accounting standard which is permissible in the jurisdiction in which the proposed O&M Contractor (or in case of consortium, the relevant consortium member) is incorporated. It is typically under the 'Equity' line item in balance sheet.

In case the O&M Contractor comprises of a consortium, such consortium, in aggregate, shall be required to have a Net Worth of at least USD 20,000,000/-¹³, based on latest financial statements.

2. Required Documentation:

2.1 For the proposed O&M Contractor (or the Sponsor, in case the Sponsor intends to undertake the relevant operation and maintenance works for the Project itself):

- (a) most recent performance certificate/report, or relevant evidence issued by an employer or a third-party which engaged the proposed O&M Contractor (or the Sponsor) for the relevant works / project, indicating the relevant works / project, undertaken by the proposed O&M Contractor (or the Sponsor) in the last fifteen (15) years, and with respect to each of the works / projects, the information in the format provided in Form T1 (*Project References of Proposed O&M Contractor*) of this attachment, clearly indicating the name of the proposed O&M Contractor (or the Sponsor), scope of operations and maintenance works undertaken by such proposed O&M Contractor (or the Sponsor), in each case evidencing compliance with O&M Contractor Criteria;
- (b) in respect of the proposed O&M Contractor: (i) audited financial statements, duly certified by an independent certified public accountant or auditor, for the three (3) most recent full financial years for which audited financial statements are available as at the Effective Date; or (ii) if: (A) the proposed O&M Contractor is incorporated in a jurisdiction which does not require the auditing of financial statements; and / or (B) such proposed O&M Contractor has not in fact had its financial statements audited, on such proposed O&M Contractor's non-audited consolidated financial statements, accompanied by a written opinion issued by an independent certified public accountant or auditor certifying the proposed O&M Contractor's net worth for the three (3) most recent full financial years for which such financial statements are available as at the Effective Date. Provided that the non-audited financial statements submitted by an entity, which by applicable law is required to prepare audited financial statements, shall not be accepted.

2.2 A detailed description of the proposed O&M Contractor (including each member of the O&M Contractor, in case the O&M Contractor is a consortium) containing:

- (a) legal name;
- (b) complete head office contact information, including mailing address, telephone and fax

¹³ **Note:** For conversion of values in USD, the exchange rate will be calculated using the month-end exchange rates as specified in the 'Month-End Ex for the relevant year for which the financial statements are provided. For example, financial statement of December 2023, the exchange rate of December 29, 2023 will be used. Rates in 'US \$' tab in the file uploaded by State Bank of Pakistan which can be accessed using the following link https://www.sbp.org.pk/ecodata/IBF_Arch.xls.

numbers, and an e-mail address;

- (c) incorporation details, including corporate charter and articles of incorporation. If the proposed O&M Contractor (or a member of the O&M Contractor, in case the O&M Contractor is a consortium) is an unincorporated legal entity, then the proof of that legal entity's existence must be provided.

In case a Sponsor intends to undertake the works for the Project itself along with the O&M Contractor, such Sponsor will also be considered part of the O&M Contractor, to the extent of the relevant works. Such Sponsor will be required to provide relevant information / details as per the O&M Contractor Criteria for the relevant part.

FORM T1 – PROJECT REFERENCES OF PROPOSED O&M CONTRACTOR

The Company shall attach to this form information that describes the proposed O&M Contractor’s background and experience in similar works. A summary table shall be provided for each project or reference, and relevant documents shall be attached herein as evidence (completion certificates, technical reports, cover letters, etc.).

Note: Company may include concession or operation and maintenance projects specifying the period in which the proposed O&M Contractor has provided services which shall not be beyond 15 years.

Suitable relevant project experience with specific details of the Proposed O&M Contractor	One (1) water supply project which include canal with more than 5 km length and with a design flow of at least 50 MGD or one (1) large dam following the ICOLD (International Commission of Large Dams) definition, or one (1) hydropower project of 25 MW or more, that includes a spillway chute, a forebay or diversion structures	One (1) water pumping station with a design flow of at least 50 MGD	One (1) water filtration/sewage treatment/wastewater treatment/desalination plant having a design flow of at least 50 MGD	In case solar PV plant is proposed, one (1) solar PV plant, with a minimum capacity of 5 MW
<i>[Insert name of the Project]</i>	[Y/N]	[Y/N]	[Y/N]	[Y/N]
<i>[Insert name of the Project]</i>	[Y/N]	[Y/N]	[Y/N]	[Y/N]

PROJECT DETAILS

Name of plant/project	Location and country of project	Description (overview) of the project /plant along with project/plant components	Scope of work undertaken by the Proposed O&M Contractor	Start Date of Operation	Ownership in plant/project (if applicable)
<i>[one line per plant /project]</i>					

Name of Developer counterparty, organization and / or individual for reference.	Capacity of plant /project	Name of project company	Period, in which the contractor provided operations and maintenance services
<i>[one line per plant /project]</i>			

Part 2: Commencement Conditions Precedent

5. Company's Responsibility

It shall be a condition precedent to the Commencement Date that each of the following conditions are satisfied and supplied to the Independent Appointees by the Company, unless any such condition precedent is waived or deferred in writing by the GoS:

- 5.1 a letter from the Financing Parties (or an agent of the same) confirming that the Financing Documents have been signed and that all conditions precedents to Financial Closing have been satisfied or waived except:
 - (a) the issuance of the SBP Debit Authority or GoS Termination SBLC (as applicable); and
 - (b) the funding of the GoS Payment Account with the GoS Payment Account Required Balance (the "**Partial FC Letter**");
- 5.2 not later than thirty (30) Days from the Mobilisation Date, submit the Operating and Maintenance Procedures in accordance with clause 10.3;
- 5.3 not later than thirty (30) Days prior to the Scheduled Commencement Date, submit the construction manual and the operations and maintenance manuals;
- 5.4 not later than thirty (30) Days prior to the Scheduled Commencement Date, submit evidence of establishment of the Environmental and Social Management System;
- 5.5 submit evidence of procurement of all insurances in terms of clause 18;
- 5.6 submit the Mobilisation Testing Acceptance Certificate in accordance with appendix 5;
- 5.7 evidence of incorporation of share transfer restrictions for Sponsors, as specified in clause 8 of the EFU Agreement, in the corporate documents of the Company;
- 5.8 certified copy of the Operations Handover Certificate;
- 5.9 such other documents which the GoS may reasonably require in connection with the above;
- 5.10 a copy of the Environmental and Social Impact Assessment (ESIA) report, duly approved by the Sindh Environmental Protection Agency, Government of Sindh;
- 5.11 certified true copies of the signed Financing Documents, with conforming electronic copies; and
- 5.12 two (2) certified copies of the signed Concession and License Direct Agreement.

6. GoS' Responsibility

It shall be a condition precedent to the Commencement Date that each of the following conditions are satisfied and supplied to the Independent Appointees by the GoS, unless any such condition precedent is waived or deferred in writing by the Company:

6.1 following confirmation by the Independent Appointees to the GoS that the Commencement Conditions Precedent set out in paragraph 5.1 of this appendix 4 have been satisfied, deferred or waived and the Partial FC Letter has been issued, evidence of:

- (a) establishment of the GoS Payment Account, issuance of the GoS Payment Account Standing Instructions and the GoS Payment Account Letter of Lien;
- (b) the funding of the GoS Payment Account with the GoS Payment Account Required Balance;
- (c) establishment of the GoS Equity Account and issuance of the GoS Equity Account Standing Instructions; and
- (d) issuance of the SBP Debit Authority or the GoS Termination SBLC (as applicable).

7. General Conditions Precedent

It shall be a condition precedent to the Commencement Date that by the Scheduled Commencement Date, as such date may be extended pursuant to the terms of this Agreement, or such later date as the Parties hereto may agree in writing, that a closing certificate dated the date of the Commencement Date from each Party hereto in favour of the other Parties to the effect that the representations and warranties of the GoS Parties and the Company, as the case may be, contained or incorporated by reference herein are true and correct in all material respects on and as of the Commencement Date with the same force as though made on and as of the Commencement Date.

APPENDIX 5: TESTING

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1. INTRODUCTION

The Company shall establish the Metering and Monitoring System (including any additional systems) to address all metering and monitoring of inputs to and outputs from the KWC.

The Company shall also develop and implement a proper Metering and Testing Plan to address all metering and monitoring requirements to:

- demonstrate compliance with Legal Requirements;
- demonstrate compliance with its obligations as set out in the Concession Agreement;
- ensure that process monitoring is adequately implemented throughout the KWC including the canal, new pipeline and offtakes, KIII Conduit, pumping stations, rising mains, power supply facilities such as the Solar Plant, and the Treatment Plant, including sludge handling and treated effluent discharge infrastructure.

During the C&O Period, the water quality parameters shall be determined through Mobilisation Testing. During the Operating Period, the main compliance monitoring of the KWC shall focus on the metering, monitoring and analysis of the received and the delivered water, as well as the by-pass discharges. These main compliance criteria shall be measured against the prescribed range of influent volumes and quality and set limits. The combined compliance and impact of events will be applied to the Service Payments and deduction formulae to calculate the Service Payments due to the Company for each Billing Period, in accordance with appendix 8.

The Performance Guarantees included in this appendix 5 constitutes the minimum parameters that are explicitly stated herein, as key performance indicators (KPIs) for the KWC. However, the Company can and should consider more variables in the Metering and Testing Plan that shall be approved by the Independent Engineer. In general, where the method or frequency for any activities is prescribed under Law, the Metering and Testing Plan shall adopt those frequencies and methods.

This appendix 5 is neither addressing nor referring to the quality control and quality assurance testing for construction materials, such as concrete and earthworks, where, for instance, compressive strength or compaction tests are carried out. The Detailed Engineering Design that must be developed by the Company and approved by the Independent Engineer, shall address the necessary materials quality control according to current regulations and engineering standards. This shall be explicitly included in all Construction Drawings and the quality control and assurance plan to be developed by the Company and approved by the Independent Engineer.

2. DEFINITIONS

2.1 General Definitions

“Performance Guarantees” means the performance guarantees of the KWC as provided in attachment 1, attachment 2 and attachment 3 to this appendix 5, including key parameters associated with water quality, water volumes, power consumption, and health and safety.

“Technical Limits” means the water quality design limits of the Treatment Plant, as set out in table 1.1 of attachment 1 of this appendix 5.

Different types of testing are considered in this appendix 5, though the Company can propose a different approach within the Metering and Testing Plan and, eventually, implement it if the Independent Engineer approves of the same.

2.2 Testing during the Mobilisation Period

“**Mobilisation Testing**” means all the tests to be carried out to assess the condition of the existing KWC prior to the handover of KWC to the Company on the Commencement Date, in accordance with paragraph 6 of this appendix 5.

The Mobilization Period is assumed to last for six (6) Months from the Effective Date, though the testing should be carried out during two (2) weeks, after the implementation of the minimum metering systems in accordance with appendix 1. This Mobilization Testing will set the performance parameters of KWC to be respected by the Company during the C&O Period.

2.3 Testing during the C&O Period

The Metering and Testing Plan shall consider Start-up Tests and Trial Runs according to the following:

“**Start-up Tests**” means the tests to be performed in respect of the KWC in accordance with paragraph 7 of this appendix 5. This testing shall be performed for the purpose of proving the operational performance of elements, equipment, and ancillary systems of KWC identified in the Metering and Testing Plan. During the Start-up Tests, the Company shall demonstrate that each applicable element of equipment and related system achieves the applicable technical specifications provided by the equipment manufactures as incorporated in the Construction Documents.

- The Start-up Tests can imply testing at the factory of each such item of equipment to ascertain the mechanical, electrical, electronic and structural suitability and reliability, as appropriate. For instance, the tests shall include hydraulic leakage testing of the equipment prior to installation.
- Upon arrival of equipment at the Site, all equipment shall be made available for inspection in order to determine whether any part of the equipment may have been damaged during transit. The equipment shall be installed without delay whenever possible. If the equipment cannot be installed immediately, it must be stored under the manufacturers’ recommended and appropriate conditions.
- Upon installation, the Start-up Tests shall confirm the operational reliability of the different elements and equipment.

“**Trial Run**” means the tests to be performed in respect of the KWC in accordance with paragraph 8 of this appendix 5. This testing shall encompass the entire KWC once all components have been rehabilitated, and construction is finished. A trial run may last for twenty-four (24) hours at least, and it will help the Company to assess the proper performance of the KWC as a prior step before commissioning.

2.4 Testing during the commissioning phase

The commissioning phase of the KWC (which will occur during the C&O Period) once the

construction is finished shall last for three (3) months, and during the commissioning, inflows from Hub Dam shall be introduced into the system in a stable state. During commissioning:

- the inlet works (Head Regulator) and all elements of the KWC will be operational,
- the Company shall monitor and check all equipment at regular intervals in accordance with the checklists established in the Metering and Testing Plan; and
- equipment may be stopped to make adjustments, but the KWC should not stop operations. The control systems shall be tested thoroughly under normal operating conditions with adjustments made to simulate process faults and equipment failures.

Commissioning is deemed completed once the KWC has been fully stabilized and achieves the performance requirements under a full range of anticipated flow conditions.

The following types of testing shall be considered in the Metering and Testing Plan during commissioning, in accordance with paragraph 9 of this appendix 5:

“Performance Tests” means the tests to assess the performance of the entire KWC for at least twenty-four (24) continuous hours, in terms of water losses, water quality, power consumption, and noise levels as set out in attachments 1, 2 and 3 of this appendix 5. Acceptance details are given in paragraph 9.3.8 of this appendix 5.

“Reliability Test Runs” means the tests to be carried out in order to assess the reliability of the entire KWC for a period of thirty (30) consecutive Days. Acceptance details are given in paragraph 9.4.4 of this appendix 5.

Once the Performance Tests, the Reliability Test Runs and such other tests agreed and set out in the Metering and Testing Plan are successfully completed, the Independent Engineer shall issue the Project Commercial Operations Certificate.

2.5 Testing during the Operating Period

Testing during the Operating Period shall be defined in the Metering and Testing Plan submitted to the Independent Engineer ninety (90) Days prior to the Schedule Project Commercial Operations Date and may consist of:

“Regular monitoring, metering and testing” during the Operating Period, which include the minimum flow and water quality monitoring requirements for the KWC, taking into consideration the Performance Guarantees. Flow and quality monitoring devices shall be installed, based on Good International Industry Practices, at the locations, and with reference to the metering and monitoring system schedule described in paragraphs 2.6.1 and 2.6.2 of appendix 1. Those are the minimum requirements that shall be defined and implemented according to the Metering and Testing Plan;

“Performance Tests” that are carried out for twenty-four (24) hours at least and **“Reliability Test Runs”** that are performed during thirty (30) consecutive Days, shall also be considered during the Operating Period as a complement to the regular monitoring, metering and testing. The Metering and Testing Plan shall define the frequency and details associated with these types of testing, and they shall be implemented after approval by the Independent Engineer.

“Handover Performance Testing” means all the tests to be carried out to assess the condition of the KWC during the handover from the Company to KW&SC at the end of the Concession Period. This testing shall be like the one carried out during the commissioning stage and will be further defined in the Metering and Testing Plan.

3. GENERAL CONSIDERATIONS

3.1 Metering and Testing Plan

- 3.1.1 The Company shall be responsible for providing all inputs, materials and other supplies required to carry out all tests under this appendix 5, except the quantity of water required to be provided by KW&SC under clauses 8.2.2 and 8.3.2 of the Concession Agreement.
- 3.1.2 The overall Metering and Testing Plan for the Project shall be carried out over the following periods:
- 3.1.2.1 Mobilisation Period, during which, the Mobilisation Testing shall be carried out to set the parameters that should be respected during the C&O Period;
- 3.1.2.2 C&O Period, during which,
- (a) Start-up Tests of the KWC and related equipment and systems;
 - (b) Performance Test;
 - (c) Reliability Test Run; and
 - (d) such other tests as agreed and approved in the Metering and Testing Plan,
- shall be carried out; and
- 3.1.2.3 Operating Period, as per paragraph 2.5 of this appendix 5 including the Handover Performance Tests before handover of the Project in terms of clause 21.10 of the Concession Agreement.
- 3.1.3 At least thirty (30) Days prior to the start of Mobilisation Testing, the Company shall submit to the Independent Engineer, in writing, all relevant procedures in the Metering and Testing Plan relating to the Mobilisation Testing. At least ninety (90) Days prior to the proposed commencement of any subsequent phases of testing described in paragraphs 2.3, 2.4 and 2.5 of this appendix 5, the Company shall submit to the Independent Engineer, in writing, all relevant procedures in the Metering and Testing Plan, which shall include:
- 3.1.3.1 the test program and frequencies;
 - 3.1.3.2 the test standards;
 - 3.1.3.3 the type of inspection and tests;
 - 3.1.3.4 the methodology of tests of the KWC;

- 3.1.3.5 the checklists, including process data to be recorded;
 - 3.1.3.6 the description of instrumentation to be used during testing and calibration of test results;
 - 3.1.3.7 a list of the tests which are to be witnessed by third parties;
 - 3.1.3.8 the quality control procedures;
 - 3.1.3.9 the Company / Contractor manpower allocation and deployment schedule for performing the tests; and
 - 3.1.3.10 the forms of test records and reports.
- 3.1.4 The Independent Engineer shall have the right, within forty-five (45) Days after receipt of the Metering and Testing Plan, to request the Company to amend the Metering and Testing Plan to include additional tests, which in the opinion of the Independent Engineer should be carried out to establish that the KWC is:
- 3.1.4.1 installed and capable of being operated according to the design, performance and operation requirements specified in appendix 1; and
 - 3.1.4.2 capable of attaining the requirements of this appendix 5,
- and the Company shall incorporate any such reasonable requests in the Metering and Testing Plan.
- 3.1.5 If the Company and the Independent Engineer are unable to agree upon any additional tests as required under paragraph 3.1.4 of this appendix 5, the Dispute shall be referred for resolution pursuant to clause 27 of the Concession Agreement, provided that the Company shall be entitled to proceed with the testing under its proposed Metering and Testing Plan pending resolution of such matter.

3.2 Right to Witness Inspections and Tests

- 3.2.1 The Company shall carry out all necessary off-site tests (including factory acceptance tests) on items relating to the KWC at the manufacturers' works before delivery of such items to the Site. The items shall include as a minimum, the major pumps, major flow meters, motors, pressure vessels, and major electrical and instrumentation and control equipment. The off-site tests shall comply with the appropriate standards for the equipment, and/or the manufacturer's requirements.
- 3.2.2 Test certificates shall be submitted as part of the quality assurance / quality control plan, and shall include all test results, calculations, performance graphs and curves, and other requisite information. The test certificates shall be endorsed by representatives of the manufacturer and the Company and submitted to the Independent Engineer for approval.
- 3.2.3 KW&SC shall have the right to have one or more representatives present during any inspections or tests of major equipment and systems of the KWC in the workshops. Unless otherwise specified in this appendix 5, or in the Metering and Testing Plan to be developed in accordance with this appendix 5, the Company shall submit to the Independent Engineer a testing schedule at least ten (10) Business Days prior to the

commencement of such testing. The Company shall provide regular updates of such testing schedule to the Independent Engineer.

- 3.2.4 The presence of the Independent Engineer or KW&SC's representatives during any inspection or test shall in no way relieve the Company of its responsibility for supplying the equipment or systems in accordance with the milestone dates as set out in appendix 2 of the Concession Agreement.

3.3 Taking of Samples and Laboratory Tests

Unless otherwise specified in the Metering and Testing Plan, taking of samples required for the purposes of these tests shall be undertaken in accordance with national and international standards. Laboratory testing shall be performed by institutions which are licensed and accredited to perform the specific tests.

4. REPORTING

- 4.1 In addition to, or in combination with any other reporting that is required under the Concession Agreement, the Company shall submit monthly, quarterly, and annual reports for the Metering and Monitoring Systems.
- 4.2 The Company shall report only on those components of the infrastructure that were being operated by the Company in the corresponding reporting period.
- 4.3 The reports shall clearly address compliance with the applicable requirements of both the existing regulations and the Concession Agreement and shall include the relevant information, including at least, compliance with Performance Guarantees and other matters such as energy consumption and production data, analyses and trending of operational process monitoring and control data, etc.
- 4.4 Any incident that has or is likely to have a detrimental impact on the surrounding environment, and adjoining water resource quality or the quality of treated water to be supplied to an end-user must be reported to the Independent Engineer within twenty-four (24) hours of such incident.

5. INTERNAL AND EXTERNAL AUDITS

5.1 Internal Audits

- 5.1.1 The Company must conduct internal audits on a quarterly basis of its Metering Systems and Monitoring Systems. Audits shall be scheduled in advance for each year.
- 5.1.2 Each audit must assess / address any previous audit findings which remain unresolved. The internal audit process shall also provide for periodic inter-laboratory checking of laboratory analysis results.
- 5.1.3 The internal audit report shall be submitted to the Independent Engineer within no more than fourteen (14) Days of the completion of the audit.

5.2 External Audits

- 5.2.1 Independent external audits on the Metering Systems and Monitoring Systems must be conducted on an annual basis. This may be undertaken in conjunction with other audits, e.g., audits of the management and quality systems.
- 5.2.2 The external auditors shall be appointed by the Company and the scope of the external audit must include:
- assessing the effectiveness of the internal audits conducted;
 - making recommendations, if enhancements are required in terms of, but not limited to, the audit scope, audit participants or team, audit findings, corrective actions, and management approval criteria;
 - assessing, making findings and recommending corrective actions on the level of compliance with the Company's Metering and Testing Plan;
 - making recommendations for any enhancements to the Metering and Testing Plan.
- 5.2.3 All external audit reports must be submitted to the Independent Engineer within no more than fourteen (14) Days of the completion of the audit, serving as fulfilment of the auditing criteria.

6. MOBILISATION TESTING

- 6.1** The Mobilisation Testing shall be carried out for twenty-four (24) continuous hours for the existing KWC prior to the handover of KWC to the Company. Exact details of the performance test standards and procedures shall be mutually agreed upon by the Company and the Independent Engineer but proposed and defined by the Company in the Metering and Testing Plan.
- 6.2** The total electrical power consumption of the KWC shall be measured during the twenty-four (24) hour Mobilisation Testing. The average power consumption shall be used to determine the reference value for the C&O Period.
- 6.3** The Company shall notify the Independent Engineer of readiness of the KWC for Mobilisation Testing, and the installation and verification of the instrumentation required therefor. Within five (5) Days of such notification, the Mobilisation Testing shall commence.
- 6.4** The Mobilisation Testing is scheduled to take place when 100 MGD are being received by the KWC. If that situation does not take place during the Mobilisation Testing, the obtained values can be adjusted during the C&O Period after measuring the real values when 100 MGD are received by the KWC.
- 6.5** During the Mobilisation Testing, the Company and the Independent Engineer shall accept such tests that will define the technical parameters for the KWC during the C&O Period.
- 6.6 Certification of Mobilisation Testing**

- 6.6.1 Within five (5) Business Days of receipt of a test report from the Company on the Mobilisation Testing, including all information reasonably necessary to evaluate the results, the Independent Engineer shall indicate in writing whether it accepts or disputes the accuracy of the test results, and the successful completion of the Mobilisation Testing.
- 6.6.2 If the Independent Engineer disputes the results submitted by the Company, and the Company is unable to agree with the determination of the Independent Engineer, such Dispute shall be referred for resolution pursuant to clause 27 of the Concession Agreement. If it is agreed or determined that retesting is required, the Company shall perform such retesting as promptly as possible after the date of such agreement, or determination thereof under clause 27 of the Concession Agreement.

6.7 Issuance of Mobilisation Testing Acceptance Certificate

Within three (3) Days of the acceptance of the Mobilisation Testing results, the Independent Engineer shall issue the Mobilisation Testing Acceptance Certificate, setting out the:

- 6.7.1 Allowable NRW;
- 6.7.2 Output Water Quality Specifications; and
- 6.7.3 Contracted Specific Net Electricity Consumption.

7. KWC START-UP TESTS DURING C&O PERIOD

- 7.1 The Independent Engineer shall have the right to witness the start-up and operational tests of the KWC, including all related equipment and systems. The Company shall submit to the Independent Engineer a test schedule for all Start-up Tests at least twenty (20) Business Days prior to the proposed commencement date of such tests and provide regular updates of such testing schedule to the Independent Engineer. The tests shall include, but not be limited to items such as:
 - 7.1.1 start-up and operational tests of the firefighting system;
 - 7.1.2 start-up tests of the fire protection system;
 - 7.1.3 the pre-energisation tests;
 - 7.1.4 the protection and trip setting of the pumping stations and the water treatment plant equipment, including related auxiliaries;
 - 7.1.5 demonstration of the functioning of various trip and bypass protections under operating conditions by initiating malfunctioning of any system or by genuine mistake in operation;
 - 7.1.6 start-up and operational tests of common systems such as, but not limited to:
 - 7.1.6.1 electricity supply system;
 - 7.1.6.2 compressed air system;

- 7.1.6.3 raw water supply system from the pumping station;
- 7.1.6.4 dosing system
- 7.1.6.5 chlorination system;
- 7.1.6.6 filtration systems; and
- 7.1.6.7 sand filters cleaning system;
- 7.1.7 protection systems/settings, in accordance with the agreed design and the requirements of the water and power connection systems;
- 7.1.8 protection and trip setting of main pumps installed in the KWC;
- 7.1.9 outage of one of the filters to simulate proper operation of the remaining filters in the Treatment Plant;
- 7.1.10 start-up tests of the relevant part of the Treatment Plant equipment and related facilities and systems, including checking of automatic change-over of standby facilities, interlocks, protections, and alarms;
- 7.1.11 verification of start-up times and loading rates of the pumping stations and the Treatment Plant at various downtime conditions;
- 7.1.12 hydrostatic testing using potable water, including the following as a minimum:
 - 7.1.12.1 hydrostatic testing of the potable water storage facilities, which shall include a twenty-four (24) hour leakage test for each product water storage facility; and
 - 7.1.12.2 pressure tests for all pressure pipes and elements of pressure systems including the potable water storage facilities interconnecting pipes and pumping station, as well as the delivery pipe work up to the Output Water Connection Point or the KWC offtakes;
- 7.1.13 environmental monitoring equipment, water quality monitoring equipment, functioning tests, and verification of guarantees;
- 7.1.14 demonstration of the dispatch and metering data acquisition systems, including the SCADA;
- 7.1.15 verification of mechanical completeness of the pumping stations and the Treatment Plant;
- 7.1.16 functional test of all electromechanical and safety equipment (e.g., pumps, blowers, backwash systems, wastewater treatment, filters, safety equipment, etc.); and
- 7.1.17 all other tests required to demonstrate the safety and security of the KWC and trip systems and to demonstrate compliance with requirements set out in the Concession Agreement.

7.2 Certification of Start-Up Tests

- 7.2.1 The Independent Engineer shall indicate in writing within five (5) Business Days after receiving from the Company a test report on the start-up tests, including all information reasonably necessary to evaluate the results, whether it accepts or disputes that such test results are accurate and the Start-up Tests have been successfully completed.
- 7.2.2 If the Independent Engineer disputes the results submitted by the Company, and the Company is unable to agree with the determination of the Independent Engineer, such Dispute shall be referred for resolution pursuant to clause 27 of the Concession Agreement. If it is agreed or determined that re-testing is required, the Company shall perform such re-testing as promptly as possible after the date of such agreement, or determination thereof under clause 27 of the Concession Agreement.

8 KWC TRIAL RUN

- 8.1 After the Start-up Tests have been completed, the KWC, including its corresponding integrated equipment and facilities, shall be operated for a minimum twenty-four (24) hour trial run at the load settings and operating conditions agreed by the Company and the Independent Engineer. The start, stop and switch-over (to standby equipment) procedures shall be included in the Trial Run. The Company shall be permitted to undertake such work during the Trial Run as is necessary to optimise the running of the KWC. The Company may extend (without adjustment to the Scheduled Project Commercial Operations Date) the duration of the Trial Run to evaluate whether the KWC shall be able to achieve the quality and stability of operations which would be required for the Reliability Test Run and the Performance Tests.
- 8.2 After the Trial Run has been duly completed, the Company shall, prior to undertaking the Performance Test and the Reliability Test Run, demonstrate that:
- 8.2.1 the KWC is providing the received volumes;
- 8.2.2 the Reservoir is fully capable of maintaining the capacity storage as specified in appendix 1 of the Concession Agreement;
- 8.2.3 the Treatment Plant is capable of delivering water in accordance with the Output Water Quality Specifications, and complying with the minimum Performance Guarantees; and
- 8.2.4 the pumping stations and the Treatment Plant are stable, and the treated water matches with the water quality values provided by the equipment suppliers as set out in the relevant attachments to this appendix 5.

9 KWC PERFORMANCE TEST AND RELIABILITY TEST RUNS

9.1 General considerations

The performance and reliability testing of the KWC shall be for the purpose of demonstrating the respective Performance Guarantees and the reliability of the KWC during commissioning.

9.2 Test Procedures and Reporting

- 9.2.1 The testing of the KWC items shall be conducted in accordance with the Metering and Testing Plan, and pursuant to the Operating and Maintenance Procedures.
- 9.2.2 A test report shall be prepared by the Company promptly after completion of each test of the KWC items. The report shall include data as recorded, including valid calibration certificates (not older than six (6) Months).

9.3 Performance Test

- 9.3.1 After successful completion of the Start-up Tests and the Trial Run, and after relevant test protocols have been submitted by the Company and accepted by the Independent Engineer, the Company shall be allowed to prepare the KWC for the Performance Tests.
- 9.3.2 The Company shall adjust the test results for capacity and power consumption in case the applicable conditions during the test are between the relevant Technical Limits for the:
 - 9.3.2.1 pH;
 - 9.3.2.2 Turbidity;
 - 9.3.2.3 Aluminium;
 - 9.3.2.4 Chlorine residual;
 - 9.3.2.5 Faecal Coliform; and
 - 9.3.2.6 Total Coliforms.
- 9.3.3 The Performance Test shall be carried out for twenty-four (24) continuous hours for the entire KWC. The exact details of the Performance Test standards and procedure shall be mutually agreed to by the Company and the Independent Engineer, in accordance with the requirements of the Operating and Maintenance Procedures and coherent with the Metering and Testing Plan.
- 9.3.4 The Company shall be permitted to annul a Performance Test upon demonstrating to the satisfaction of the Independent Engineer that any parameter of the Technical Limits was exceeded during the initial Performance Test and such exceedance was for a period of time and to a degree which was material to the results of the Performance Test. If a Performance Test is annulled, the Company shall at its own cost carry out a further Performance Test for a second continuous twenty-four (24) hours period as soon as the relevant parameter is within the Technical Limits.
- 9.3.5 The total electrical power consumption of the KWC will be measured during the twenty-four (24) hours Performance Test. The average power consumption shall be used to determine compliance.
- 9.3.6 The Company shall notify the Independent Engineer of readiness of the KWC for the Performance Tests and that the instrumentation for the Performance Tests is installed and checked. Within five (5) Days of such notification, the Performance Test shall commence.

- 9.3.7 During the Performance Test, the Company shall demonstrate by means of performance and acceptance tests that the KWC, including related equipment and systems, achieves the Performance Guarantees, such as:
- 9.3.7.1 percentage of losses as set out in attachment 1;
 - 9.3.7.2 guaranteed water quality specification as set out in attachment 3 based on water quality technical limits as set out in attachment 1;
 - 9.3.7.3 guaranteed specific power demand as set out in attachment 1; and
 - 9.3.7.4 the guaranteed noise levels as set out in attachment 2;
- 9.3.8 The Performance Tests shall be deemed to be satisfactorily completed only if the following conditions are met for the entire KWC:
- 9.3.8.1 the percentage of losses is not more than the value set out in attachment 1 of the transferred volume;
 - 9.3.8.2 the water quality specification achieves the guaranteed water quality specifications as set out in the attachments to this appendix 5;
 - 9.3.8.3 the specific power demand is less than the maximum specific power demand as set out in attachment 1; and
 - 9.3.8.4 the guaranteed noise levels as set out in attachment 2 are met.
- 9.3.9 The Independent Engineer shall indicate in writing within seven (7) Business Days after receiving from the Company a test report on the Performance Tests, including all information reasonably necessary to evaluate the results, whether it accepts or disputes that such test results are accurate.
- 9.3.10 If the following circumstances arise:
- 9.3.10.1 KW&SC or the Independent Engineer dispute the results submitted by the Company and the Company is unable to agree with such determination; or
 - 9.3.10.2 the Company disputes an Independent Engineer decision pursuant to paragraph 9.3.4 of this appendix 5 as to whether any Performance Test should be annulled,

such Dispute shall be referred for resolution pursuant to clause 27 of the Concession Agreement. If it is agreed or determined that re-testing is required, the Company shall perform such re-testing as promptly as possible after the date of such agreement, or determination thereof under clause 27 of the Concession Agreement. The Company shall bear all reasonable costs of KW&SC's advisors in attending any repeated testing procedures. For the sake of clarity, KW&SC shall bear the cost of attending the first testing procedure.

9.4 Reliability Test Run

- 9.4.1 After completion of the Performance Test for the KWC, and compilation of relevant

test protocols by the Company, the Company shall be entitled to prepare the KWC for its Reliability Test Run. The Company shall notify the Independent Engineer that the KWC is ready to commence the Reliability Test Run. Within five (5) Days of such notification, the Reliability Test Run shall commence.

9.4.2 The Reliability Test Run for the KWC shall last for a period of thirty (30) consecutive Days.

9.4.3 During the Reliability Test Run, the KWC shall be operated normally and complying with the Performance Guarantees.

9.4.4 The Reliability Test Run for the KWC shall be deemed to be satisfactorily completed only if the following conditions are met:

9.4.4.1 save as provided below in paragraph (a) to (d), no shutdowns shall be permitted during the Reliability Test Run, except if owing to causes beyond the Company's responsibility or control, which must be proven by the Company:

(a) between Day 1 up to Day 10 (both Days inclusive), an aggregate of four (4) interruptions in the operations shall be allowed. If these interruptions exceed four (4) in number or twenty-four (24) hours in aggregate, then the Reliability Test Run of the whole KWC must be restarted from Day 1;

(b) between Day 11 up to Day 20 (both Days inclusive), an aggregate of two (2) interruptions in the operations shall be allowed. If these interruptions exceed two (2) in number or twenty-four (24) hours in aggregate, then the Reliability Test Run of the whole KWC must be restarted from Day 11;

(c) between Day 21 up to Day 30 (both Days inclusive), one (1) interruption in the operations shall be allowed. If such interruption exceeds twelve (12) hours or if there is more than one (1) interruption, then the Reliability Test Run of the whole KWC must be restarted from Day 21; and

(d) if any interruption in the operations, occurs at any time which exceeds twenty-four (24) hours, then the Reliability Test Run of the whole KWC shall be restarted from Day 1;

9.4.4.2 cleaning of filter elements and other actions normally required during operation of the Treatment Plant shall be allowed, provided that the Company informs the Independent Engineer of such actions in advance and the target output is not affected.

9.4.5 An "interruption in operations" in this paragraph 9.4 of this appendix 5 shall be interpreted as any of the following:

9.4.5.1 a shutdown of a component of the KWC which causes a reduction in the target water output;

9.4.5.2 failure to comply with Output Water Quality Specifications at the Output Water Connection Point as set out in appendix 1; or

9.4.5.3 the occurrence of a Defective Metering Event.

9.4.6 A test report shall be prepared by the Company promptly after completion of each Reliability Test Run. The report shall include data as recorded, including valid calibration certificates (not older than six (6) Months).

9.5 Project Commercial Operations Certificate

9.5.1 Within three (3) Days of the acceptance or deemed acceptance (as the case may be) of the Performance Test, Reliability Test Runs and such other test agreed and approved under the Metering and Testing Plan, the Independent Engineer shall issue the Project Commercial Operations Certificate to the Parties.

9.5.2 The Independent Engineer shall indicate in writing within five (5) Business Days after receiving from the Company a test report on the Performance Tests or Reliability Test Runs, including all information reasonably necessary to evaluate the results, whether it accepts or disputes that such test results are accurate and that the KWC has been successfully completed.

9.5.3 If the Independent Engineer disputes the results submitted by the Company, and the Company is unable to agree with the determination of the Independent Engineer, such Dispute shall be referred for resolution pursuant to clause 27 of the Concession Agreement. If it is agreed or determined that re-testing is required, the Company shall perform such re-testing as promptly as possible after the date of such agreement, or determination thereof under clause 27 of the Concession Agreement.

10 HANDOVER PERFORMANCE TESTING

10.1 The Handover Performance Testing shall be carried out before the KWC is handed back to KW&SC at the end of the Concession period. The principles for performing the Handover Performance Testing shall be the same as the one described in paragraph 2.4 of this appendix 5 for the commissioning phase. That means that the Handover Performance Testing period shall include both Performance Tests and Reliability Test Runs as defined in paragraph 9 of this appendix 5.

10.2 The handover phase shall take place at the end of the Concession Period, and in any case, the Company shall prepare a detailed proposal in the Metering and Testing Plan for such testing, to be approved by the Independent Engineer, and in compliance with the Concession Agreement.

11 SUPPLY OF SPARE PARTS

Prior to the issuance of the Handover Certificate, the Company shall ensure that necessary spare parts (as determined by the Independent Engineer) required for operation of KWC for one (1) year are available on the Site for use by KW&SC (or its nominee).

ATTACHMENTS: PERFORMANCE GUARANTEE DATA FOR THE PROJECT

Attachment 1: Guaranteed Performance

DESCRIPTION	UNIT	DATA	
1.1: Guaranteed Water Quality Technical Limits (The required Treatment Plant to be implemented by the Company should be able to provide the adequate water quality when receiving influent quality parameters within the range shown below)			
		Design Technical Lower Limit	Design Technical Upper Limit
pH value	Hydrogen ion	6.5	8.5
Turbidity	NTU	0	50
Aluminium	mg/l	0	1.0
Residual Chlorine	mg/l	0	0.02
Faecal Coliform (E. Coli)	cfu/100ml	0	100
Total Coliforms	cfu/100ml	0	100
1.2: Performance of the Entire KWC			
		C&O Period	Operating Period
Percentage of losses from the volume provided / NRW	%	Allowable NRW (as per Mobilisation Testing Acceptance Certificate)	Allowable NRW (as bid by the Company)
Guaranteed total specific power consumption (total for the KWC). Total per m ³ electricity consumption (net gross per m ³ consumption including alternative energy per m ³ sources on Site and energy recovery measures).	kWh/m ³	Contracted Specific Net Electricity Consumption (as per Mobilisation Testing Acceptance Certificate)	Contracted Specific Net Electricity Consumption (as bid by the Company)
Capacity of KWC	m ³ /day	454,609 (Contracted Availability)	454,609 (Contracted Availability)

Attachment 2: Guaranteed Maximum Noise Levels

DESCRIPTION	UNIT	DATA
Noise levels at a distance of one (1) meter from the noise source and within the pumping station or water treatment plant and major buildings	dB(A)	max. eighty-five (85)
Noise levels at the Site boundary	dB(A)	max. sixty (60)
Noise levels within all offices and the laboratory	dB(A)	max. fifty (50)

Note: Guaranteed maximum noise levels and subsequent requirements may be adjusted depending on the ambient noise baseline which shall be confirmed as part of the ESIA.

Attachment 3: Potable Water Quality Specifications

The table below shows the contractual limits for water quality to be provided at the Output Water Connection Point by the Company.

During C&O Period: Output Water Quality Specifications as per the Mobilisation Testing Acceptance Certificate.

During Operating Period: Output Water Quality Specifications summarized below:

PARAMETERS	UNIT	ALLOWED RANGE
pH value	Hydrogen ion	6.5 - 8.5
Turbidity	NTU	Max. 5
Aluminium	mg/l	Max. 0.20
Residual Chlorine	mg/l	0.2 - 0.5
Faecal Coliform (E. Coli)	cfu/100ml	Absent
Total Coliforms	cfu/100ml	Absent

Note: All the other potable water parameters not mentioned in the table above shall be in compliance with the most stringent of the latest applicable Pakistan standards or the WHO drinking water guidelines (latest revision).

APPENDIX 6: PERFORMANCE SECURITIES

Part 1 – C&O Performance Security

To

GOVERNMENT OF SINDH

[INSERT DETAILS]

GUARANTEE NO. [●] (hereinafter referred to as the “**Bank Guarantee**”)

Dated: [●]

[INSERT NAME OF BANK], being the Bank Guarantee issuing bank (hereinafter referred to as the “**Guarantor Bank**”) understands that the following parties shall enter into an agreement titled the “CONCESSION AGREEMENT” (hereinafter referred to as the “**Agreement**”) for the design, construction, rehabilitation, operation, maintenance, commissioning, financing and transfer of the Karachi Water Canal under the public-private partnership mode (the “**Project**”):

- (a) **THE GOVERNOR OF SINDH** (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) having its office located at Local Government & Housing Town Planning Department, Ground Floor, Tughlaq House, Sindh Secretariat, Karachi, Pakistan, for and on behalf of the Government of Sindh (the “**GoS**”, which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns);
- (b) **KARACHI WATER AND SEWERAGE CORPORATION**, a statutory body constituted pursuant to section 3 of the Karachi Water and Sewerage Corporation Act, 2023, with its office located at 9th Mile, Karsaz, Karachi, Pakistan (“**KW&SC**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns); and
- (c) [**COMPANY**], a company incorporated under the Laws of Pakistan whose registered office is located at [●] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns).

Further, the Guarantor Bank understands that pursuant to the terms of the request for proposals issued in respect of the Project by KW&SC (the “**RFP**”) read with the Agreement, the Company is required to provide the GoS with a Bank Guarantee (referred to in the RFP and the Agreement as the C&O Performance Security) in an amount equal to Pakistani Rupees one billion only (PKR 1,000,000,000/).

The above premised, the Guarantor Bank hereby undertakes irrevocably, unconditionally and on-demand to pay to the GoS (without any notice, reference or recourse to the Company or to any other entity or without any recourse or reference to any contract, agreement, document or other instruments (including the RFP and the Agreement) whether executed or not), any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

Pakistani Rupees one billion only (PKR 1,000,000,000/-)
(hereinafter referred to as the “**Guaranteed Amount**”)

immediately, however not later than within five (5) business days from the date of the Guarantor Bank’s receipt of the GoS’ first written demand (hereinafter referred to as the “**Demand**”) at the Guarantor

Bank's office located at [INSERT ADDRESS OF THE GUARANTOR BANK AT WHICH DEMAND SHALL BE MADE], or through SWIFT instructions transmitted by the GoS' bank, on behalf of the GoS, to the Guarantor Bank, or through fax sent by the GoS at the Guarantor Bank's fax number i.e., [●], such Demand stating:

- (a) the Bank Guarantee number;
- (b) the total amount demanded; and
- (c) the bank account to which the amounts demanded pursuant to the demand are to be credited / transferred (hereinafter referred to as the "**Beneficiary Account**").

A Demand shall only be honoured by us: (i) in the case of a written Demand, if it is made by and bears the signature of an authorised officer or other representative of the GoS; or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by the GoS' bank, on behalf of the GoS; or (iii) in the case of a Demand made through fax, it is made by and bears the signature of an authorised officer or other representative of the GoS.

The Guarantor Bank shall unconditionally honour a Demand hereunder made in compliance with this Bank Guarantee at sight and immediately on the date of receipt of your Demand, as stated earlier, and shall transfer the amount specified in the Demand to the Beneficiary Account, in immediately available and freely transferable funds in the currency of this Bank Guarantee, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Bank Guarantee shall come into force and shall become automatically effective upon its issuance.

After having come into force, this Bank Guarantee and the Guarantor Bank's obligations hereunder shall expire on [INSERT DATE AND TIME] (the "**Expiry Date**") irrespective of whether this Bank Guarantee has been returned to the Guarantor Bank provided that, in the event that the GoS issues a Demand to the Guarantor Bank on or immediately prior to the Expiry Date and the same is received by the Guarantor Bank on or prior to the Expiry Date, the Guarantor Bank shall honour such Demand.

Upon expiry, this Bank Guarantee shall be returned to the Company without undue delay. multiple Demands may be made by the GoS under this Bank Guarantee, but the Guarantor Bank's aggregate liability shall be restricted up to the Guaranteed Amount.

The Guaranteed Amount shall be revised upon receipt by the Guarantor Bank of a notice duly signed by the GoS and the Company of the revised Guaranteed Amount. The Expiry Date shall be revised upon receipt by the Guarantor Bank of a notice duly signed by the GoS and the Company of the revised date.

The Guarantor Bank hereby agrees that any part of the Agreement or the RFP may be amended, renewed, extended, modified, compromised, released or discharged without:

- (a) in any way impairing or affecting the Guarantor Bank's liabilities hereunder;
- (b) notice to the Guarantor Bank; and
- (c) the necessity for any additional endorsement, consent or guarantee by the Guarantor Bank.

This Bank Guarantee, for its validity period, shall not be affected in any manner by any change in the Guarantor Bank's constitution or of the Company's constitution or of their successors and assignees

and this Bank Guarantee shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

All references to any contract, agreement, document or other instruments (including the Agreement and the RFP), whether executed or not, are by way of reference only and shall not affect the Guarantor Bank's obligations to make payment under the terms of this Bank Guarantee.

If one or more of the provisions of this Bank Guarantee are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Bank Guarantee.

The Guarantor Bank hereby declares and confirms that under its constitution and applicable laws, it has the necessary power and authority and all necessary authorizations, approvals and consents thereunder, to:

- (a) enter into, execute and deliver this Bank Guarantee; and
- (b) perform the obligations it has undertaken under this Bank Guarantee, which obligations are valid and legally binding on and enforceable against the Guarantor Bank under the laws of Pakistan.

Further, the Guarantor Bank hereby declares and confirms that the signatory(ies) to this Bank Guarantee is/are its duly authorized officer(s) to execute this Bank Guarantee.

This Bank Guarantee and all rights and obligations arising from this Bank Guarantee shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Karachi, Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein.

The issuance of this Bank Guarantee is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Bank Guarantee is issued.

This Bank Guarantee is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758. To the extent that there is any inconsistency between the terms of this Bank Guarantee and the Uniform Rules for Demand Guarantees, ICC Publication No. 758, the terms of this Bank Guarantee shall prevail.

**EXECUTED & ISSUED
FOR & ON BEHALF OF THE GUARANTOR BANK**

.....
NAME:
DESIGNATION:
DATED:

Part 2 – O&M Performance Security

To
[●],
[●],
GOVERNMENT OF SINDH

GUARANTEE NO. [●] (hereinafter referred to as the “**Bank Guarantee**”)

Dated: [●]

[INSERT NAME OF BANK], being the Bank Guarantee issuing bank (hereinafter referred to as the “**Guarantor Bank**”) understands that the following parties have entered into an agreement titled the “**CONCESSION AGREEMENT**” dated [●] (hereinafter referred to as the “**Agreement**”) for the design, construction, rehabilitation, operation, maintenance, commissioning, financing and transfer of the Karachi Water Canal under the public-private partnership mode:

- (a) **THE GOVERNOR OF SINDH** (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) having its office located at Local Government & Housing Town Planning Department, Ground Floor, Tughlaq House, Sindh Secretariat, Karachi, Pakistan, for and on behalf of the Government of Sindh (the “**GoS**”, which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns);
- (b) **KARACHI WATER AND SEWERAGE CORPORATION**, a statutory body constituted pursuant to section 3 of the Karachi Water and Sewerage Corporation Act, 2023, with its office located at 9th Mile, Karsaz, Karachi, Pakistan (“**KW&SC**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns); and
- (c) [**COMPANY**], a company incorporated under the Laws of Pakistan whose registered office is located at [●] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns).

Further, the Guarantor Bank understands that pursuant to the terms of the Agreement, the Company is required to provide the GoS with a Bank Guarantee (referred to in the Agreement as the O&M Performance Security) in an amount equal to Pakistani Rupees five hundred million only (PKR 500,000,000/-).

The above premised, the Guarantor Bank hereby undertakes irrevocably, unconditionally and on demand to pay to the GoS (without any notice, reference or recourse to the Company or to any other entity or without any recourse or reference to any contract, agreement, document or other instruments (including the Agreement) whether executed or not), any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

Pakistani Rupees five hundred million only (PKR 500,000,000/-)
(hereinafter referred to as the “**Guaranteed Amount**”)

immediately, however not later than within five (5) business days from the date of the Guarantor Bank’s receipt of the GoS’ first written demand (hereinafter referred to as the “**Demand**”) at the Guarantor Bank’s office located at [INSERT ADDRESS OF THE GUARANTOR BANK AT WHICH DEMAND SHALL BE MADE], or through SWIFT instructions transmitted by the GoS’ bank, on behalf of the GoS, to the

Guarantor Bank, or through fax sent by the GoS at the Guarantor Bank's fax number i.e., [●], such Demand stating:

- (a) the Bank Guarantee number;
- (b) the total amount demanded; and
- (c) the bank account to which the amounts demanded pursuant to the demand are to be credited/transferred (hereinafter referred to as the "**Beneficiary Account**").

A Demand shall only be honoured by us: (i) in the case of a written Demand, if it is made by and bears the signature of an authorised officer or other representative of GoS; or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by GoS's bank, on behalf of GoS; or (iii) in the case of a Demand made through fax, it is made by and bears the signature of an authorised officer or other representative of GoS.

The Guarantor Bank shall unconditionally honour a Demand hereunder made in compliance with this Bank Guarantee at sight and immediately on the date of receipt of your Demand, as stated earlier, and shall transfer the amount specified in the Demand to the Beneficiary Account, in immediately available and freely transferable funds in the currency of this Bank Guarantee, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Bank Guarantee shall come into force and shall become automatically effective upon its issuance.

After having come into force, this Bank Guarantee and the Guarantor Bank's obligations hereunder shall expire on [INSERT DATE AND TIME] (the "**Expiry Date**") irrespective of whether this Bank Guarantee has been returned to the Guarantor Bank provided that, in the event that the GoS issues a Demand to the Guarantor Bank on or immediately prior to the Expiry Date and the same is received by the Guarantor Bank on or prior to the Expiry Date, the Guarantor Bank shall honour such Demand.

Upon expiry, this Bank Guarantee shall be returned to the Company without undue delay. multiple Demands may be made by the GoS under this Bank Guarantee, but the Guarantor Bank's aggregate liability shall be restricted up to the Guaranteed Amount.

The Guaranteed Amount shall be revised upon receipt by the Guarantor Bank of a notice duly signed by the GoS and the Company of the revised Guaranteed Amount. The Expiry Date shall be revised upon receipt by the Guarantor Bank of a notice duly signed by the GoS and the Company of the revised date.

The Guarantor Bank hereby agrees that any part of the Agreement may be amended, renewed, extended, modified, compromised, released or discharged without:

- (a) in any way impairing or affecting the Guarantor Bank's liabilities hereunder;
- (b) notice to the Guarantor Bank; and
- (c) the necessity for any additional endorsement, consent or guarantee by the Guarantor Bank.

This Bank Guarantee, for its validity period, shall not be affected in any manner by any change in the Guarantor Bank's constitution or of the Company's constitution or of their successors and assignees and this Bank Guarantee shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

All references to any contract, agreement, document or other instruments (including the Agreement), whether executed or not, are by way of reference only and shall not affect the Guarantor Bank's obligations to make payment under the terms of this Bank Guarantee.

If one or more of the provisions of this Bank Guarantee are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Bank Guarantee.

The Guarantor Bank hereby declares and confirms that under its constitution and applicable laws, it has the necessary power and authority and all necessary authorizations, approvals and consents thereunder, to:

- (a) enter into, execute and deliver this Bank Guarantee; and
- (b) perform the obligations it has undertaken under this Bank Guarantee, which obligations are valid and legally binding on and enforceable against the Guarantor Bank under the laws of Pakistan.

Further, the Guarantor Bank hereby declares and confirms that the signatory(ies) to this Bank Guarantee is/are its duly authorized officer(s) to execute this Bank Guarantee.

This Bank Guarantee and all rights and obligations arising from this Bank Guarantee shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Karachi, Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein.

The issuance of this Bank Guarantee is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Bank Guarantee is issued.

This Bank Guarantee is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758. To the extent that there is any inconsistency between the terms of this Bank Guarantee and the Uniform Rules for Demand Guarantees, ICC Publication No. 758, the terms of this Bank Guarantee shall prevail.

**EXECUTED & ISSUED
FOR & ON BEHALF OF THE GUARANTOR BANK**

.....
NAME:
DESIGNATION:
DATED:

APPENDIX 7: FORM OF CONCESSION & LICENSE DIRECT AGREEMENT

CONCESSION & LICENSE DIRECT AGREEMENT

between

**(1) THE GOVERNOR OF SINDH
(THROUGH THE LOCAL GOVERNMENT & HOUSING TOWN PLANNING
DEPARTMENT, GOVERNMENT OF SINDH)**

(2) THE KARACHI WATER AND SEWERAGE CORPORATION

(3) [THE COMPANY]

- and -

(4) [BANK]

AS AGENT

relating to

KARACHI HUB WATER CANAL PROJECT

Dated [●]

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THIS CONCESSION & LICENSE DIRECT AGREEMENT is made on [●], 2024, at [●].

BETWEEN

- (1) **GOVERNOR OF SINDH** (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) having its office located at Local Government & Housing Town Planning Department, Ground Floor, Tughlaq House, Sindh Secretariat, Karachi, Pakistan, for and on behalf of the Government of Sindh (the “**GoS**”, which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns);
- (2) **KARACHI WATER AND SEWERAGE CORPORATION**, a statutory body constituted pursuant to section 3 of the Karachi Water and Sewerage Corporation Act, 2023, with its office located at 9th Mile, Karsaz, Karachi, Pakistan (“**KW&SC**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns);
- (3) [**INSERT COMPANY DETAILS**], a company incorporated under the Laws of Pakistan whose registered office is located at [**INSERT ADDRESS**] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns); and
- (4) [**INSERT NAME OF BANK**], a [bank] organized and existing under the Laws of Pakistan, whose registered address is at [**INSERT ADDRESS**], as agent for and on behalf of the Financing Parties (the “**Agent**”),]

(each a “**Party**” and together the “**Parties**”).

WHEREAS

- A. The GoS, KW&SC and the Company have entered into the Concession Agreement in relation to the Project.
- B. KW&SC and the Company have entered into the License Agreement in relation to the Project.
- C. In order to facilitate the Company raising finance from the Financing Parties in connection with the Project, the GoS Parties have consented to enter into this Agreement with the Company and the Agent (acting on behalf of the Financing Parties), which sets out certain rights and obligations of the GoS Parties, the Company and the Financing Parties.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless otherwise stated, words and expressions defined in the Concession Agreement and the License Agreement (including by reference to any other agreement or document) shall have the same meaning and expression in this Agreement. In addition, the following terms shall have the following meanings, unless the context otherwise requires:

“Additional Obligor” means any of: (a) the Agent; or (b) a company which: (i) is controlled or appointed by any of the Financing Parties; (ii) is not an Adverse Person; (iii) is authorized to carry on business in Pakistan; (iv) has been approved by the GoS Parties in writing (such approval not to be unreasonably withheld where the relevant third party is able to demonstrate to the satisfaction of the GoS Parties (acting in consultation with the Independent Appointees) that it has the legal capacity and authority, and the technical and financial resources available to enter into, assume and perform the obligations of the Company under the Applicable Agreements) and; (v) has executed the undertaking contemplated in the definition of Step-In Notice and an original of the same has been submitted to the GoS Parties by the Agent;

“Agreement” means this Concession and License Direct Agreement (including the recitals and appendices hereto), as amended and supplemented from time to time;

“Applicable Agreements” means the Concession Agreement and the License Agreement, and **“Applicable Agreement”** means either of them;

“Arbitration” has the meaning given to it in clause 12.2.1.1;

“Arbitrators” has the meaning given to it in clause 12.2.1.1;

“Assigned Rights” has the meaning given to it in clause 2.1.1;

“Award” has the meaning given to it in clause 12.2.4;

“CA Novation Agreement” has the meaning given to it in clause 6.2.1 (a);

“Common Terms Agreement” means the agreement so entitled, entered into, on or around the date hereof between, amongst others, the Company, the Financing Parties and the Agent;¹⁴

“Concession Agreement” means the concession agreement dated [INSERT DATE] between the GoS, KW&SC and the Company (as may from time to time be amended, novated, supplemented or varied);

“Confidential Information” has the meaning given to it in clause 9.1;

“Default Notice” has the meaning given to it in clause 2.1.2;

“Discharged Rights and Obligations” has the meaning given to it in clause 6.2.2(a);

“Dispute” has the meaning given to it in clause 12.1;

“Effective Date” has the meaning given to it in clause 6.2.2;

“Enforcement Action” means:

(a) the taking of any steps to wind up the Company; or

¹⁴ To be updated based on Financing Documents.

(b) the taking of any steps to appoint a liquidator, receiver, administrator, custodian or other similar person in respect of the Company or any material part of its undertakings or assets; or

(c) the taking of any steps to terminate the Applicable Agreements;

“**Enforcement Action Notice**” has the meaning given to it in clause 2.2.5.1;

“**Event of Default**” has the meaning given to it in the Common Terms Agreement;

“**GoS Additional Notification**” has the meaning given to it in clause 4.2;

“**LA Novation Agreement**” has the meaning given to it in clause 6.2.1(b);

“**Novation Notice**” has the meaning given to it in clause 6.1;

“**Revival Date**” has the meaning given to it in clause 7.1;

“**Step-In Date**” means, subject to clause 5.4, the date on which the Agent gives the relevant Step-In Notice;

“**Step-In Notice**” means a notice from the Agent to the GoS Parties, stating that an Additional Obligor is to become a party to the Applicable Agreements on and from the Step-In Date, which notice includes a legally binding and enforceable undertaking (governed by the Laws of Pakistan) in favour of the GoS Parties from the Additional Obligor in terms of which it has agreed:

- (a) to become a party to the Applicable Agreements in the capacity of the Company;
- (b) to comply with any Legal Requirements;
- (c) to be bound by the terms of this Agreement as applicable to the Additional Obligor; and
- (d) to exercise its rights and perform its obligations, in accordance with this Agreement and the Applicable Agreements;

“**Step-In Period**” means the period from and including the Step-In Date to and including the earlier of the:

- (a) Effective Date;
- (b) Step-Out Date; and
- (c) the date falling twelve (12) Months from the Step-In Date;

“**Step-Out Date**” has the meaning given to it in clause 5.6;

“**Step-Out Notice**” has the meaning given to it in clause 5.6;

“**Substitute**” means any third party which is: (a) authorized to carry on business in Pakistan; (b) is not an Adverse Person; and (c) has been previously approved by the GoS Parties in writing (such approval not to be unreasonably withheld where the relevant third party is able to

demonstrate to the satisfaction of the GoS Parties (acting in consultation with the Independent Appointees that it has the legal capacity and authority, and the technical and financial resources available to enter into, assume and perform the obligations of the Company under the Applicable Agreements); and

“**Suspension Period**” has the meaning given to it in clause 3.1.

1.2 Interpretation

The rules of construction and interpretation set forth in clause 1.2 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

1.3 Conflict

In the event of any conflict between any provision of this Agreement and any provision of the Applicable Agreements, the provisions of this Agreement shall prevail.

2. ASSIGNMENT

2.1 Notice of Assignment

The Company hereby gives notice to each GoS Party that:

- 2.1.1 the Company has assigned by way of security all of its rights and interests in, and benefit of, the Applicable Agreements, to the Agent (the “**Assigned Rights**”);
- 2.1.2 until such time as it or the Agent notifies the GoS Parties in writing that an Event of Default has occurred and is continuing unremedied (a “**Default Notice**”), the Company may exercise all of its rights and powers under the Applicable Agreements;
- 2.1.3 the GoS is hereby authorized and instructed to make all payments due, or which may become due from the GoS to the Company under or arising from the Concession Agreement, to the Company Payment Account (account number [INSERT ACCOUNT NUMBER]) at [INSERT DETAILS] or to such other account in Pakistan as the Agent may from time to time direct by notice to the GoS), and the Company irrevocably agrees that, where the Agent so specifies payment to a different account, the account so specified shall be accepted by the Company as the appropriate account for payment, and any sums paid to such account shall be treated as sums paid in accordance with the Concession Agreement, and such account shall be construed as the Company Payment Account (ten (10) Business Days after the GoS has received notice thereof by the Agent) for the purposes of this Agreement and the Concession Agreement; and
- 2.1.4 the authority and instructions contained in clause 2.1.3 cannot be revoked or varied without the prior written consent of the Agent, and the GoS shall make all payments due or which may become due from it to the Company under or arising from the Concession Agreement in accordance with such authority and instruction, and payments so made shall *pro tanto* satisfy any and all obligations of the GoS under the Concession Agreement in respect of such payments.

2.2 Acknowledgement of Assignment

By execution of this Agreement:

- 2.2.1 each GoS Party acknowledges receipt of the notice of the assignment of the Assigned Rights provided by the Company pursuant to clause 2.1 and confirms that:
- (a) it has not received any other notice relating to assignment of the Assigned Rights; and
 - (b) it has not received any notice of, nor has it consented to, any previous assignment of the Assigned Rights;
- 2.2.2 each GoS Party agrees that it will not consent to any further assignment, transfer or lien by the Company under the Concession Agreement;
- 2.2.3 KW&SC agrees that it will not consent to any further assignment, transfer, or lien by the Company under the License Agreement;
- 2.2.4 each GoS Party consents to the creation of the assignment by way of security of the Assigned Rights, provided that such consent shall not extend to the creation of any Encumbrance of any nature on the Site;
- 2.2.5 each GoS Party undertakes:
- 2.2.5.1 to notify the Agent of its intention to take any Enforcement Action (to the extent it is permitted to take such action under the Applicable Agreements) including, without limitation, its intention to terminate any of the Applicable Agreements pursuant to clauses 21.2, 21.3, 21.4, 21.7 and 21.8 of the Concession Agreement or pursuant to the License Agreement (the **“Enforcement Action Notice”**);
 - 2.2.5.2 following receipt of a Default Notice pursuant to clause 2.1.2 or the issuance of an Enforcement Action Notice pursuant to clause 2.2.5.1, to accept as valid, any notices or demands given or made by the Agent under, and in accordance with the terms of, the Applicable Agreements in place of the Company;
 - 2.2.5.3 following receipt of a Default Notice pursuant to clause 2.1.2 or the issuance of an Enforcement Action Notice pursuant to clause 2.2.5.1, to accept performance of any of the obligations of the Company under, and in accordance with the terms of, the Applicable Agreements by the Additional Obligor as performance by the Company; and
 - 2.2.5.4 to pay any amount due from the GoS to the Company under the Concession Agreement in accordance with the provisions of clause 2.1.3, provided that this clause 2.2.5.4 shall only apply to the GoS, and not KW&SC.

2.3 Obligation to release security

Notwithstanding anything to the contrary, the Company and the Agent (for and on behalf of the Financing Parties) acknowledge, agree and undertake that once GoS has paid the Termination Payment under and in accordance with the Concession Agreement, the Agent and the Company shall forthwith release all Encumbrances held on the KWC and promptly execute any and all documents in relation thereto regardless of any payment due under any working capital facility or any other financing arrangement obtained by the Company from any other financial institution to which the Agent is also acting as an agent or a security trustee.

3. SUSPENSION

3.1 Suspension Period

Following:

3.1.1 the service by the GoS or KW&SC (as applicable) on the Agent of an Enforcement Action Notice pursuant to clause 2.2.5.1; or

3.1.2 the service by the Agent on the GoS Parties of a Default Notice pursuant to clause 2.1.2,

each GoS Party undertakes that, subject to clause 7, it shall not take any Enforcement Action until the expiry of a period of sixty (60) Days after the date on which the relevant Enforcement Action Notice or Default Notice as the case may be, was served (the “**Suspension Period**”).

3.2 Enforcement Action

Each GoS Party undertakes:

3.2.1 that it shall not take any Enforcement Action in relation to any relevant event or circumstance or breach or default at the end of the Suspension Period relating thereto:

- (a) if such event or circumstance no longer subsists; or
- (b) if in respect of any breach or default under the Applicable Agreements, such breach or default has been remedied; or
- (c) subject as provided in clause 5.3 and clause 6.2, if there has been a Step-In Notice and no Step-Out Notice, or there has been a Novation Notice;

provided that in each such case, any damages due and payable to GoS resulting from such event or circumstance or breach or default, as the case may be, and notified in accordance with clause 4.1 and clause 4.2, have been paid in respect of any damages which may become due and payable in respect of such breach or default; and

3.2.2 each GoS Party shall continue to comply with all its obligations under the Applicable Agreement to which it is a party during such Suspension Period.

4. OUTSTANDING OBLIGATIONS

4.1 Statement of Outstanding Obligations

4.1.1 Within thirty (30) Days after the date of receipt by the Agent of an Enforcement Action Notice or the service by the Agent of a Default Notice or a Novation Notice, GoS shall deliver to the Agent, details of:

- (a) all amounts that, so far as GoS is aware, are due and payable by the Company or the Sponsors under or pursuant to the Relevant Agreements as at the date of the Enforcement Action Notice, Default Notice or the Novation Notice (as applicable) but remain unpaid on the relevant date;

- (b) all amounts that, so far as GoS is aware, are to become due and payable by the Company or the Sponsors under or pursuant to the Relevant Agreements during the remainder of the Suspension Period or from the date of the Novation Notice until the relevant Effective Date (as applicable); and
- (c) all outstanding claims by GoS of which it is aware, under or pursuant to the Relevant Agreements against the Company or the Sponsors, whether arising out of or in connection with any breach or default or otherwise specifying:
 - (i) the provisions of the Relevant Agreement under or pursuant to which such claim arises; and
 - (ii) the amount of any monetary claim.

4.2 Adjustment

If, following the end of any thirty (30) Day period referred to in clause 4.1 but before the relevant Step-In Date or Effective Date, as the case may be, GoS becomes aware of (and notifies the Agent accordingly of) any outstanding amounts and claims which would have been notified by GoS to the Agent pursuant to clause 4.1 had GoS been aware of the same at the relevant time (a “**GoS Additional Notification**”), such outstanding amounts and claims shall be treated as having been notified by GoS to the Agent during such thirty (30) Day period pursuant to clause 4.1 for the purposes of this Agreement. If such GoS Additional Notification is issued in less than seven (7) Days prior to the expiry of the thirty (30) Day period referred to in clause 4.1, the Step-In Date or Effective Date shall be postponed until the date that is seven (7) Days after the date of the GoS Additional Notification.

4.3 Conclusive Evidence

Without prejudice to the rights of GoS to pursue any claims against the Company or the Sponsors following the Revival Date (if any), any Additional Obligor and any Substitute shall not be liable to GoS in respect of any claims by GoS arising before the Step-In Date or the Effective Date, as the case may be, which were not disclosed by GoS pursuant to clause 4.1 or clause 4.2.

4.4 Overpayment

If the Agent or any Additional Obligor pays to GoS an amount which GoS is not entitled to receive under the Concession Agreement as determined by the Independent Auditor, the GoS undertakes to repay such excess amount to the Agent within thirty (30) Days of receiving a written demand therefor.

5. STEP-IN AND STEP-OUT

5.1 Step-In Notice

At any time during any Suspension Period, the Agent may deliver a Step-In Notice to the GoS Parties.

5.2 Rights and Obligations of Additional Obligor

On and from the Step-In Date:

- 5.2.1 subject to clause 4.3 and provided that any Legal Requirements have been complied with, the Additional Obligor shall become a party to the Applicable Agreements with all of the rights of the Company thereunder and, save as provided in clause 4.3, the Additional Obligor shall be jointly and severally be liable with the Company for all of its obligations thereunder whether arising before, on or after the Step-In Date;
- 5.2.2 as between the Company, the GoS Parties and the Additional Obligor, only the Additional Obligor shall be authorized to deal with GoS Parties and to exercise the rights of the Company under the Applicable Agreements, and each GoS Party shall be discharged of its obligations under the Applicable Agreement (to which it is a party) only to the extent that such obligations are performed in favour of the Additional Obligor.

5.3 Enforcement Action during Step-In Period

Without prejudice to clause 3.1, during the Step-In Period, the GoS Parties shall not take any Enforcement Action in respect of events or circumstances arising:

- 5.3.1 before the Step-In Date; or
- 5.3.2 to the extent the events or circumstances are the same or substantially the same as the events or circumstances contemplated by the Event of Default giving rise to a Default Notice, after the Step-In Date,
- unless:
- (a) where such breach or default is capable of remedy or cure, it is not remedied or cured by a date reasonably determined by the GoS after the Step-In Date; or
 - (b) where such breach or default is not capable of remedy or cure, and without prejudice to the terms of clause 5.2, the effect of such breach or default has not been mitigated to the reasonable satisfaction of GoS by a date reasonably determined by the GoS after the Step-In Date.

5.4 No Effect

On or before any Step-In Date, the Additional Obligor shall pay to GoS all amounts and outstanding claims which have been notified by GoS pursuant to clause 4.1 and clause 4.2. If no such payment is made on or before the relevant Step-In Date, then subject to clause 7, such Step-In Date shall be postponed until, and shall be deemed to occur on, the date on which the Additional Obligor makes such payment.

5.5 No Termination Event

The appointment of an Additional Obligor in accordance with the terms and conditions of this clause 5, subject to the terms of clause 7, shall not constitute a termination event in accordance with clause 21 of the Concession Agreement.

5.6 Step-Out Date

The Additional Obligor may, at any time during the Step-In Period, give the GoS Parties, a notice terminating the Additional Obligor's obligations and rights under the Applicable

Agreements (the “**Step-Out Notice**”) as and from a date falling not earlier than thirty (30) Days after the date of the Step-Out Notice (the “**Step-Out Date**”), provided that, other than where such obligations have been assumed by a Substitute, the Additional Obligor may not so terminate its obligations under the Applicable Agreements and the Step-Out Date shall not occur, until and unless the Additional Obligor has discharged all of its obligations under the Applicable Agreements that are existing or outstanding as at the Step-Out Date which have arisen due to the actions or inactions of the Additional Obligor occurring on or after the Step-In Date.

5.7 Release

On and from the earlier of the Step-Out Date and the Effective Date, the Additional Obligor shall:

5.7.1 be released from all obligations to the GoS Parties under the Applicable Agreements; and

5.7.2 not be entitled to exercise any rights under the Applicable Agreements.

6. NOVATION

6.1 Proposal for Novation

At any time:

(a) during any Suspension Period; or

(b) during a Step-In Period,

the Agent may give notice (a “**Novation Notice**”) to the GoS Parties that the Substitute shall assume the obligations of the Company under the Applicable Agreements and specifying the date on which such assumption is to be affected, provided always, that all Legal Requirements are complied with by such specified date.

6.2 Novation

6.2.1 The novation contemplated in the Novation Notice shall, subject to compliance of any Legal Requirements, be affected by:

(a) in respect of the Concession Agreement, execution by the Parties and the Substitute of the novation agreement substantially in the form appended hereto as attachment A (the “**CA Novation Agreement**”);

(b) in respect of the License Agreement, execution by KW&SC, the Company and the Substitute of a novation agreement substantially in the form appended hereto as attachment B (the “**LA Novation Agreement**”);

6.2.2 In which event, subject to clause 6.3, on the first Business Day (as defined in the Concession Agreement) after the date of execution of both the CA Novation Agreement and the LA Novation Agreement (the “**Effective Date**”):

- (a) the Company and the GoS Parties shall each be released from further obligations to the other, under the Applicable Agreements to which they are a party and their respective rights against each other shall be cancelled (such rights and obligations being referred to in this clause 6.2.2 as “**Discharged Rights and Obligations**”);
- (b) the GoS Parties and the Substitute shall each assume obligations towards each other and/or acquire rights (which shall include the rights and obligations of the Company which arose prior to the Effective Date) against each other which differ from such Discharged Rights and Obligations only insofar as the GoS Parties and the Substitute have assumed and/or acquired the same in place of the GoS Parties and the Company; and
- (c) the GoS shall not take any Enforcement Action in respect of events or circumstances arising:
 - (A) before the Effective Date; or
 - (B) to the extent the events or circumstances are the same or substantially the same as the events or circumstances contemplated by the Event of Default giving rise to a Default Notice, after the Effective Date,
 unless:
 - (I) where such breach or default is capable of remedy or cure, it is not remedied or cured by a date reasonably determined by the GoS after the Effective Date; and
 - (II) where such breach or default is not capable of remedy or cure, and without prejudice to the terms of clause 6.2.2, the effect of such breach or default has not been mitigated to the reasonable satisfaction of the GoS by a date reasonably determined by the GoS after the Effective Date.

6.3 No Effect

On or before any Effective Date, the Substitute shall pay to the GoS all outstanding amounts and outstanding claims notified by GoS pursuant to clause 4. If no such payment is made on or before the relevant Effective Date, then subject to clause 7 and without prejudice to any other rights or remedies available to the GoS, such Effective Date shall be postponed until, and shall be deemed to occur on, the date on which the Substitute makes such payment.

7. REVIVAL OF REMEDIES

7.1 If an Enforcement Action Notice or a Default Notice has been given and:

- 7.1.1 neither a Step-In Notice nor a Novation Notice has been given prior to the expiry of the Suspension Period relating to that Enforcement Action Notice or Default Notice, as the case may be;
- 7.1.2 the Step-In Date has occurred, and a Step-Out Date occurs prior to or upon the expiry of the Suspension Period relating to that Enforcement Action Notice or Default Notice, as the case may be; or

7.1.3 the Step-In Date has occurred, but no Novation Notice has been given prior to the date falling twelve (12) Months from the Step-In Date relating to that Enforcement Action Notice or Default Notice, as the case may be,

then either the GoS Party, in the case of clause 7.1.1, on and after the expiry of the Suspension Period, in the case of clause 7.1.2, on and after the Step-Out Date, and in the case of clause 7.1.3, upon the expiry of the referenced twelve (12) Months period, (each of the foregoing, the “Revival Date”) shall be entitled to:

- (a) act upon any and all grounds for termination, in respect of breaches or defaults not remedied or waived, available to it, under or pursuant to the Applicable Agreements;
- (b) pursue any and all claims and exercise any and all remedies against the Company; and
- (c) take any Enforcement Action.

8. NOTICES

8.1 In Writing

Any notice to be served pursuant to the provisions of this Agreement shall be: (a) made in the English language; (b) made in writing; (c) delivered personally (by hand delivery or courier) to the address of another Party as provided in clause 8.2 or to such other address as another Party shall by notice require, or sent by facsimile transmission (with receipt of transmission confirmation) to the facsimile number of another Party provided in clause 8.2, or to such other facsimile number as a Party shall by notice require. Any notice or other communication made by one Party to the other Party in accordance with the foregoing provisions of this clause 8.1 shall be deemed received by the other Party, if delivered by hand or by courier, on the day on which it is left at that Party's address, or, if sent by facsimile transmission, on the next Business Day following the day on which it is sent to that Party's address.

8.2 Address for Service

The address for service of notices shall be as set out below or such other address as the Party on whom the notice is to be served has notified in writing to the Party serving the notice.

8.2.1 GoS

Address:	[●]
Attention:	[●]
Fax:	[●]
Email	[●]

8.2.2 KW&SC

Address:	[●]
Attention:	[●]

Fax:	[•]
Email	[•]

8.2.3 Company

Address:	[•]
Attention:	[•]
Fax:	[•]
Email	[•]

8.2.4 Agent

Address:	[•]
Attention:	[•]
Fax:	[•]
Email	[•]

9. CONFIDENTIALITY

9.1 Confidential Information

Subject to clause 9.2, each Party shall, at all times during and after the continuance of this Agreement, hold confidential and not disclose to any third party and use only for the purposes of the Project and this Agreement all confidential information, reports or documents relating to the Project received by it pursuant to, or in the course of the negotiations leading to, this Agreement (the “**Confidential Information**”).

9.2 Permitted Disclosure

A Party shall be permitted to disclose Confidential Information:

- 9.2.1 to its insurers, auditors, or other professional advisers;
- 9.2.2 if required to do so by law or if required in connection with any legal proceedings; and
- 9.2.3 to each of the Financing Parties (or any prospective lenders) and their respective professional advisers subject to the relevant Party obtaining from the recipient of such Confidential Information an undertaking substantially in the terms of clause 9.1.

9.3 Exceptions

Nothing in this clause 9 shall apply to any information, reports or documents which shall have come into the public domain (otherwise than in consequence of a breach of clause 9.1). Nor shall clause 9.1 apply to any information, report or document received in good faith by a Party otherwise than from any of the Parties or a person acting on a Party's behalf.

10. MISCELLANEOUS

10.1 GoS Parties' liabilities

Except as expressly provided in this Agreement, nothing:

- 10.1.1 in this Agreement or in the arrangements contemplated thereby; or
 - 10.1.2 arising as a result of the exercise by the Agent, the Financing Parties, any Additional Obligor and/or any Substitute of any rights given to any such party under or pursuant to this Agreement, shall in any way:
 - (a) affect any limitation or exclusion of the GoS Parties' liability to the Company under the Applicable Agreements, which exclusions and limitations of liability are hereby incorporated into this Agreement (*mutatis mutandis*);
 - (b) increase the total amount of any liability any GoS Party may have (whether to the Company, the Agent (for itself, or as agent for and on behalf of the Financing Parties), any Additional Obligor and/or any Substitute) under the Applicable Agreements; or
 - (c) make the GoS Parties liable to the Company, the Agent, the Financing Parties, any Additional Obligor and/or any Substitute to any greater extent or for any longer duration, than the GoS Parties would have been liable to the Company under the Applicable Agreements.
 - 10.1.3 In no event, shall any payment obligations (actual or contingent) of the GoS Parties under the Relevant Agreements increase as a result of the GoS Parties entering into this Agreement.
 - 10.1.4 The GoS Parties shall have no obligation or liability under the Financing Documents due to any reference to any Financing Document being made in this Agreement or otherwise.
 - 10.1.5 The Agent on behalf of itself and as agent of the Financing Parties, acknowledges and agrees that notwithstanding anything to the contrary expressed or implied in this Agreement, nothing contained in the Financing Documents and no amendment, supplement or other modification to the Financing Documents or any sell-down or other form of transfer of rights and obligations thereunder shall affect the obligations or liabilities of the GoS Parties under any Relevant Agreement. Furthermore, each of the Company and the Agent (acting for itself and on behalf of Financing Parties) hereby confirms and agrees that the Financing Parties as of the date of this Agreement have not transferred their rights and obligations under the Financing Documents or otherwise to any other bank or financial institution or to any third-party.
- ### **10.2 No Assignment**
- 10.2.1 No Party shall assign or transfer any part of its respective rights or obligations under this Agreement without the written consent of the other Parties, provided that the Agent may assign or transfer its rights and obligations to a successor Agent under this Agreement in accordance with the Common Terms Agreement without the consent of (but prior notice to) the GoS Parties and the Company.

10.2.2 The GoS Parties acknowledge and agree that the Financing Parties or any of them, may sell down or otherwise transfer the rights and obligations under the Finance Documents, to any other bank or a financial institution, with written notice to GoS Parties, provided that:

- (a) if the bank is a scheduled bank, as defined in the Banking Companies Ordinance, 1962, or a financial institution, that in each case has been awarded a minimum long-term credit rating of “A” by a credit rating agency registered with the Securities and Exchange Commission of Pakistan, and meets the rules and regulations of the State Bank of Pakistan; or
- (b) if the bank or a financial institution has been awarded a minimum long term credit rating of “A” by Moody’s Investors Services Limited or equivalent rating by Fitch Rating Limited or Standard and Poor Rating Services provided that, in such case prior to any sell down or transfer, the Financing Party proposing to sell down or transfer its share shall give written notice to the GoS Parties of the jurisdiction of incorporation of the proposed bank or financial institution and the jurisdiction of incorporation of its ultimate beneficial holding company, if any. If the GoS Parties do not object to the proposed bank or financial institution within thirty (30) Business Days of the Financing Party notifying the GoS Parties of the same, the GoS Parties shall be deemed to have approved of the bank or financial institution for the purposes of sell down or transfer. The Financing Parties shall not sell down or transfer to any bank or financial institution to which the GoS Parties object in pursuance of this clause 10.2.2, provided that the GoS Parties shall ensure that such objection by GoS Parties is not unreasonable.

10.3 No Waiver

The failure of a Party to enforce an obligation or to exercise any right under this Agreement shall not be considered to be a waiver save when the same has been expressly waived in writing. Any written waiver at any time by a Party of its rights with respect to the non-compliance of the other Party with its obligations under this Agreement or with respect to any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent non-compliance or any other matter. Except as expressly provided in this Agreement, any delay in asserting or enforcing any right hereunder shall not be deemed a waiver of such right. The rights and remedies under this Agreement, may be exercised as often as necessary, are cumulative, and not exclusive of any rights or remedies provided by law.

10.4 Continuing Nature of Obligations

This Agreement shall remain in full force and effect until the Financing Termination Date.

10.5 Benefit

The benefit of this Agreement (including the warranties and undertakings and any sum received by the Agent pursuant to this Agreement) shall be held by the Agent upon and subject to the terms of the Common Terms Agreement for the benefit of the Financing Parties.

10.6 Entire Agreement

The terms and provisions contained in this Agreement constitute the entire agreement between the GoS Parties, the Agent and the Financing Parties on the matters addressed herein, and supersede all previous communications, representations, or agreements, either verbal or written, between the Parties with respect to the subject matter hereof.

10.7 Amendments

No modification of this Agreement shall be valid unless it is in writing and signed by the Parties.

10.8 Counterparts

This Agreement may be executed in any number of counterparts, all of which, when taken together, shall constitute one and the same instrument.

10.9 Termination of No Effect

The Parties agree that any purported termination of the Applicable Agreements by the GoS Parties in breach of the provisions of this Agreement shall be void and of no effect.

11. GOVERNING LAW

This Agreement and any non-contractual obligation arising out of or in connection with it shall be governed by and construed in accordance with the Laws of Pakistan.

12. DISPUTE RESOLUTION

12.1 Negotiation

The GoS Parties and the Agent agree to attempt to resolve any dispute, controversy, difference, or claim (“**Dispute**”) between them in connection with this Agreement promptly, amicably, and in good faith. If any Dispute is not resolved between the GoS Parties and the Agent within thirty (30) Days from the date on which it arises, then such Dispute shall be settled exclusively and finally by arbitration in accordance with this clause 12.

12.2 Arbitration

12.2.1 Each of the Parties unconditionally and irrevocably agrees in respect of a Dispute, which cannot be resolved by the Parties pursuant to clause 12.1:

- (a) to the submission of such Dispute to binding arbitration governed by the Arbitration Act, 1940, by appointment of a board of arbitrators, consisting of one (1) arbitrator appointed jointly by the Company and the Agent (acting for itself and each of the Financing Parties), and one (1) arbitrator appointed jointly by the GoS Parties and one (1) arbitrator appointed by the arbitrators so selected by the disputing Parties (the “**Arbitrators**”). Any arbitration proceedings commenced pursuant to this clause 12.2.1 shall be referred to as Arbitration (“**Arbitration**”);
- (b) not to claim any right it may have under the Laws to hinder, obstruct, or nullify the submission of the Dispute to Arbitration; and

- (c) to accept the Award rendered by the Arbitrators and any judgment entered thereon by a court of competent jurisdiction as final and binding and not to hinder, obstruct or nullify the enforcement or execution of any decision rendered by the Arbitrators or a court of competent jurisdiction.

12.2.2 The place of arbitration shall be Karachi, Pakistan.

12.2.3 The language of Arbitration shall be English.

12.2.4 Any decision or award resulting from the Arbitration (“Award”) shall be final and binding upon the Parties.

12.2.5 The Parties hereby waive, to the extent permitted under the Laws, any rights to appeal or to review of such Award by any Competent Authority.

12.2.6 The fees and expenses of the Arbitrators and all other expenses relating to Arbitration shall be borne and paid by the respective disputing Parties unless the Award states otherwise. The Arbitrators may provide in the Award, for reimbursement to a Party, of its costs and expenses in bringing or defending the Arbitration claim, including legal fees and expenses incurred by such Party.

12.2.7 This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the Award for any Arbitration, which Award, if appropriate, shall determine whether and when any termination shall become effective.

12.3 Obligations Continuing

This Agreement and the rights and obligations of the Parties hereunder shall remain in full force and effect pending the award of such arbitration proceeding. Unless otherwise agreed in writing, the Parties shall continue to perform their respective obligations under this Agreement which are not the subject of the Dispute during the period of any proceedings in accordance with this clause 12.

ATTACHMENT B

FORM OF LA NOVATION AGREEMENT

[TO BE EXECUTED ON STAMP PAPER]

Relating to the License Agreement between [INSERT DETAILS] (the “**KW&SC**”) and [Company] (the “**Company**”) dated [INSERT DATE] (as may from time to time be amended, supplemented, or varied, the “**License Agreement**”).

Terms defined in the Concession and License Direct Agreement dated [INSERT DATE], between the GoS Parties (as specified therein), the Company and [Bank] (as agent for and on behalf of the Financing Parties, the “**Agent**”) (the “**Direct Agreement**”) shall, subject to any contrary indication, have the same meaning herein.

1. The Agent requests that the Substitute (specified below) accept and procure the transfer to the Substitute of all of the rights, title, and interest of any and all of the obligations of the Company under the License Agreement and the Direct Agreement by executing this LA Novation Agreement.
2. The Substitute hereby requests the GoS Parties to accept this LA Novation Agreement pursuant to and for the purposes of clause 6.2 of the Direct Agreement so as to take effect in accordance with the terms thereof on the Effective Date or on such later date as may be determined in accordance with the terms thereof.
3. The Substitute warrants that it has received a copy of the Concession Agreement and the License Agreement together with such other information as it has required in connection with this transaction and that it has not relied and will not hereafter rely on the Agent to check or enquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information, and further agrees that it has not relied and will not rely on the Agent in relation to its entering into this LA Novation Agreement and the License Agreement.
4. The Substitute hereby undertakes to each GoS Party that it will perform, in accordance with the terms thereof, all obligations of the Company which by the terms of the Concession Agreement, the License Agreement and the Direct Agreement will be assumed by it on execution of this LA Novation Agreement.
5. The Agent makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the License Agreement or any document relating thereto and assumes no responsibility for the performance and observance by any party of any of its obligations under the License Agreement or any document relating thereto and any and all such conditions and warranties whether expressed or implied by law or otherwise are hereby excluded.
6. This LA Novation Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of Pakistan.

SIGNED by [] and the Substitute:

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

GOVERNOR OF SINDH, THROUGH THE SECRETARY, LOCAL GOVERNMENT & HOUSING TOWN PLANNING DEPARTMENT, GOVERNMENT OF SINDH

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

KARACHI WATER AND SEWERAGE CORPORATION

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE COMPANY

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE AGENT

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

APPENDIX 8: SERVICE PAYMENT CALCULATIONS

1.1 Definitions

“Actual Electricity Consumption” or **“AEC”** means the electricity delivered by the Electricity Supplier (in kWh) at the Electricity Connection Point, as set out in the relevant electricity bill issued by the Electricity Supplier to KW&SC;

“Actual Loss of Water Output” or **“LCWa”** means the actual loss of water output (in m³) determined in accordance with paragraph A.4 of Attachment A (Agreed Values for Payment Calculation) to this appendix 8;

“Allowable NRW” means:

- (a) for the C&O Period, the figure stated in the Mobilisation Testing Acceptance Certificate; and
- (b) for the Operating Period, [●%]¹⁵

“Available” or **“Availability”** means the Contracted Availability or the Reduced Contracted Availability, as the case maybe;

“Availability Payment” or **“APW”** means the water payment (in PKR) payable for a Billing Period falling after the Project Commercial Operations Date, that covers capital cost recovery payment and the fixed operating and maintenance payment, paid by GoS for the Contracted Availability *less* any Deductions;

“Billing Period” means: (a) from the Commencement Date, each Quarter falling within the C&O Period, with the first Quarter starting at 00:00 hours on the Commencement Date and ending at 23.59 on the Day immediately preceding the start of the next Quarter, with the last Quarter ending at 23.59 on the Day immediately preceding the Project Commercial Operations Date; (b) from the Project Commercial Operations Date, each Quarter falling within the Operating Period, with the first Quarter starting at 00:00 hours on the Project Commercial Operations Date and ending at 23:59 on the Day immediately preceding the start of the next Quarter and the last Quarter ending at 23:59 on the Term Expiry Date;

“Bypass HD Water” means the water, monitored and sampled at Input HD Water Connection Point reasonably expected to damage the Treatment Plant or impact health of people in the opinion of the Independent Engineer as a direct consequence of the presence of toxic or inhibiting substances;

“Bypass Input Water” means Bypass HD Water and / or Bypassed KIII Water;

“Bypass KIII Water” means the water, monitored and sampled at Input KIII Water Connection Point reasonably expected to damage the Treatment Plant or impact health of people in the opinion of the Independent Engineer as a direct consequence of the presence of toxic or inhibiting substances;

¹⁵ [Insert percentage stated in Bidding Form F2-E (Output Payment) of Proposal.]

“Bypass Off-Spec Mixed Water” means the monitored and sampled Off-Spec Mixed Water, reasonably expected to damage the Treatment Plant or impact health of people in the opinion of the Independent Engineer as a direct consequence of the presence of toxic or inhibiting substances;

“Bypass Water Connection Point” means the physical connection point at which the KWC and drainage are connected, specified as M7 in attachment D of appendix 8;

“Bypass Water Output” or **“BPWa”** means the water (in m³ per specified period) metered at the Bypass Water Connection Point;

“Capital Cost Recovery Charge” or **“CCRW”** means the aggregate amount (in PKR/m³) of:

- (a) Foreign Debt Principal Recovery Charge,
- (b) Foreign Debt Interest Recovery Charge,
- (c) Local Debt Principal Recovery Charge,
- (d) Local Debt Interest Recovery Charge,
- (e) Foreign Equity Recovery Charge, and
- (f) Local Equity Recovery Charge;

“CME Group” means the Chicago Mercantile Exchange Group;

“Contract Year” means a Construction Contract Year or an Operating Contract Year, as applicable;

“Contracted Availability” or **“CAW”** means four hundred fifty-four thousand six hundred nine (454,609) m³/Day;

“Contracted Specific Net Electricity Consumption” or **“ECR_{CC}”** means the efficiency (in kWh/m³):

- (a) for the C&O Period, the figure stated in the Mobilisation Testing Acceptance Certificate; and
- (b) for the Operating Period, as defined in paragraph 1.5 of this appendix 8 and specified in Table 2A of paragraph A.1 in Attachment A (Agreed Values for Payment Calculation) to this appendix 8;

“Contracted Specific Net Solar Generation” or **“ESG”** means the captive solar generation (in kWh) defined in paragraph 1.5 of this appendix 8 and specified in Table 2B of paragraph A.1 in Attachment A (Agreed Values for Payment Calculation) to this appendix 8;

“Deductions” means the deductions to the Availability Payments and Output Payments on account of Deductions for Reduced Water Availability, Deductions for NRW and Deductions for Off-Spec Output Water;

“Deduction for NRW” or **“DNRW”** means the deductions (in PKR) described in paragraph 1.5 of this appendix 8;

“Deduction for Off-Spec Output Water” or **“DRQW”** means the deductions (in PKR) described in paragraph 1.5 of this appendix 8;

“Deduction for Reduced Water Availability” or **“DRAW”** means the deductions (in PKR) described in paragraph 1.5 of this appendix 8;

“Electricity Connection Point” means the physical connection at which KWC and the electricity transmission and distribution facilities of the Electricity Supplier are connected;

“Electricity Reimbursement Payment” has the meaning given in paragraph 2.2.1.1 of this appendix 8;

“Electricity Price” or **“EP”** means, in any given period, A divided by B (in PKR/Kwh), where:

A = total amount (in PKR) set out in the electricity bill issued from time to time by the Electricity Supplier to KW&SC for electricity supplied to the KWC at the Electricity Connection Point in such Billing Period including taxes and charges, but excluding any late payment charges and any arrears prior to the Commencement Date,

B = total number of electricity units (in kWh) in such Billing Period as set out in the electricity bill issued from time to time by the Electricity Supplier to KW&SC for electricity supplied to the KWC at the Electricity Connection Point;

“Fixed O&M Cost Recovery Charge for Water” or **“FOMRW”** means the amount (in PKR/ m³) as stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.3 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Foreign Debt Interest Recovery Charge” or **“FD_I_RC”** means the amount (in PKR/m³) stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Foreign Debt Principal Recovery Charge” or **“FD_P_RC”** means the amount (in PKR/m³) stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Foreign Equity Recovery Charge” or **“FE_RC”** means the amount (in PKR/m³) stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Input HD Water Connection Point” means the physical connection point where water from Hub Dam will enter KWC, specified as M1 in attachment D of appendix 8;

“Input HD Water Quality Specifications” means: the inlet water quality parameters / specifications for the Net HD Water Input set out in appendix 1;

“Input KIII Water Quality Specifications” means the inlet water quality parameters / specifications for the Net KIII Water Input set out in appendix 1;

“Input KIII Water Connection Point” means the physical connection point where water from KIII Conduit will enter the KWC, specified as M3 in attachment D of appendix 8;

“Input Water Connection Point” means Input HD Water Connection Point and/ or Input KIII Water Connection Point, as applicable;

“KIBOR” means the three (3) month Karachi Inter-Bank Offer Rate, being the average rate, Offer, for the three (3) months tenor, as published on State Bank of Pakistan page on that date or as published by the Financial Markets Association of Pakistan in case the State Bank of Pakistan page is unavailable;

“Local Debt Interest Recovery Charge” or **“LD_I_RC”** means the amount (in PKR/m³) as stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Local Debt Principal Recovery Charge” or **“LD_P_RC”** means the amount (in PKR/m³) as stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period;

“Local Equity Recovery Charge” or **“LE_RC”** means the amount (in PKR/m³) stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Availability Payment calculation for a Billing Period;

“LCWp_{ns}” means the projected Unplanned Outages (in m³) during Summer Period as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8;

“LCWp_{nw}^P” means the projected Planned Outages (in m³) during Winter Period as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8;

“LCWp_{nw}^U” means the projected Unplanned Outages (in m³) during Winter Period as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8;

“Mixed Water Monitoring Point” means the physical point between the pumping station and the Treatment Plant, specified as M5 in attachment D of appendix 8;

“N-CPI” means the National Consumer Price Index as notified from time to time by the Pakistan Bureau of Statistics;

“Net HD Water Input” or **“HDWi”** means the water (in m³ in any given period) metered at the Input HD Water Connection Point;

“Net KIII Water Input” or **“KIIIWi”** means the water (in m³ in any given period) metered at the Input KIII Water Connection Point;

“Net Water Input” means the sum of the Net HD Water Input and the Net KIII Water Input;

“Net Water Output” or **“Wa”** means the water (in m³ for any given period) metered at the Output Water Connection Point;

“Non-Revenue Water” or **“NRW”** means (in m³) the amount calculated in m³ in accordance with paragraph 2.1.4 of this appendix 8;

“Off-Spec Mixed Water” means water that: (a) met the Input Water Quality Specifications at the Input Water Connection Point, but did not meet the Input Water Quality Specification when tested at Mixed Water Monitoring Point; or (b) did not meet the Input Water Quality Specifications at the Input Water Connection Point, and fell further outside those specifications when tested at the Mixed Water Monitoring Point;

“Off-Spec Output Water based on Within Spec Input Water” means, water that does not meet the Output Water Quality Specifications at the Output Water Connection Point, where water inflow is Within Spec Input Water;

“Off-Spec Output Water due to Off-Spec Input Water and Off-Spec Mixed Water” means water that does not meet the Output Water Quality Specifications, at the Output Water Connection Point, due to Off-Spec Input Water and Off-Spec Mixed Water;

“Off-Spec Output Water” means Off-Spec Output Water based on Within Spec Input Water or Off-Spec Output Water due to Off-Spec Input Water and Off-Spec Mixed Water, as applicable;

“Off-Spec Input Water” or **“OSIW”** means Off-Spec HD Water or Off-Spec KIII Water, as applicable;

“Off-Spec HD Water” means the water entering the KWC from the Input HD Water Connection Point that does not meet the Input HD Water Quality Specifications;

“Off-Spec KIII Water” means the water entering the KWC from the Input KIII Water Connection Point that does not meet the Input KIII Water Quality Specifications;

“Outages” means Planned Outages or Unplanned Outages, as applicable;

“Output Payment” or **“OPW”** means the water payment (in PKR) payable for a Billing Period, that covers electricity reimbursement payment and the variable operating and maintenance payment, paid by GoS for the Net Water Output delivered to KW&SC as defined in paragraph 1.2.2 of this appendix 8;

“Output Water Connection Point” means the physical connection point after the Reservoir at which the KWC and the water transmission facilities, operated by KW&SC for downstream water distribution, are connected, specified as M8 in attachment D of appendix 8;

“Output Water Quality Specifications” means the quality parameters / specifications for the Net Water Output:

- (a) for the C&O Period, as set out in the Mobilisation Testing Acceptance Certificate; and
- (b) for the Operating Period, as set out in appendix 1;

“Projected Electricity Consumption” or **“PEC”** means the electricity consumption for producing Net Water Output, calculated in accordance with paragraph 2.2.1.2 of this appendix 8;

“Planned Outage” means the removal of the KWC (or any part thereof) from service to perform work on specific components that is co-ordinated with KW&SC and scheduled not less than ninety (90) Days prior to the Contract Year in which it is to be undertaken and has a predetermined start date and duration, expressed in m³/Day;

“Projected Available Net Water Output” or **“ANWOp”** means the net potential water production (in m³) defined in paragraph 1.5 of this appendix 8 and calculated according to the provisions of paragraph A.3 of Attachment A (Agreed Values for Payment Calculation) of this appendix 8;

“Projected Loss of Net Water Output” or **“LCWp”** means the projected loss of net water output (in m³) as per paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8;

“Reduced Contracted Availability” means (in m³/Day) the reduction in the Contracted Availability due to Outages;

“Reference Exchange Rate” [●]¹⁶;

“Reference Inflation Rate” means [●]¹⁷;

“Reference KIBOR” means [●]¹⁸

“Reference SOFR” means [●]¹⁹

“SOFR” means the three (3) month Term Secured Overnight Financing Rate (SOFR) published by the CME Group;

“Summer Period” or **“Summer”** means the period between 1 April and 30 September;

“Treatment Plant” means the water treatment facility to be upgraded by the Company to treat up to four hundred fifty-four thousand six hundred nine (454,609) m³/Day and achieve the water quality parameters set out in appendix 1;

“Unavailable” or **“Unavailability”** means any period during which the KWC (or any part thereof) is undergoing an Outage;

“Unavailability Notice” means the notice to be delivered by the Company to KW&SC in terms of clause of 10.1.9 of this Agreement, setting out the Outages as well as the extension of such Outages and declaring the Reduced Contracted Availability (in m³/Day) on hourly basis during such

¹⁶ Insert figure stated in clause 1.2.3(c) of clause 1.2 (*Assumptions for Calculation of Required Values*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP.

¹⁷ Insert figure stated in clause 1.2.3(a) of clause 1.2 (*Assumptions for Calculation of Required Values*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP.

¹⁸ Insert figure stated in Insert figure stated in clause 1.2.3(d) of clause 1.2 (*Assumptions for Calculation of Required Values*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP

¹⁹ Insert figure stated in clause 1.2.3(e) of clause 1.2 (*Assumptions for Calculation of Required Values*) of Section II (*Financial Evaluation Criteria*) of Annexure B (*Evaluation Criteria*) of Part 4 (*Annexures*) of Volume I (*Bidding Procedure*) of the RFP

Outages. Each notice shall supersede all previous notices, notwithstanding that an Unavailability Notice has to specify a duration, finish time or the Reduced Contracted Availability. Each Unavailability Notice shall specify the reason for the Outage and each component of the KWC that is affected;

“Unplanned Outages” means all outages which are not Planned Outages expressed in m³/Day;

“Variable O&M Cost Recovery Charge” or **“VOMRW”** means the amount (in PKR/m³) stated by the Company in Attachment C (Cost Recovery Charges) to this appendix 8 and applied for Output Payment calculation for a Billing Period after being adjusted in accordance with paragraph B.4 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8;

“Within Spec Input Water” or **“WSIW”** means Within Spec HD Water and Within Spec KIII Water;

“Within Spec HD Water” means water entering the KWC from the Input HD Water Connection Point that meets the Input HD Water Quality Specifications;

“Within Spec KIII Water” means the water entering the KWC from the Input KIII Water Connection Point that meets the Input KIII Water Quality Specifications; and

“Winter Period” or **“Winter”** means the period between 1 October and 31 March.

1.2 Payment Structure

The Service Payments to be paid for Contracted Availability and Net Water Output shall consist of two components, as follows:

1.2.1 The Availability Payment:

This part of the Service Payments shall constitute payment for Contracted Availability and shall consist of Component AW (as set out in paragraph 2.1.1 of this appendix 8) and Component BW (as set out in paragraph 2.1.1 of this appendix 8), each such component to be calculated as provided in paragraph 2.1 of this appendix 8. Availability Payments will be subject to the Deductions.

Availability Payments will only be applicable after the Project Commercial Operations Date.

1.2.2 The Output Payment:

This part of the Service Payments shall constitute payment for Net Water Output and shall consist of Component CW (as set out in paragraph 2.1.1 of this appendix 8) and Component DW (as set out in paragraph 2.1.12 of this appendix 8), each such component to be calculated as provided in paragraph 2.2 of this appendix 8. Output Payments will be subject to Deductions in the C&O Period.

Output Payments will be applicable from the Commencement Date.

1.3 Term and Structure of Availability Payments

Availability Payments will be payable in accordance with clauses 11, 12 and 13 of this Agreement and this appendix 8.

1.4 Electricity Reimbursement Payment

Electricity Reimbursement Payments will be billed by the Company in respect of Net Water Output and will be determined in accordance with the procedures set out in paragraph 2.2.1 of this appendix 8. Electricity consumption will be adjusted for the generation through the Solar Plant in accordance with this appendix 8.

1.5 Performance Criteria

The formulas for payment set out in paragraph 2 of this appendix 8 include factors related to the performance of the KWC. The derivations of these performance factors are as follows:

ECR_{CC}: The Contracted Specific Net Electricity Consumption is the efficiency (in kWh/m³) of the KWC, as agreed in Table 2A of paragraph A.1 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8, for each Operating Contract Year. For each Construction Contract Year, ECR_{CC} will be as stated in the Mobilisation Testing Certificate.

ESG: The Contracted Specific Net Solar Generation is the captive solar generation (in kWh) for the KWC, as agreed in Table 2B of paragraph A.1 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8, for each Operating Contract Year. The ESG for the Billing Period will be deducted from overall electricity requirement of the KWC for the Billing Period. For each Construction Contract Year, ESG will be zero (0).

DRAW: Deduction for Reduced Water Availability will be calculated based on the Actual Loss of Water Output (in m³) due to Unavailability being greater than the Projected Loss of Net Water Output (in m³) due to Unavailability. In case of actual loss of water is higher than the projected loss of water, then deduction is made for actual losses or losses over and above the projected losses. However, in case the actual loss of water is less than the projected, then benefit of lower loss shall be shared between the Commercial Parties (as set out in paragraphs 2.1.3 of this appendix 8).

DNRW: Deduction for NRW will be calculated based on the NRW as a percentage of Net Water Input, being greater than the Allowable NRW limit (as calculated in paragraphs 2.1.4 of this appendix 8).

DRQW: Deduction for Off-Spec Output Water (as set out in paragraphs 2.1.5 of this appendix 8) will be calculated based on the deviation between the required and actual output water parameters. (Note: Attachment D To Appendix 8 has the general scheme for monitoring and metering)

For any Billing Period, DRQW will not apply where:

- (a) Net Water Output is within Output Water Quality Specifications;
- (b) Net Water Output that does not meet the Output Water Quality Specifications due to Off-Spec Input Water, provided there is no Off-Spec Mixed Water;

- (c) in case of Bypass Water Output due to Bypass Input Water and there is no Bypass Off-Spec Mixed Water;

For any Billing Period, DRQW will apply:

- (a) to Off-Spec Output Water based on Within Spec Input Water;
- (b) to Bypass Water Output based on Within Spec Input Water;
- (c) to Off-Spec Output Water due to Off-Spec Input Water and Off-Spec Mixed Water;
- (d) in case of Bypass Water Output due to Bypass Input Water and Bypass Off-Spec Mixed Water.

Moreover, the water quality output requirements will be different during the C&O Period and the Operating Period.

ANWOp: The Projected Available Net Water Output (in m³), as values in Table 3 of paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8, for each Contract Year. ANWOp means the net potential water production at the Output Water Connection Point and Water Access Points specified as M2 in attachment D of appendix 8, which shall be derived from: (a) the maximum potential net output that could have been produced at the Output Water Connection Point and Water Access Points if the KWC had been operated at the Contracted Availability (in m³/d) of the KWC during the Contract Year; (b) minus the total number of anticipated Outages in such Contract Year (in m³).

1.6 Payment Formulas

The formulas for calculation of the payment components are defined in paragraph 2 (Payment Calculation) of this appendix 8.

In applying the payment formulas for each Billing Period, the factors to be used shall be, where applicable, those to be in effect for such Billing Period as specified in or derived from Attachment A (Agreed Values for Payment Calculation) and shall, where applicable, be adjusted in Attachment B (Indexation / Adjustment to Cost Recovery Charges).

1.7 Rounding of Calculations

In making the calculations required in this appendix 8, values shall be calculated to five (5) decimal places of accuracy.

2. Payment Calculation

2.1 Availability Payments

The Availability Payment shall be computed as the sum of Component AW and Component BW and it will be subject to Deduction for Reduced Water Availability (DRAW), NRW (DNRW) and Off-Spec Output Water (DRQW). For each Billing Period m:

$$APW_m = AW_m + BW_m - DRAW_m - DNRW_m - DRQW_m$$

APW_m = Availability Payment (in PKR) for the Billing Period m

- $AW_m =$ Capital Cost Recovery Payment (in PKR) for the Billing Period m
 $BW_m =$ Fixed O&M Cost Recovery Payment (in PKR) for the Billing Period m
 $DRAW_m =$ Deduction for Reduced Water Availability (in PKR) for the Billing Period m
 $DNRW_m =$ Deduction for NRW (in PKR) for the Billing Period m
 $DRQW_m =$ Deduction for Off-Spec Output Water (in PKR) for the Billing Period m
 $m =$ Billing Period

2.1.1 Availability Payment Equation for Component AW

Component AW (the “**Capital Cost Recovery Payment**”) of the Availability Payment for a Billing Period m in an Operating Contract Year n shall be calculated as follows:

$$AW_m = CCRW_m * DCW_m / 24 * PH_m$$

$$CCRW_m = FD_P_RC_m + FD_I_RC_m + LD_P_RC_m + LD_I_RC_m + FE_RC_m + LE_RC_m$$

where:

- $AW_m =$ Capital Cost Recovery Payment (in PKR) for the Billing Period m
 $CCRW_m =$ Capital Cost Recovery Charge for the Billing Period m
 $FD_P_RC_m =$ Foreign Debt Principal Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8
 $FD_I_RC_m =$ Foreign Debt Interest Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8
 $LD_P_RC_m =$ Local Debt Principal Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8
 $LD_I_RC_m =$ Local Debt Interest Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8
 $FE_RC_m =$ Foreign Equity Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.2 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8

LE_RC_m = Local Equity Recovery Charge (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8

DCW_m = Contracted Availability (m³/Day) for Billing Period m

PH_m = Total hours in the Billing Period m

m = as previously defined

2.1.2 Availability Payment Equation for Component BW

Component BW (the “Fixed O&M Cost Recovery Payment”) of the Availability Payment for a Billing Period m in an Operating Contract Year n shall be calculated as follows:

$$BW_m = FOMRW_m * DCW_m / 24 * PH_m$$

where:

BW_m = Fixed O&M Cost Recovery Payment (in PKR) for the Billing Period m.

FOMRW_m = Fixed O&M Cost Recovery Charge for Water (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.3 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8

DCW_m = As defined previously

PH_m = As defined previously

m = As defined previously

2.1.3 Deduction for Reduced Water Availability

The Deduction for Reduced Water Availability (DRAW) shall be calculated as follows:

(i) For Billing Periods during a Summer Period:

Case One:

LCW_a_m for the Billing Period m exceeds LCW_p_m i.e.

$$LCW_{a_m} > LCW_{p_m}$$

In this case:

$$DRAW_m = (CCRW_m + FOMRW_m) * LCW_{a_m}$$

Case Two:

LCW_a_m for the Billing Period m is equal or less than LCW_p_m i.e.

$$LCW_{a_m} \leq LCW_{p_m}$$

In this case:

$$DRAW_m = (CCRW_m + FOMRW_m) * (LCW_{p_m} - b * (LCW_{p_m} - LCW_{a_m}))$$

Where in both cases:

$DRAW_m =$ as previously defined

$CCRW_m =$ as previously defined

$FOMRW_m =$ as previously defined

$LCW_{p_m} =$ Projected Loss of Net Water Output due to Unavailability during a Summer Period according to paragraph A.3 of this Attachment A (Agreed Values for Payment Calculation)

$LCW_{a_m} =$ Actual Loss of Water Output due to Unavailability during a Summer Period, calculated according to paragraph A.4 of this Attachment A (Agreed Values for Payment Calculation)

$m =$ as previously defined

$b =$ 0.5

(ii) For the Billing Periods during Winter Period:

- for the first Billing Period during Winter Period of an Operating Contract Year n:

$$DRAW_m = (CCRW_m + FOMRW_m) * LCW_{p_m}$$

- for the last Billing Period during Winter Period of an Operating Contract Year n:

Case One:

- $LCW_{a_{nw}}$ for the Winter Period exceeds $LCW_{p_{nw}}$ i.e.

$$LCW_{a_{nw}} > LCW_{p_{nw}}$$

$$DRAW_m = (CCRW_m + FOMRW_m) * (LCW_{p_m} + (LCW_{a_{nw}} - LCW_{p_{nw}}))$$

where:

$DRAW_m =$ as defined previously

$DFA_m =$ as defined previously

$CCRW_m =$ as defined previously

$FOMRW_m =$ as previously defined

$LCWp_m$ = Projected Loss of Net Water Output due to Unavailability during the Billing Period m in Winter Period according to paragraph A.3 of this Attachment A (Agreed Values for Payment Calculation)

$LCWp_{nW}$ = Projected Loss of Net Water Output (in m^3) due to Unavailability in the two Billing Periods in Winter Period in the Operating Contract Year n , calculated as aggregate value of i) $LCWp_{nW}^U$ and ii) $LCWp_{nW}^P$. $LCWp_{nW}^U$ and $LCWp_{nW}^P$ are tabulated in Table 3 in paragraph A.3 (Agreed Values for Payment Calculation)

$$LCWp_{nW} = LCWp_{nW}^U + LCWp_{nW}^P$$

$LCWa_{nW}$ = Sum of all Actual Losses of Net Water Production (in m^3) $LCWa_m$ due to Unavailability in the two Billing Periods in Winter Period in the Operating Contract Year n , calculated according to paragraph A.4 of this Attachment A (Agreed Values for Payment Calculation)

n = Operating Contract Year

m = as defined previously

Case Two:

- $LCWa_{nW}$ for the Billing Period m is equal or less than $LCWp_{nW}$ i.e.

$$LCWa_{nW} \leq LCWp_{nW}$$

In this case:

$$DRAW_m = (CCRW_m + FOMRW_m) * (LCWp_m - b * (LCWp_{nW} - LCWa_{nW}))$$

Where in both cases:

$DRAW_m$ = as previously defined

$CCRW_m$ = as previously defined

$FOMRW_m$ = as previously defined

$LCWp_m$ = as previously defined

$LCWp_{nW}$ = as previously defined

$LCWa_{nW}$ = as previously defined

m = as previously defined

b = as previously defined

2.1.4 Deduction for NRW

The Deduction for NRW (DNRW) shall be calculated as follows:

$$\mathbf{NRW_m = (HDWi_m + KIIIWi_m) - (OW_m + APOW_m + BPW_m)}$$

where:

NRW_m = NRW (in m³) for the Billing Period m

$HDWi_m$ = Aggregate of daily Net HD Water Input (in m³) in Billing Period m

$KIIIWi_m$ = Aggregate of daily Net KIII Water Input (in m³) in Billing Period m

OW_m = Aggregate of daily water metered at Output Water Connection Point (in m³) in Billing Period m

$APOW_m$ = Aggregate of daily water metered at Water Access Points (in m³) in Billing Period m

BPW_m = Aggregate of daily water metered at Bypass Water Connection Point (in m³) in Billing Period m (Note: not applicable prior to the Project Commercial Operations Date)

m = as previously defined

$$\mathbf{DNRW_m = ((NRW_m / (HDWi_m + KIIIWi_m)) - ANRW_m) * (CCRW_m + FOMRW_m) * V * NRW_DCW_m}$$

$$\mathbf{NRW_DCW_m = \sum_{d=1}^D (DCW_d)}$$

where:

$DNRW_m$ = as previously defined

NRW_m = as previously defined

$HDWi_m$ = as previously defined

$KIIIWi_m$ = as previously defined

$ANRW_m$ = Allowable NRW (in %) for the Billing Period m

$CCRW_m$ = as defined previously

$FOMRW_m$ = as defined previously

DCW_d = Contracted Availability (m^3 /Day) for Day D during Billing Period m

D = Number of Days in Billing Period m

m = as previously defined

V = Case 1: If $(NRW_m / (HDW_{i_m} + KIIIW_{i_m})) > ANRW_m$ then $V = 1$.
 Case 2: If $(NRW_m / (HDW_{i_m} + KIIIW_{i_m})) \leq ANRW_m$ then $V = 0$.

2.1.5 Deduction for Off-Spec Output Water

The Deduction for Off-Spec Output Water (DRQW) shall be calculated as follows:

$DRQW_m = DRQW_WSIW_m + DRQW_OSIW\&OSMW_m + DRQW_BPOSMW_m$	
---	--

DRQW_WSIW_m	$\sum_{d=1}^D (DCW_d * X_d * 1 * (CCRW_m + FOMRW_m))$
DRQW_OSIW &OSMW_m	$\sum_{d=1}^D (DCW_d * Y_d * 0.5 * (CCRW_m + FOMRW_m))$

DRQW_BPOSMW_m	$\sum_{d=1}^D (DCW_d * Z_d * 0.5 * (CCRW_m + FOMRW_m))$
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where:

$DRQW_m$ = as defined previously

$CCRW_m$ = as defined previously

$FOMRW_m$ = as defined previously

m = as previously defined

DCW_d = as previously defined

D = as previously defined

X_d = Case 1: $X = 1$ if Day d during Billing Period m is a Day on which either a) Off-Spec Output Water based on Within Spec Input Water occur, or b) Bypass Water Output based on Within Spec Input Water occur.

Case 2: $X = 0$ if Day d during Billing Period m is not a Day on which either a) Off-Spec Output Water based on Within Spec Input Water

occur, or b) Bypass Water Output based on Within Spec Input Water occur.

$Y_d =$ Case 1: $Y = 1$ if Day d during Billing Period m is a Day on which Off-Spec Output Water due to Off-Spec Input Water and Off-Spec Mixed Water occur.

Case 2: $Y = 0$ if Day d during Billing Period m is not a Day on which Off-Spec Output Water due to Off-Spec Input Water and Off-Spec Mixed Water occur.

$Z_d =$ Case 1: $Z = 1$ if Day d during Billing Period m is a Day on which Bypass Water Output due to Bypass Input Water and Bypass Off-Spec Mixed Water occur.

Case 2: $Z = 0$ if Day d during Billing Period m is not a Day on which Bypass Water Output due to Bypass Input Water and Bypass Off-Spec Mixed Water occur.

2.2 Output Payments

The Output Payment shall be computed as the sum of Component CW and Component DW. For each Billing Period m :

$$OPW_m = CW_m + DW_m$$

where:

OPW_m = Output Payment (in PKR) for the Billing Period m
=

CW_m = Electricity Reimbursement Payment (in PKR) for the Billing Period m

DW_m = Variable O&M Cost Recovery Payment (in PKR) for the Billing Period m

m = Billing Period

2.2.1 Component CW of the Water Output Payment – Electricity Component

2.2.1.1 Electricity Reimbursement Payment for Water

The Electricity Component CW (the “**Electricity Reimbursement Payment**”) of the Net Water Output for the Billing Period m in a Contract Year n shall be calculated as follows:

If $AEC_m \geq PEC_m$:

$$CW_m = PEC_m * EP_m$$

If $AEC_m < PEC_m$:

$$CW_m = (AEC_m + (PEC_m - AEC_m) * V) * EP_m$$

where:

CW_m = Electricity Reimbursement Payment (in PKR) for Billing Period m

PEC_m = Project Electricity Consumption (kWh) of the KWC in Billing Period m as determined under paragraph 2.2.1.2 below

AEC_m = Actual Electricity Consumption (kWh) of the KWC in Billing Period m

EP_m = Electricity Price (in PKR/kWh) in Billing Period m

V = 0.5

m = Billing Period

2.2.1.2 Projected Electricity Consumption

The Projected Electricity Consumption for the Billing Period m in a Contract Year n shall be calculated as follows:

$$PEC_m = (W_m * ECR_{CCn}) - ESG_m$$

where:

PEC_m = as defined previously

W_m = Net Water Output (in m³) during Billing Period m

ECR_{CCn} = Contracted Specific Net Electricity Consumption (in kWh/m³) for each Contract Year n as specified in Table 2A of Attachment A

ESG_m = Contracted Specific Net Solar Generation (in kWh) for the Billing Period m. To be calculated as the aggregate Contracted Specific Net Solar Generation for the months within the Billing Period m, for each Contract Year n as specified in Table 2B of Attachment A

During C&O Period ESG will be zero (0).

2.2.2 Component DW of Water Output Payment - Variable O&M Costs

The Variable O&M Component DW (the “Variable O&M Cost Recovery Payment”) of the Output Payment for Net Water Output for a Billing Period m in a Contract Year n shall be calculated as follows:

$$DW_m = W_m * VOMRW_m$$

where:

DW_m = The Variable O&M Cost Recovery Payment (in PKR) for Billing Period m

W_m = Net Water Output (in m³) in Billing Period m

VOMRW_m = Variable O&M Cost Recovery Charge for Water (in PKR/m³) for Billing Period m as defined and stated in Attachment C (Cost Recovery Charges) to this appendix 8 and subject to indexation as per paragraph B.4 of Attachment B (Indexation / Adjustment to Cost Recovery Charges) to this appendix 8

m = as previously defined

2.3 Service Payment for Water

During the Operating Period:

The Service Payment for Water for the Billing Period m in an Operating Contract Year n shall be calculated as follows:

$$SPW_m = AW_m + BW_m + CW_m + DW_m - DRAW_m - DNRW_m - DRQW_m$$

where:

SPW_m = Service Payment (in PKR) for Billing Period m

AW_m = as defined previously

BW_m = as defined previously

CW_m = as defined previously

DW_m = as defined previously

$DRAW_m$ = as defined previously

$DNRW_m$ = as defined previously

$DRQW_m$ = as defined previously

m = as defined previously

During the C&O Period:

The Service Payment for Water for the Billing Period m in the C&O Period shall be calculated as follows:

$$SPW_m = CW_m + DW_m - DRAW_m * 40\% - DNRW_m * 40\% - DRQW_m * 40\%$$

where:

SPW_m = as defined previously

CW_m = as defined previously

DW_m = as defined previously

$DRAW_m$ = as defined previously

$DNRW_m$ = as defined previously

$DRQW_m$ = as defined previously

m = as defined previously

Attachment A To
Appendix 8 (Service Payment Calculations)
Agreed Values for Payment Calculation

A.1 The Contracted Specific Net Electricity Consumption ECR_{CCn} is as stated in Table 2A for each Operating Contract Year n.

Table 2A: Contracted Specific Net Electricity Consumption²⁰

Contract Year n	Contracted Specific Net Electrical Energy Consumption ECR_{CCn} (kWh/m³)
CY1	█
CY2	█
CY3	█
CY4	█
CY5	█
CY6	█
CY7	█
CY8	█
CY9	█
CY10	█
CY11	█
CY12	█
CY13	█
CY14	█
CY15	█

²⁰ █ Insert figure stated in Bidding Form F2-C (*Electricity*) of the Proposal.

The Contracted Specific Net Solar Generation ESG is as stated in Table 2B for each month and Operating Contract Year n.

Table 2B: Contracted Specific Net Solar Generation²¹

Operating Contract Year n	Contracted Specific Net Solar Generation ESG (kWh)												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
CY1													
CY2													
CY3													
CY4													
CY5													
CY6													
CY7													
CY8													
CY9													
CY10													
CY11													
CY12													
CY13													

²¹ Insert figure stated in Bidding Form F2-C (*Electricity*) of the Proposal

CY14	█	█	█	█	█	█	█	█	█	█	█	█	█
CY15	█	█	█	█	█	█	█	█	█	█	█	█	█

A.2 CAPITAL COST RECOVERY CHARGE FOR WATER (CCRW)

The Capital Cost Recovery Charge for Water CCRW consists of following components:

- (i) Foreign Debt Principal Recovery Charge or FD_P_RC,
- (ii) Foreign Debt Interest Recovery Charge or FD_I_RC,
- (iii) Local Debt Principal Recovery Charge or LD_P_RC,
- (iv) Local Debt Interest Recovery Charge or LD_I_RC,
- (v) Foreign Equity Recovery Charge or FE_RC and
- (vi) Local Equity Recovery Charge or LE_RC;

The CCRW components to be used in the calculation of Payment Component AW as stated in Attachment C (Cost Recovery Charges) subject to adjustment according to Attachment B (Indexation / Adjustment of Cost Recovery Charges) to this appendix 8.

The foreign component of CCRW, i.e. FE_RC, FD_P_RC and FD_I_RC will be subject to indexation to the USD/PKR exchange rate as specified in Attachment B (Indexation / Adjustment of Cost Recovery Charges), to this appendix 8.

The debt interest components of CCRW, i.e. FD_I_RC and LD_I_RC, will be subject to indexation to the floating interest rates as specified in Attachment B (Indexation / Adjustment of Cost Recovery Charges), to this appendix 8.

The annual capital costs cover without limitation:

- Senior Debt service payments (interest paid on outstanding debt and principal repayment),
- returns on Equity, and
- all costs arising out of the total project budget, which includes but is not limited to:
 - construction costs;
 - owner's contingencies;
 - costs for initial inventory;
 - development costs and success fees;
 - owner's costs;
 - insurance costs during C&O Period;
 - initial working capital and any reserve accounts;
 - taxes, levies and duties;

- financing costs during construction, and
- fixed operating costs during the construction period.

A.3 PROJECTED AVAILABLE NET WATER OUTPUT

The Projected Net Water Output of KWC ANWO (in m³) is defined to be the maximum potential net water output during a Contract Year less the Projected Loss of Net Water Output due to Unavailability during the same Contract Year period. Planned Outages are not accepted during the Summer Period.

The Projected Net Water Output ANWO during each Contract Year n is calculated as follows:

$$\text{ANWOp}_n = (\text{PH}_n * \text{CAW}_n / 24) - (\text{LCWp}_{nS} + \text{LCWp}_{nW}^P + \text{LCWp}_{nW}^U)$$

where:

ANWOp_n = Projected Net Water Output measured at the Output Water Connection Point and Water Access Points in Contract Year n

PH_n = total hours in Contract Year n

LCWp_{nS} = Projected Unplanned Outages (in m³) during Summer Period in the Contract Year n, as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8

LCWp_{nW}^P = Projected Planned Outages (in m³) during Winter Period in the Contract Year n, as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8

LCWp_{nW}^U = Projected Unplanned Outages (in m³) during Winter Period in the Contract Year n, as per Table 3 in paragraph A.3 in Attachment A (Agreed Values for Payment Calculation) of this appendix 8

CAW_n = as previously defined

n = as previously defined

Outages allocation / distribution

For payment calculations, including Availability Payments, allocation of Unplanned Outages in Summer Period and Outages in Winter Period will be as follows:

- The Projected Loss of Net Water Output due to Planned Outages, LCWp_{nW}^P, as agreed in Table 3, must be allocated in the Winter Period of the Contract Year concerned.
- The Projected Losses of Net Water Output due to Unplanned Outages, LCWp_{nW}^U and LCWp_{nS}, as agreed in Table 3, will be equally distributed over the Billing Periods m of the corresponding season (Summer Period and Winter Period) of the Contract Year concerned.
- The Projected Losses of Net Water Output due to Unplanned Outages during Summer, LCWp_{nS}, will be distributed throughout the two Summer Billing Periods based on the numbers of hours in each Billing Period;

- The Projected Losses of Net Water Output due to Planned Outages and Unplanned Outages during Winter, $LCW_{p_{nW}^P}$ and $LCW_{p_{nW}^U}$, will be distributed throughout the two Winter Billing Periods based on the numbers of hours in each Billing Period.
- The Availability Payments for the first Billing Period of the Winter Period will be based on the Projected Losses of Net Water Output during Winter Period, $LCW_{p_{nW}^P}$ and $LCW_{p_{nW}^U}$, distributed throughout the two Billing Periods of the Winter Period based on the number of hours in each Billing Period; and
- The Availability Payment for the last Billing Period of the Winter Period will be based on the Projected Losses of Net Water Output during Winter Period, $LCW_{p_{nW}^P}$ and $LCW_{p_{nW}^U}$, reconciled and adjusted at the end of the second Billing Period of the Winter Period against the actual losses of output during the whole Winter Period.

Projected Loss of Net Water Output (LCW_{p_m}) in Billing Period m

The Projected Loss of Net Water Output, LCW_p , in Billing Period m to be used in the Availability Payment calculation of this appendix 8 shall be calculated as follows:

- for such Billing Period m during Summer Period

$$LCW_{p_m} = LCW_{p_{nS}} * PH_m / PH_s$$

- for such Billing Period m during Winter Period

$$LCW_{p_m} = (LCW_{p_{nW}^U} + LCW_{p_{nW}^P}) * PH_m / PH_w = LCW_{p_{nW}} * PH_m / PH_w$$

where for both are:

LCW_{p_m} = as defined previously

$LCW_{p_{nS}}$ = as defined previously

$LCW_{p_{nW}^U}$ = as defined previously

$LCW_{p_{nW}^P}$ = as defined previously

$LCW_{p_{nW}}$ = Projected Loss of Net Water Output (in m^3) due to Unplanned Outages and Planned Outages during Winter Period, i.e. $LCW_{p_{nW}^U} + LCW_{p_{nW}^P}$

PH_m = as defined previously

PH_s = total hours in Summer Period

PH_w = total hours in Winter Period

m = as defined previously

Table 3: Projected Availability of Water

During C&O Period

Contract Year n	Hours in Contract Year		Projected Available Net Water Output ANWOp _n (m ³)	Projected Loss of Net Water Output due to Unavailability (m ³)			
	Summer	Winter		Summer LCWp _{ns}	Winter		Total, LCWp _n
	PH _s	PH _w			Planned, LCWp _{nw} ^P	Unplanned, LCWp _{nw} ^U	
CY1 (1 year)	4,380	4,380	161,386,195	1,818,436	909,218	1,818,436	4,546,090
CY2 (6 months)	2,190	2,190	80,693,098	909,218	454,609	909,218	2,273,045

During Operating Period²²

Contract Year n	Hours in Contract Year		Projected Available Net Water Output ANWOp _n (m ³)	Projected Loss of Net Water Output due to Unavailability (m ³)			
	Summer	Winter		Summer LCWp _{ns}	Winter		Total, LCWp _n
	PH _s	PH _w			Planned, LCWp _{nw} ^P	Unplanned, LCWp _{nw} ^U	
CY1	4380	4380					
CY 2	4380	4380					
CY 3	4380	4380					
CY 4	4380	4380					
CY 5	4380	4380					
CY 6	4380	4380					
CY 7	4380	4380					
CY 8	4380	4380					
CY 9	4380	4380					
CY 10	4380	4380					
CY 11	4380	4380					
CY 12	4380	4380					
CY 13	4380	4380					
CY 14	4380	4380					
CY 15	4380	4380					

²² Insert figures stated in Bidding Form F2-A (Projected Available NWO) of the Proposal.

A.4 ACTUAL UNAVAILABILITY OF WATER

The Actual Loss of Water Output due to Unavailability LCW_{a_m} shall be determined as follows:

$$LCW_{a_m} = \sum_{j=1}^J (UD_j / 24 * (DCW_m - DCW_j))$$

where:

LCW_{a_m} = as defined previously

DCW_m = Contracted Availability (m^3 /Day) for Billing Period m

UD_j = Length of actual period (in hours) of declared Unavailability for Water, as per Availability Notice, for each Period j

DCW_j = Reduced Contracted Availability of the KWC (in m^3 /Day) declared, as per the Unavailability Notice, in the period j, provided that DCW_j (in m^3 /Day) is equal or less than DCW_m ;

j = each period of declared Unavailability (as per Availability Notice)

J = number of periods of declared Unavailability (as per Availability Notice) in Billing Period

For the determination of the Actual Loss of Water Output due to Unavailability LCW_a , the Company shall notify and provide supporting data to the Independent Engineer and KW&SC all the Planned and Unplanned Outages.

If the Independent Engineer or KW&SC have grounds to believe that the Company has failed to provide the Unavailability Notice at the earliest time notice is possible in accordance with the requirements of this Agreement, the Independent Engineer or KW&SC may request the Company to, and the Company shall, provide the Independent Engineer and KW&SC with such information as may be necessary for the Independent Engineer to determine whether earlier notice by the Company was, under the circumstances, possible. If, after such investigation, the Independent Engineer determines that earlier notice was possible and the Company agrees with the determination, GoS may reduce the Availability Payments payable to the Company by an amount for such Unavailability that will not exceed one full Day's Availability Payment.

If the Parties are unable to agree upon such determination, the matter in dispute shall be resolved pursuant to clause 27 of this Agreement.

Subject to approval by the Independent Engineer, Planned Outages not used in a Winter Period may be shifted to following Winter Periods, but not otherwise, which approval shall not be unreasonably withheld or delayed.

A.5. FIXED O&M PAYMENT CALCULATION

Fixed O&M Cost Recovery Charge for Water

The Fixed O&M Cost Recovery Charge for Water (“FOMRW”) is expressed as one level charge rate for any applicable Billing Period. The FOMRW to be used in the calculation of

Payment Component BW on the Commencement Date are as stated in Attachment C (Cost Recovery Charges), subject to adjustment according to Attachment B (Indexation / Adjustment of Cost Recovery Charges) to this appendix 8.

FOMRW is subject to indexation to the inflation rate as specified in Attachment B (Indexation / Adjustment of Cost Recovery Charges) to this appendix 8.

A.6 VARIABLE O&M PAYMENT CALCULATION

Variable O&M Cost Recovery Charge for Water

The Variable O&M Cost Recovery Charge for Water VOMRW is expressed as one level charge rate for any applicable Billing Period. The VOMRW to be used in the calculation of Payment Component DW as stated in Attachment C (Cost Recovery Charges), subject to adjustment according to Attachment B (Indexation / Adjustment of Cost Recovery Charges) to this appendix 8.

VOMRW is subject to indexation to the inflation rate as specified in Attachment B (Indexation / Adjustment of Cost Recovery Charges) to this appendix 8.

**Attachment B To
Appendix 8 (Calculation of Payment)
Indexation / Adjustment of Cost Recovery Charges**

B.1 GENERAL

The cost recovery charges used in paragraph 2 (Payment Calculation) shall be adjusted in accordance with the provisions of this Attachment B.

(a) Adjustments for fluctuation of the USD / PKR exchange rate:

Any change between the Reference Exchange Rate and the arithmetic average of exchange rate (“**Exchange Rate**”) for the Billing Period m shall result in an adjustment of FE_RC, FD_P_RC and FD_I_RC component of those Capital Cost Recovery Charge on a Quarterly basis. Any Exchange Rate adjustment or arithmetic average of exchange rate in Billing Period m will use the TT selling rate for Dollars expressed in Rupees, as published by the National Bank of Pakistan prevailing at the close of Wednesday that is also a Business Day, and with respect to any Wednesday that is not a Business Day, the TT selling rate for Dollars expressed in Rupees, as published by the National Bank of Pakistan prevailing at the close of the last preceding Business Day prior to such Wednesday.

(b) Indexation based on Inflation Rate National Consumer Price Index:

The FOMRW and VOMRW, as specified in Attachment A (Agreed Values for Payment Calculation) of this appendix 8, will be adjusted quarterly according to the N-CPI or if the index is not available or if the Commercial Parties agree otherwise, then another mutually agreed index, or in the event of a failure to agree then such index or method of calculation as shall be determined in accordance with the provisions of clause 27 of this Agreement.

Quarterly N-CPI values will be calculated as the average of each of the end of month values for N-CPI in the Billing Period immediately preceding the relevant Billing Period, which shall equal the sum of the month end N-CPI values in the Billing Period immediately preceding the Billing Period divided by the number of such values; provided, that if any such values for any of such Billing Period are not available, then the average of the end of month value for the most recent available three (3) months shall be used.

In case the N-CPI is changed due to rebasing, the Independent Auditor will notify the new Reference Inflation Rate and the quarterly N-CPI.

(c) Indexation based on Karachi Interbank Offer Rate:

Any change between the Reference KIBOR Rate and the KIBOR for the Billing Period m shall result in an adjustment of the LD_I_RC on a quarterly basis. Quarterly KIBOR values will be calculated based on the KIBOR on the Day prior to the Project Commercial Operations Date and thereafter the last Day of the previous Quarter (31st March, 30th June, 30th September or 31st December, as applicable).

(d) Indexation based on SOFR:

Any change between the Reference SOFR and the SOFR for the Billing Period m shall result in an adjustment of the foreign debt interest component (FD_I_RC) of those Cost Recovery Charges on a quarterly basis. Quarterly SOFR values will be calculated based on the SOFR on the Day prior to the Project Commercial Operations Date and thereafter the last Day of the previous Quarter (31st March, 30th June, 30th September or 31st December, as applicable).

The cost recovery charges subject to indexation are:

Availability Payment for Water:

- AW: Capital Cost Recovery Payment. Following component of Capital Cost Recovery Payment shall be indexed:
 - Availability Component FD_P_RC: Foreign Debt Principal Recovery Charge
 - Availability Component FD_I_RC: Foreign Debt Interest Recovery Charge
 - Availability Component LD_I_RC: Local Debt Interest Recovery Charge
 - Availability Component FE_RC: Foreign Equity Recovery Charge
- Availability Component BW: Fixed O&M Cost Recovery Payment

Output Payment for Water:

- Water Component DW: Variable O&M Cost Recovery Payment

B.2 ADJUSTMENT OF THE CAPITAL COST RECOVERY CHARGE

The Capital Cost Recovery Charge or CCRW components to be used for any Billing Period m shall be calculated based on agreed values in Attachment C (Cost Recovery Charges) after adjustment in accordance with this Attachment B (Indexation / Adjustment of Cost Recovery Charges).

To determine CCRW for any Billing Period m , the value of CCRW components will be calculated and adjusted in accordance with Attachment B (Indexation / Adjustment of Cost Recovery Charges) and Attachment C (Cost Recovery Charges) as follows:

Foreign Debt Principal Recovery Charge

$FD_P_RC_m = FD_P_RC * (EXR_m / EXR_r)$

Where:

- FD_P_RC_m** = Foreign Debt Principal Recovery Charge in Billing Period m (PKR/m³)
- FD_P_RC** = Foreign Debt Principal Recovery Charge as specified in Attachment C (Cost Recovery Charges) (PKR/m³)

- EXR_m** = The USD/PKR exchange rate to be applied for the Billing Period m calculated as per paragraph B.1 Attachment B
- EXR_r** = The Reference Exchange Rate

Foreign Debt Interest Recovery Charge

$$\mathbf{FD_I_RC}_m = ((\mathbf{FD_I_RC} * (\mathbf{FIR}_m / \mathbf{FIR}_r) * \mathbf{F}_f) + (\mathbf{FD_I_RC} * (\mathbf{1-F}_f))) * (\mathbf{EXR}_m / \mathbf{EXR}_r)$$

Where:

- F_f** = [●] %²³
- FD_I_RC_m** = Foreign Debt Interest Recovery Charge in Billing Period m (PKR/m3)
- FD_I_RC** = Foreign Debt Interest Recovery Charge as specified in Attachment C (Cost Recovery Charges) (PKR/m3)
- FIR_m** = The SOFR to be applied for the Billing Period m calculated as per paragraph B.1 Attachment B
- FIR_r** = The Reference SOFR
- EXR_m** = The USD/PKR exchange rate to be applied for the Billing Period m calculated as per paragraph B.1 Attachment B
- EXR_r** = The Reference Exchange Rate

Local Debt Interest Recovery Charge

$$\mathbf{LD_I_RC}_m = (\mathbf{LD_I_RC} * (\mathbf{LIR}_m / \mathbf{LIR}_r) * \mathbf{F}_k) + (\mathbf{LD_I_RC} * (\mathbf{1-F}_k))$$

Where:

- F_k** = [●] %²⁴
- LD_I_RC_m** = Local Debt Interest Recovery Charge in Billing Period m (PKR/m3)
- LD_I_RC** = Local Debt Interest Recovery Charge as specified in Attachment C (Cost Recovery Charges) (PKR/m3)

²³ Insert Percentage of Foreign Debt Interest Recovery Charge (FD_I_RC) that is based on SOFR amount from Bidding Form F2-G (Termination Payments) of the Proposal, specified as “Percentage of Foreign Debt Interest Recovery Charge linked with SOFR”.

²⁴ Insert Percentage of Local Debt Interest Recovery Charge (LD_I_RC) that is based on KIBOR amount from Bidding Form F2-G (Termination Payments) of the Proposal, specified as “Percentage of Local Debt Interest Recovery Charge linked with KIBOR”.

LIR_m = The KIBOR to be applied for the Billing Period m calculated as per paragraph B.1 Attachment B,

LIR_r = The Reference KIBOR

Foreign Equity Recovery Charge

$$\text{FE_RC}_m = \text{FE_RC} * (\text{EXR}_m / \text{EXR}_r)$$

Where:

FE_RC_m = Foreign Equity Recovery Charge in Billing Period m (PKR/m3)

FE_RC = Foreign Equity Recovery Charge as specified in Attachment C (Cost Recovery Charges) (PKR/m3)

EXR_m = The USD/PKR exchange rate to be applied for the Billing Period m calculated as per paragraph B.1 Attachment B

EXR_r = The Reference Exchange Rate

B.3 ADJUSTMENT OF THE FIXED O&M COST RECOVERY CHARGE FOR WATER

The FOMRW to be used for any Billing Period m shall be calculated based on agreed values in Attachment C (Cost Recovery Charges) after adjustment in accordance with this Attachment B (Indexation / Adjustment of Cost Recovery Charges).

To determine FOMRW for any Billing Period m, the value of FOMRW will be calculated and adjusted in accordance with Attachment B (Indexation / Adjustment of Cost Recovery Charges) and Attachment C (Cost Recovery Charges) as follows:

$$\text{FOMRW}_m = \text{FOMRW} * (\text{IR}_m / \text{IR}_r)$$

Where:

FOMRW_m = Fixed O&M Cost Recovery Charge for Water in Billing Period m (PKR/m3)

FOMRW = Fixed O&M Cost Recovery Charge for Water as specified in A.1 of Attachment C (Cost Recovery Charges) (PKR/m3)

IR_m = N-CPI as applicable for Billing Period m calculated as per paragraph B.1 Attachment B

IR_r = Reference Inflation Rate

B.4 ADJUSTMENT OF THE VARIABLE O&M COST RECOVERY CHARGE

The VOMRW to be used for any Billing Period m shall be calculated based on agreed values in Attachment C (Cost Recovery Charges) after adjustment in accordance with this Attachment B.

To determine VOMRW for any Billing Period m, the value of VOMRW will be calculated and adjusted in accordance with Attachment B (Indexation / Adjustment of Cost Recovery Charges) and Attachment C (Cost Recovery Charges) as follows:

$$\mathbf{VOMRW_m = VOMRW * (IR_m / IR_r)}$$

Where:

VOMRW_m = Variable O&M Cost Recovery Charge in Billing Period m (PKR/m³)

VOMRW = Variable O&M Cost Recovery Charge as specified in A.1 of Attachment C (Cost Recovery Charges) (PKR/m³)

IR_m = as previously defined

IR_r = as previously defined

Attachment C To

Appendix 8 (Calculation of Payment)

Cost Recovery Charges

During C&O Period

Year	FD_P_R C	FD_I_R C	LD_P_R C	LD_I_R C	FE_RC	LE_RC	FOMR W	VOMRW²⁵
	PKR/ m³	PKR/ m³	PKR/ m³	PKR/ m³	PKR/ m³	PKR/ m³	PKR/ m³	PKR/ m³
CY 1	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	[REDACTED]
CY 2	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	Same as CY1 in Operatin g Period*	[REDACTED]

²⁵ [REDACTED] Insert figures stated in Bidding Form F2-B (Cost Recovery Charges) of the Proposal.

During Operating Period²⁶

Year	FD_P_R C *	FD_I_R C *	LD_P_R C *	LD_I_R C *	FE_RC *	LE_RC *	FOMR W	VOMR W
	PKR/ m ³	PKR/ m ³	PKR/ m ³	PKR/ m ³	PKR/ m ³	PKR/ m ³	PKR/ m ³	PKR/ m ³
CY1								
CY2								
CY3								
CY4								
CY5								
CY6								
CY7								
CY8								
CY9								
CY1 0								
CY1 1								
CY1 2								
CY1 3								
CY1 4								
CY1 5								

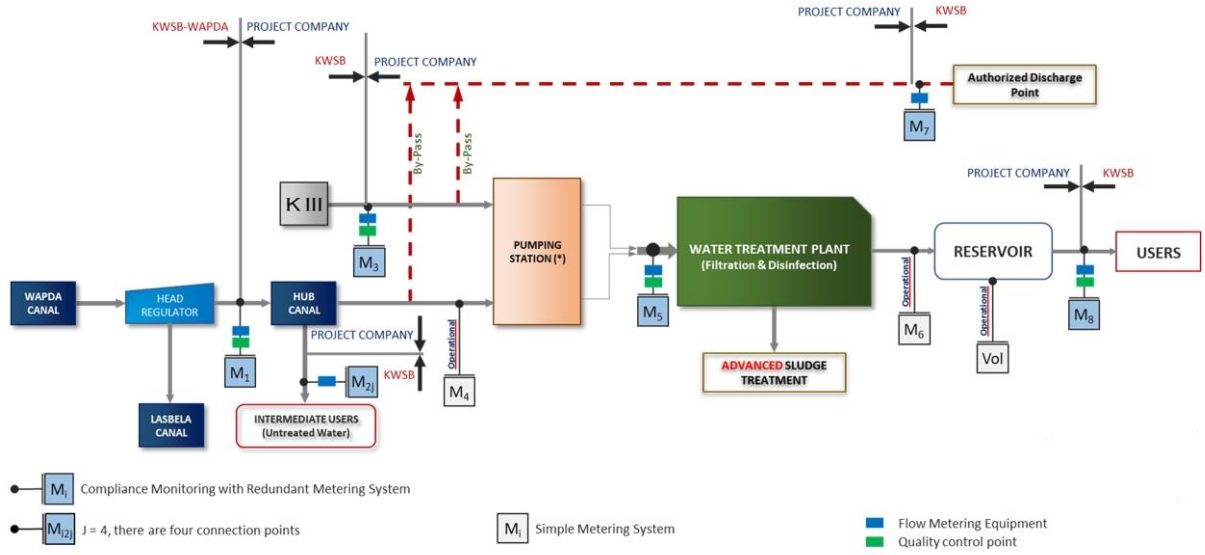
Note: During C&O Period CCRW components (FD_P_RC, FD_I_RC, LD_P_RC, LD_I_RC, FE_RC, LE_RC and FOMRW) will be used only for deduction for availability (DRAW), NRW (DNRW) and quality (DRQW). CCRW or Availability Payments will not be applicable during C&O Period.

*Bidders are referred to sections 8.5 and 8.7 of the Instructions to Bidders (Volume I (Bidding Procedure)) of the RFP.

²⁶ Insert figures stated in Bidding Form F2-B (Cost Recovery Charges) of the Proposal.

Attachment D To

Appendix 8 (General scheme for monitoring and metering)



Attachment E
Appendix 8 (Calculation of Payment)

[Insert table in Bidding Form F2-G headed 'Debt Repayment Profile' submitted with Proposal]

Attachment F
Appendix 8 (Calculation of Payment)

[Insert table F2-I3 (*Shareholding Composition*) in Bidding Form F2-I headed 'Sources and Uses'
submitted with Proposal]

APPENDIX 9: GoS PAYMENT ACCOUNT STANDING INSTRUCTIONS

[ON THE LETTERHEAD OF THE GoS]

DATE: [●]

REFERENCE: [●]

To,

[GoS Payment Account Bank]

.....

.....

CC:

.....

RE: STANDING INSTRUCTIONS IN RESPECT OF GoS PAYMENT ACCOUNT

Dear Sir / Madam,

1. GoS PAYMENT ACCOUNT & ISSUANCE OF STANDING INSTRUCTIONS NOTICE

1.1 We, [●] (through [●]) (the “**Account Holder**”) refer you, [INSERT BANK NAME] (a banking company established under the laws of Pakistan having its registered office located at [●]) (the “**Account Bank**”) to the following bank account established and maintained in the name of the Account Holder at the Account Bank’s branch, located at [●]:

Account Number [●], Account Title [●] (the “**GoS Payment Account**”);

AND, We, the Account Holder, hereby issue this notice (the “**Standing Instructions Notice**”) containing the Standing Instructions for the maintenance and operation of the GoS Payment Account and for matters relating to the same.

2. DEFINITIONS

2.1 In this Standing Instructions Notice, the following capitalized words shall bear the meaning ascribed to the same as below:

- (a) “**Account Bank**” has the meaning given to it in paragraph 1 of the Standing Instructions Notice;
- (b) “**Account Holder**” has the meaning given to it in paragraph 1 of the Standing Instructions Notice;
- (c) “**Certified Lien Amount**” means the amount payable by the GoS to the Company in accordance with clause 12.1.5.3 of the Concession Agreement, as set out in the Lien Enforcement Certificate;
- (d) “**Certified SP Amount**” means the amount payable by the GoS to the Company as set out in the Service Payment Certificate;

- (e) **“Certified Unrecovered TP Amount”** means the amount payable by the GoS to the Company as set out in the Unrecovered Termination Payment Amount Certificate;
- (f) **“Company”** means [●], a company incorporated under the laws of Pakistan, having its registered office located at [●];
- (g) **“Company Payment Account”** means the account to be established and maintained by the Company, in which the Company shall receive the amounts payable by the Account Holder in accordance with the Service Payment Certificates;
- (h) **“Concession Agreement”** means the concession agreement dated [●] between the Governor of Sindh (acting through Secretary, Local Government & Housing Town Planning Department, Government of Sindh), the Karachi Water & Sewerage Corporation, and the Company in respect of the Project;
- (i) **“GoS Payment Account”** has the meaning given to it in paragraph 1 of the Standing Instructions Notice;
- (j) **“Independent Auditor”** means [●];
- (k) **“Independent Engineer”** means [●];
- (l) **“Lien Enforcement Certificate”** means the written confirmation jointly issued and duly signed by the Independent Auditor and the Independent Engineer, setting out the Certified Lien Amount;
- (m) **“Project”** means the designing, building, constructing, testing, commissioning, operating, maintaining, financing, and transferring by the Company of the Karachi Water Canal to be undertaken in public-private partnership mode by the Company in terms of the Concession Agreement;
- (n) **“Revocation Notice”** has the meaning given to it in paragraph 5.1(b) of the Standing Instructions Notice;
- (o) **“Service Payment Certificate”** means the certificate jointly issued and duly signed by the Independent Auditor and the Independent Engineer, setting out the Certified SP Amount;
- (p) **“Sponsors”** means [●];
- (q) **“Standing Instructions”** means these standing instructions for the operations of the GoS Payment Account;
- (r) **“Standing Instructions Notice”** has the meaning given to it in paragraph 1 of the Standing Instructions Notice; and
- (s) **“Unrecovered Termination Payment Certificate”** means the certificate jointly issued and duly signed by the Independent Auditor and the Independent Engineer, setting out the Certified Unrecovered TP Amount.

3. INTERPRETATION

3.2 Save where the contrary is indicated, any reference in this Standing Instructions Notice to:

- (a) a paragraph or an annexure shall be construed as a reference to a paragraph of or an annexure to this Standing Instructions Notice;
- (b) any instrument, memorandum, agreement, contract or document shall be construed as a reference to that instrument, memorandum, agreement, contract or document (together with any recitals or sections thereto) all as amended, varied, restated, novated or supplemented from time to time;
 - (i) any person shall be construed so as to include their respective administrators, successors in interest and permitted assigns from time to time;
 - (ii) a statute, enactment or order shall be construed as a reference to such statute, enactment or order as the same may have been, or may from time to time be, amended or re-enacted and all subsidiary legislation and other instrument made under or deriving validity therefrom;
 - (iii) the singular shall include the plural and vice versa, where appropriate;
 - (iv) the words ‘including’ and ‘includes’ and any grammatical variants of those words, will be read as if followed by the words ‘without limitation;’
 - (v) a reference to a person shall be construed to include a juridical person;
 - (vi) a time of Day shall be construed as a reference to Pakistan Standard Time; and
 - (vii) headings in this Standing Instructions Notice are for ease of reference only and shall be ignored in construing this Standing Instructions Notice.
- (c) The annexures to this Standing Instructions Notice shall form an integral part of this Standing Instructions Notice.

4. THE INSTRUCTIONS IN RESPECT OF MATTERS RELATING TO THE FUNDING NOTICE (GOS)

4.1 The Account Holder instructs and authorizes the Account Bank to act as follows:

THAT, upon receipt of a Service Payment Certificate by the Account Bank from time to time, the Account Bank shall, within one (1) Business Day of receipt of the Service Payment Certificate, debit the GoS Payment Account in an amount equal to the Certified SP Amount and credit the same to the Company Payment Account.

THAT, upon receipt of an Unrecovered Termination Payment Certificate by the Account Bank, the Account Bank shall, within one (1) Business Day of receipt of the Unrecovered Termination Payment Certificate, debit the GoS Payment Account in an amount equal to the Unrecovered Certified TP Amount and credit the same to **[insert details of relevant company account]**.

THAT, upon receipt of a Lien Enforcement Certificate by the Account Bank, the Account Bank shall, within one (1) Business Day of receipt of the Lien Enforcement Certificate,

debit the GoS Payment Account in an amount equal to the Certified Lien Amount and credit the same to **[insert details of relevant company account]**.

5. REVOCATION AND AMENDMENT OF STANDING INSTRUCTIONS

- 5.1 The Standing Instructions shall remain effective until such date which is the earlier of:
- (a) the date on which a written certificate, duly issued by the Independent Auditor, is received by the Account Bank from the Independent Auditor certifying that the Account Holder has fully complied with and has satisfied its payment obligations for the Project;
 - (b) the date on which the Standing Instructions are revoked pursuant a written revocation notice (the “**Revocation Notice**”) duly executed and confirmed by the authorized representatives of each of the Account Holder and the Company and subsequently duly issued by the Account Holder to the Account Bank instructing revocation of the Standing Instructions;
 - (c) the date on which a written certificate, duly issued by the Account Holder, is received by the Account Bank from the Account Holder certifying that the Concession Agreement has been terminated in accordance with the terms thereof and the Termination Payments have been made; and
 - (d) the date on which a written certificate, duly issued by the Account Holder, is received by the Account Bank from the Account Holder certifying that the ‘GoS Service Payment SBLC’ has been established in accordance with the Concession Agreement.
- 5.2 The Standing Instructions Notice may be amended pursuant a written notice duly executed and confirmed by the authorized representatives of the Account Holder and the Company and subsequently duly issued by the Account Holder to the Account Bank instructing amendment to this Standing Instructions Notice.

6. SEVERABILITY

- 6.1 If for any reason whatsoever any provision of this Standing Instruction Notice is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Account Bank and the Account Holder will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable.

7. GOVERNING LAW & DISPUTE RESOLUTION

- 7.1 These Standing Instructions Notice shall be governed by and construed in accordance with the laws of Pakistan and the courts of law at Karachi, Pakistan with competent jurisdiction shall entertain all disputes arising hereunder.

APPENDIX 10: INDEPENDENT APPOINTEES TERMS OF REFERENCE

Part 1: Indicative Independent Auditor Terms of Reference

The scope of work of the Independent Auditor for the Project shall include the following:

- (a) Perform all actions and services set out in the Relevant Agreements to be performed by the Independent Auditor diligently and within the timelines set out therein (the “IA Services”).
- (b) Exercise, in the performance of the IA Services, all skill, care and diligence to be expected of a properly qualified and competent professional experienced in each of the disciplines to which the IA Services relate.
- (c) Cooperate with the other parties to the Relevant Agreements in respect of matters relating to the Independent Auditor for the purposes of, *inter alia*, facilitating of the Project and the Project Activities.
- (d) The IA Services include:
 - monitoring financial aspects;
 - certification and approvals;
 - issuing monthly progress reports;
 - cost certification;
 - expert adjudicator on financial matters relating to force majeure, terminations, project delays or other project issues as and when they arise of the Project’s issues, funding mechanisms, project risks and intimate the party concerned of their responsibility as laid down in the Relevant Agreements; and
 - other matters detailed in Relevant Agreements.
- (e) To work in close coordination with the Independent Engineer and exchange information as required for the performance of their respective tasks.
- (f) To give presentations to various Government tiers on the Financial Model and explain the impact of tariff indexations, Deductions, payments related to a Relief Event, Force Majeure Event and termination events, on the value for money. Also be in meetings of the GoS at during various approvals (if and as required).
- (g) On intimation from the Company, the Financing Parties or GoS Parties, establish the occurrence of a material adverse effect on the Project and recommend based on the terms of the Relevant Agreements, a mechanism to overcome the same.
- (h) Follow a system of periodic reports in such frequency and formats as determined by the Company and the GoS Parties.
- (i) During the C&O Period, monitor financial progress against the Implementation Schedule.

- (j) Determine, *inter alia*, the Availability Payment and Output Payment to be paid in accordance with appendix 8 of the Concession Agreement (including the Deductions).
- (k) Determine, *inter alia*, the Increased Costs to be paid by the GoS in accordance with clause 20 of the Concession Agreement. In case the Increased Costs are funded by the Company, the Independent Auditor will be required to propose necessary adjustments to the Availability Payments and Output Payments (if and as applicable) in accordance with the Concession Agreement.
- (l) Issue certifications to facilitate disbursement of funding from stakeholders (including equity) with respect to construction and other expenditures in accordance with the Relevant Agreements.
- (m) In respect of the occurrence of a Relief Event or Force Majeure Event in accordance with the provisions of the Concession Agreement, consult with the Company and the GoS Parties in order to determine the amount of resultant compensations, if any, in accordance with the provisions of the Concession Agreement and issue necessary certifications in this respect.
- (n) In respect of Termination Payments, determine the amount of resultant compensations, if any, in accordance with the provisions of the Concession Agreement and issue necessary certifications in this respect.
- (o) Certify the Financing Termination Date as defined in the Concession Agreement.
- (p) Issue the GoS Termination SBLC Certificate or the GoS Termination SBLC Failure Certificate (as the case may be) in accordance with clause 12 of the Concession Agreement.
- (q) Issue certificate confirming the GoS Termination Secured Amount, the GoS Termination SBLC Failure Certificate and Unpaid Termination Payment Amount Certificate, each in accordance with clause 12 of the Concession Agreement.
- (r) Issue the GoS Payment Account Certificate determining the GoS Payment Account Required Balance in accordance with clause 12 of the Concession Agreement.
- (s) Monitor the debt-to-equity ratio of the Company and ensure it does not exceed 80:20.
- (t) Monitor the shareholding percentage of each Shareholder on a quarterly basis from the Commencement Date.
- (u) Endorse calculations prepared by the Company of any amounts in respect of Refinancing Gains described in clause 16.3.8 of the Concession Agreement.
- (v) Issue Lien Enforcement Certificate in accordance with clause 12.1.13 of the Concession Agreement.
- (w) Issue various certificates in consultation with the Independent Engineer (where applicable) including Commencement Certificate, Handover Certificate, Mobilisation Certificate, relevant payment certificates and Project Commercial Operations Certificate as more particularly described in the Concession Agreement. The Independent Auditor will rely on reports, studies, surveys, and other documents provided by the Company or its appointed consultants.

- (x) In case of a failure to achieve the scheduled project milestones, issue delay notices, in consultation with the Independent Engineer, as described in the Concession Agreement.
- (y) Together with the Independent Engineer, act to resolve any disputes arising due to a conflict between the clauses and appendices of the Concession Agreement.
- (z) Together with the Independent Engineer, advise GoS on the financial implications of a Change in Scope requested by the Company.
- (aa) Together with the Independent Engineer, advise GoS on any changes, modifications, amendments, supplements or waivers to the Financing Documents, the EPC Contract, the O&M Contract or in respect of any Refinancing. The Independent Auditor will rely on the timely provision of relevant documents by the Company and will make its recommendations in accordance with clause 16.4 of the Concession Agreement.
- (bb) Together with the Independent Engineer, advise GoS on any changes, modifications, amendments, supplements to the Insurance Policies.
- (cc) Together with the Independent Engineer, issue the Service Payment Certificate in respect of invoiced Service Payments in accordance with clause 13.5 of the Concession Agreement.
- (dd) Comply with the Laws of Pakistan in its performance of the IA Services.
- (ee) Perform such other obligations and responsibilities as set out in the Relevant Agreements.
- (ff) Perform such other obligations and responsibilities as mutually agreed between the Parties.
- (gg) Perform any other action or services set out in the Independent Auditor Contract.

Independent Auditor Criteria

An international or local auditing firm (not individuals) appointed as the Independent Auditor shall meet the following criteria:

- Have the experience of undertaking a similar role in at least two (2) either i) project financed infrastructure projects or ii) PPP projects.
- Have the following permanent employees for at least one (1) year:
 - (i) team leader with at least fifteen (15) years of experience with complete knowledge and understanding of project financed infrastructure projects or PPP projects;
 - (ii) tax expert with at least ten (10) years of experience with complete knowledge of Pakistani tax law and its application to the Project;
 - (iii) auditing expert with at least ten (10) years of experience;
 - (iv) financial modelling expert with at least ten (10) years of experience;
 - (v) other experts required to perform the obligations of the Independent Auditor under the Project as specified herein.

- Provide an undertaking that the above staff shall be employed on the Project if the work is awarded to the firm. Relevant staff members must be available to attend all inspections and meetings with the GoS officials. Any change in staff for this assignment would need to be replaced with similar experience.
- Ensure that its staff are fully familiar with project financed infrastructure projects or PPP projects and the role of the Independent Auditor in such projects. In addition, staff should be familiar with Pakistan Income Tax Ordinance, 2001, GoS public procurement regulatory framework and Relevant Agreements.

Part 2: Indicative Independent Engineer Terms of Reference

1.1 General

The scope of work of the Independent Engineer for the Project shall include the following:

- (a) Perform all actions and services set out in the Relevant Agreements to be performed by the Independent Engineer diligently and within the timelines set out therein (the “**IE Services**”).
- (b) Exercise, in the performance of the IE Services, all skill, care and diligence to be expected of a properly qualified and competent professional experienced in each of the disciplines to which the IE Services relate.
- (c) Cooperate with the other parties to the Relevant Agreements in respect of matters relating to the Independent Engineer for the purposes of, *inter alia*, facilitating implementation of the Project and the Project Activities.
- (d) Review the Relevant Agreements delivered by the Parties and all documents that are provided to it pursuant to the Relevant Agreements.
- (e) Coordinate and liaise with the Parties in respect of matters that require the Independent Engineer’s inputs for performance of the IE Services.
- (f) As and when requested or required, consult with the parties to the Relevant Agreements and / or any other relevant stakeholders of the Project for the performance of IE Services and request (where available and applicable) any documents that are required by the Independent Engineer to perform the IE Services.
- (g) As and when requested or required pursuant to this Agreement and other Relevant Agreement, review and comment on any documents provided to it pursuant to the Relevant Agreements and request further documents as may be required for performance of the IE Services.
- (h) Prepare, issue, deliver, review and / or approve (as applicable) all documents contemplated to be prepared, issued, delivered, reviewed and/or approved (as applicable) by the Independent Engineer under this Agreement or the other Relevant Agreements.
- (i) Visit any of the offices of the Company or any other location where relevant personnel or records of the Company are located.
- (j) Comply with the Laws of Pakistan in its performance of the IE Services.
- (k) In performing the IE Services, not in any way materially adversely interfere with the performance of the Company’s, the Contractors’ and the GoS’ obligations and with the conduct of their business.
- (l) Report to the Parties in case the quality standards and quality control provisions are not maintained on the Site.

- (m) Perform all such duties and obligations that are to be performed by the Independent Engineer under the Relevant Agreements.
- (n) Perform functions, including issuance of directions to the Company or its Contractors, in respect of the emergency decommissioning of the KWC, as may be required by the Relevant Agreements.
- (o) Perform its duties in respect of insurance claims and proceeds, as set out in the Concession Agreement.
- (p) Perform functions in respect of a Change in Scope, as set out in the Concession Agreement.
- (q) Perform the respective roles and duties that are to be performed by the Independent Engineer upon termination of the Concession Agreement or upon expiry of the Concession Period.
- (r) As and when requested or required, attend / visit, during normal working hours, any place where work is being carried out in respect of any equipment or material to be incorporated into the KWC, with full opportunity to inspect, examine, measure or test any such works, equipment or material.
- (s) As and when requested or required, certify any delays in the achievement of the Project Commercial Operations Date (including identifying the party responsible for such delay) and coordinate with the Independent Auditor in respect of matters relating to the same.
- (t) Consult with the Parties in respect to the sufficiency and / or insufficiency of the insurance proceeds required to repair, replace, reinstate or rectify the relevant loss or damage to the KWC in accordance with the Concession Agreement.
- (u) Upon receipt of an invoice in relation to the C&O Activities, certify to all Parties of the completion of the relevant milestone under the EPC Contract.
- (v) Be present at and observe performance of all Test Procedures under appendix 5 of the Concession Agreement or provide for authorized representatives to perform the foregoing functions.
- (w) Provide operational recommendations in risk management reports to the Parties, from time to time, during the Concession Period.
- (x) Upon receipt of a notice of Change in Law from the Company pursuant to the Concession Agreement, as and when requested or required, confirm occurrence of the Change in Law and certify the consequent financial impact, in accordance with the Concession Agreement.
- (y) Inspect the KWC at the time of handing over thereof by the Company to the GoS and perform functions in respect of such handing over as provided in the Concession Agreement.

- (z) Present to the Parties as and when required on the progress of the Project and other milestones specified in the Implementation Schedule.
- (aa) Pursuant to the terms of the License Agreement, review and approve the status report submitted by the Company, on an annual basis, on the occurrence and status of occupations, thefts, encroachments and Encumbrances arising from time to time on the Site to ensure compliance by the Company of its obligations to protect the Site from such encroachments under the Relevant Agreements.
- (bb) Issue Lien Enforcement Certificate in accordance with clause 12.1.13 of the Concession Agreement.
- (cc) Issue various certificates in consultation with the Independent Auditor, including Commencement Certificate, Handover Certificate, Mobilisation Certificate, relevant payment certificates and Project Commercial Operations Certificate as more particularly described in the Concession Agreement. The Independent Engineer will rely on reports, studies, surveys, and other documents provided by the Company or its appointed consultants.
- (dd) In case of a failure to achieve the scheduled project milestones, issue delay notices, in consultation with the Independent Auditor as described in the Concession Agreement.
- (ee) Together with the Independent Auditor, act to resolve any disputes arising due to a conflict between the clauses and appendices of the Concession Agreement.
- (ff) Together with the Independent Auditor, advise the GoS on the technical implications of a Change in Scope requested by the Company.
- (gg) Together with the Independent Auditor, advise the GoS on any changes, modifications, amendments, supplements or waivers to the Financing Documents, EPC Contract, O&M Contract or in respect of any Refinancing. The Independent Engineer will rely on the timely provision of relevant documents by the Company and will make its recommendations in accordance with clause 16.4 of the Concession Agreement.
- (hh) Together with the Independent Auditor, advise GoS on any changes, modifications, amendments, or supplements to the Insurance Policies.
- (ii) Together with the Independent Auditor, issue the Service Payment Certificate in respect of invoiced Service Payments in accordance with clause 13.5 of the Concession Agreement.
- (jj) Perform such other obligations and responsibilities as set out in the Relevant Agreements.
- (kk) Perform such other obligations and responsibilities as mutually agreed between the Parties.
- (ll) Perform any other action or services set out in the Independent Engineer Contract.

1.2 Proposed Construction Documents Review Phase

With respect to the review and approval of Proposed Construction Documents, the IE Services shall include the following:

- (a) Review and approve the adequacy of primary data collected for the Project, including topographical surveys, geo-technical and sub-soil investigations, hydrological investigation and any other surveys, investigations and analyses conducted to prepare the Proposed Construction Documents.
- (b) Review and approve the condition survey of existing utilities & their relocation design, and Proposed Construction Documents prepared and submitted by the Company to the Independent Engineer for the construction of various components of the Project, including the pipeline, canal, pumping stations, rising mains, Treatment Plant and Reservoir, Solar Plant, civil structures, aqueducts, bridges, estimates, reports and other deliverables with regard to adequacy, completeness, optimality and capability of design to perform as required in anticipated operating conditions and to meet the technical requirements specified in the Concession Agreement.
- (c) Identification of Project design features or any major equipment component that does not appear to meet the design or performance requirements or fails to adhere to the technical specifications provided in the Concession Agreement.
- (d) Provide an opinion on the quality of the designs with respect to their effect on the anticipated service life of the KWC, the degree of maintenance needed to meet performance requirements and long-term availability over the Concession Period.
- (e) Comply with the design parameters set out in appendix 1 of the Concession Agreement.
- (f) Review and approve the reports prepared and submitted by the Company or its Contractors, with respect to the Implementation Schedule, the Operating and Maintenance Procedures, canal closure, safety and management plan, and water diversion plan.
- (g) Determine that adequate provisions have been made for the following in the Proposed Construction Documents:
 - (i) design;
 - (ii) material sourcing;
 - (iii) material transportation equipment;
 - (iv) utilities;
 - (v) equipment procurement;
 - (vi) construction; and
 - (vii) testing.
- (h) Review and comment on the consistency of all Relevant Agreements.

- (i) Review the available Approvals or applications for Approvals.
- (j) Review and comment on the utilities' arrangements for the Project, including (without limitation) the water supply and Electricity supply.
- (k) Review and approve the adequacy and reasonableness of the Project coordination and monitoring systems.
- (l) Review the safety measures proposed for the construction of the facilities and their compliance with the safety regulations.
- (m) Review, audit, comment and approve the working methodology submitted by the Company regarding the construction of Project infrastructure in densely populated areas to avoid disturbance to traffic and public.
- (r) Report to the GoS Parties in case the quality standards and quality control provisions are not maintained on the Site.

1.3 Environmental and Social Matters

Concerning the environmental and social matters under the Project, the IE Services to be performed by the Independent Engineer shall include the following:

- 1.3.1 Before the start of operations: review for compliance with the Legal Requirements, including the E&S Standards:
 - (a) the ESIA to be prepared by the Company in accordance with the Concession Agreement (and drafts and revisions of the same); and
 - (b) the ESMS and associated programs to be prepared by the Company in accordance with the Concession Agreement (and drafts and revisions of any of the same) and, where any such assessment or plan is not compliant, recommend changes to address any shortcomings.
- 1.3.2 During the C&O Activities, at least visit the Site monthly to:
 - (a) review environmental and social management, monitoring and reporting undertaken by the Company, including implementation of mitigation measures, which shall include but not be limited to:
 - (i) labour and working conditions,
 - (ii) access to water and any grievances in relation to water availability, made by the Settlements;
 - (iii) potential impacts to agriculture and livestock from changes in soil moisture;
 - (iv) development and implementation of a Biodiversity Action Plan as required;

- (v) solid and hazardous waste management, storage, treatment and disposal, including sub-contractor practices;
 - (vi) noise level compliance at nearby sensitive receptors;
 - (vii) treated effluent quality and receiving water quality;
 - (viii) emergency response procedures;
 - (ix) other required environmental, health, and safety management practices;
 - (x) Stakeholder Engagement Plan and Grievance Redress Mechanism; and
 - (xi) health and safety procedures;
- (b) undertake independent verification field monitoring of the Company's compliance with its environmental and OHS requirements; and
 - (c) inspect the Site, review grievance logs and interview representatives of Affected Communities,

in each case, as needed to ascertain whether the Company's activities are in compliance with the Legal Requirements, including the E&S Standards.

1.3.3 On a semi-annual basis during the first two (2) years of the Operating Period, and on an annual basis for another three (3) years thereafter:

- (a) review environmental and social management, monitoring and reporting undertaken by the Company;
- (b) undertake independent verification field monitoring of the Company's compliance with its environmental and OHS requirement; and
- (c) inspect the Site, review grievance logs and interview representatives of affected communities,

in each case, as needed to ascertain whether the Company's activities are in compliance with the Legal Requirements, including the E&S Standards.

1.3.4 Within sixty (60) Days following the end of the first three (3) years of the Operating Period, the Independent Engineer shall issue a report indicating whether:

- (a) the Company has performed the C&O Activities and is conducting the O&M Activities in accordance with the Legal Requirements, including the E&S Standards, and has in place adequate procedures and practices to manage environmental and social risks and impacts; and
- (b) the GoS and any relevant Competent Authority is adequately equipped to monitor and enforce, and is effectively monitoring and enforcing, the Parties' environmental and social obligations under the Concession Agreement.

If both the foregoing conditions are met, there will be no need for further annual review. If at least one of the two foregoing conditions is not met, the Parties will in good faith agree on a supplementary scope of work to be carried out by the Independent Engineer for a period up to the duration of the Project.

1.4 Supervision Services during the C&O Period

During the C&O Period, the IE Services to be performed by the Independent Engineer shall include the following:

- (a) Supervise the C&O Activities in detail and to approve the materials, formworks, and workmanship of the C&O Activities on a daily and fulltime basis. As stated in the Concession Agreement, the Independent Engineer shall have no authority to relieve the Company of any of its duties or to impose additional obligations.
- (b) Review and approve the construction manuals and operation and maintenance manuals prepared and submitted by the Company. The Service Payments will be made upon Independent Engineer's certification, with final approval of the Independent Auditor.
- (c) Supervise / approve the C&O Activities, including material testing, water sampling, water quality testing, equipment installation, facility integration, treatment process testing, and review the water quality and treatment testing results and to order special tests of water quality and / or completed works, and / or order removal and substitution of substandard material, equipment and / or work as required.
- (d) Review and approve work methodology of each component of the C&O Activities.
- (e) Review quality assurance and quality control during the C&O Period.
- (f) Identify construction delays, if any and recommend to the GoS the remedial measures to expedite the progress of the C&O Activities.
- (g) Review and approve shop drawings for each component of the Project Activities prepared and submitted to Independent Engineer by the Company.
- (h) Review the "*Construction Drawings*" and "*as-built*" drawings for each component of the Project Activities prepared and submitted to Independent Engineer by the Company.
- (i) Review the safety measures provided for the Project workers.
- (j) Review the adequacy and operational effectiveness of the canal diversion / bypass program.
- (k) Determine any extension of the Implementation Schedule, to which the Company is entitled and notify the GoS in writing accordingly.
- (l) Review compliance by the Company of its obligations under the Concession Agreement.
- (m) Have a review period not exceeding twenty-one (21) Days, or as otherwise stated in the Concession Agreement, calculated from the date on which the Independent Engineer receives a document or a notice from the Company (the "**Review Period**").

- (n) Within the Review Period, give a notice to the Company:
 - (i) of 'no-objection,' which may include comments concerning minor matters which will not substantially affect the Project Activities; or
 - (ii) that the Company fails, to the extent stated, to comply with the requirements of the Independent Engineer or as otherwise stated in the Concession Agreement, with reasons.

If the Independent Engineer gives no notice within the Review Period, it shall be deemed to have given a notice of no-objection to the Company.

If the Independent Engineer instructs that further documents are reasonably required from the Company to demonstrate that the Project Activities or design comply with the Concession Agreement, the Company shall prepare and submit the same promptly to the Independent Engineer at the Company's cost.

If the Independent Engineer gives a notice that the Company fails to comply with the requirements of the Independent Engineer or those stated in the Concession Agreement, the Company shall revise the documents, resubmit them to the Independent Engineer in accordance with this clause, and the review period shall be calculated from the date that the Independent Engineer receives the documents.

For performance testing, the Independent Engineer shall:

- (a) Review test procedures developed by the O&M Contractor and confirm compliance with applicable test codes and standards and with testing criteria specified in the Concession Agreement and appendix 5 thereto;
- (b) Review the quality control reports, water testing results and testing reports and results in accordance with appendix 5 of the Concession Agreement.
- (c) Review test reports prepared by Company or the Company's testing consultant; and
- (d) Make visits to the Site to verify that the C&O Activities, including testing requirements, have been completed and thereafter sign and issue the Project Commercial Operations Certificate.

1.5 Commissioning Supervision Services

During the commissioning phase, the IE Services to be performed by the Independent Engineer shall include the following:

- (a) Supervise and approve 'as-built records' of the execution of the C&O Activities, as prepared by the Company, showing the exact as-built locations, sizes and details of the C&O Activities. As stated in the Concession Agreement, the Independent Engineer shall have no authority to relieve the Company of any of its duties or to impose additional obligations.
- (b) Require as-built records before the beginning of the testing on completion of the C&O Activities, but also updated as-built records to the extent that any construction and / or rehabilitation activities are executed by the Company during and /or after the testing.

- (c) Review and approve the Operating and Maintenance Procedures prepared by the Company. The Operating and Maintenance Procedures shall include enough detail to ensure the operation, maintenance and performance of the KWC to comply with the key performance indicators included in the Concession Agreement and following the 'Performance Guarantees' specified in appendix 5 of the Concession Agreement. The Operating and Maintenance Procedures shall also allow to operate, maintain, dismantle, reassemble, adjust and repair the KWC as necessary, including an inventory of spare parts.
- (d) Detect errors, omissions, ambiguities, inconsistencies, inadequacies or other defects in the C&O Activities and issue the necessary notices of no-objection.
- (e) Review the test programmes submitted by the Company to carry out the tests on completion, as specified in appendix 5 of the Concession Agreement.
- (f) Give a notice to the Company stating the extent to which the testing programme does not comply with the Concession Agreement or the Independent Engineer's requirements. Within fourteen (14) Days after receiving this notice, the Company shall review the test programme to rectify any non-compliance. If the Independent Engineer gives no such notice within fourteen (14) Days after receiving the test programme (or the revised programme), the Independent Engineer shall be deemed to have given a notice of no-objection. The Company shall not commence the tests until a notice of no-objection is given, or is deemed to have been given, by the Independent Engineer.
- (g) Issue the Project Commercial Operations Certificate after checking the results and workability of the KWC after the prescribed tests.

Independent Engineer Criteria

An international or local engineering firm (not individuals) appointed as the Independent Engineer shall meet the following criteria:

- Have the experience of undertaking a similar role in at least two (2) either i) project financed infrastructure projects; or ii) PPP projects.
- Have the experience of supervising at least two (2) bulk water supply projects which included the construction of a pipeline or canal.
- Have the experience of supervising at least two (2) water sector projects involving the construction of pumping stations and water treatment plants.
- Have the experience of supervising at least one (1) solar project. (Note: this is applicable in case the Company plans to develop a Solar Plant).
- Have the following permanent employees for at least one (1) year:
 - (i) team leader with at least twenty (20) years of experience with complete knowledge and understanding of water projects, project financed infrastructure projects and PPP projects;
 - (ii) hydraulic expert with at least twenty (20) years of experience;
 - (iii) civil engineering expert with at least fifteen (15) years of experience;
 - (iv) water treatment expert with at least fifteen (15) years of experience;
 - (v) mechanical expert with at least fifteen (15) years of experience;
 - (vi) contract management expert with at least ten (10) years of experience;
 - (vii) electrical power supply / renewable energy expert with at least ten (10) years of experience (Note: the renewable energy expert is required in case the Company plans to develop a Solar Plant); and
 - (viii) other experts required to perform the obligations of the Independent Engineer under the Project as specified herein.
- Provide an undertaking that the above staff shall be employed on the Project if the work is awarded to the engineering firm. Relevant staff members must be available to attend all inspections and meetings with the GoS officials. Any change in staff for this assignment would need to be replaced with similar experience.
- Ensure that its staff are fully familiar with project financed infrastructure projects or PPP projects and the role of the Independent Engineer in such projects. In addition, the staff should be familiar with FIDIC conditions of contract, GoS public procurement regulatory framework, and the Project Agreements.
- Ensure that its staff have at least a minimum bachelor's degree in the relevant engineering field with a specialization in water sector projects.

APPENDIX 11: LICENSE AGREEMENT

LICENSE AGREEMENT

between

(1) THE KARACHI WATER AND SEWERAGE CORPORATION

- and -

(2) [*THE COMPANY*]

**relating to
KARACHI HUB WATER CANAL PROJECT**

Dated [●]

THIS LICENSE AGREEMENT is made on [●], 2024 (the “**Signing Date**”), at Karachi, Pakistan.

BETWEEN

- (1) **KARACHI WATER AND SEWERAGE CORPORATION**, a statutory body constituted pursuant to section 3 of the Karachi Water and Sewerage Corporation Act, 2023, with its office located at 9th Mile, Karsaz, Karachi, Pakistan (“**KW&SC**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns); and
- (2) [**COMPANY**], a [●] company incorporated under the Laws of Pakistan whose registered office is located at [●] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns).

(KW&SC and the Company are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”).

RECITALS

- A. **WHEREAS**, the Governor of Sindh, acting through the [Local Government & Housing Town Planning Department, Government of Sindh] (the “**GoS**”) and the Parties have entered into a concession agreement dated [●] (the “**Concession Agreement**”);
- B. **WHEREAS**, in terms of the Concession Agreement, KW&SC has agreed to grant a license to the Company in respect of the Site for the purposes of carrying out the Project Activities;
- C. **AND WHEREAS**, the Parties are now entering into this Agreement to set out the terms and conditions relating to the use of the Site by the Company and the rights and obligations of the Parties with respect thereto.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless specified otherwise herein in this Agreement (including the Recitals), all capitalized terms shall have the meanings assigned to them under the Concession Agreement. In addition, the following terms shall have the following meanings, unless the context otherwise requires:

“**Agreement**” means this License Agreement, as amended, and supplemented from time to time;

“**Company**” has the meaning given to it in the Preamble;

“**Concession Agreement**” has the meaning given to it in Recital A;

“**Encumbrance**” means any encumbrance on the Site (or part thereof), including but not restricted to mortgage, charge, pledge, lien, hypothecation and/or any security interest, assignment, privilege, or priority of any kind having the effect of security or other such

obligations and shall include without limitation physical encumbrances and encroachments thereon;

“**GoS**” has the meaning given to it in Recital A;

“**KW&SC**” has the meaning given to it in the Preamble;

“**License**” has the meaning given to it in clause 2.1.1 of this Agreement;

“**License Period**” has the meaning given to it in clause 2.1.1 of this Agreement;

“**Parties**” has the meaning given to it in the Preamble;

“**Party**” has the meaning given to it in the Preamble;

“**Preamble**” means the preamble of this Agreement;

“**Recitals**” means the recitals of this Agreement;

“**Signing Date**” has the meaning given to it in the Preamble; and

“**Site**” means the site on which the Project is to be implemented, comprising of the immovable property, including the rights-of-way, on which the KWC is to be rehabilitated, constructed, installed, and erected in accordance with the terms of the Concession Agreement, as demarcated in the map attached in appendix 1 (*Technical Specifications*) of the Concession Agreement.

1.2 Interpretation

The rules of construction and interpretation set forth in clause 1.2 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. RIGHT TO ACCESS, LICENSE AND RELATED MATTERS

2.1 Right to Access and License of the Site

2.1.1 KW&SC grants to the Company, commencing from the Mobilisation Date (upon the physical handing over of the possession of the Site by KW&SC to the Company) and until the issuance of the Handover Certificate (the “**License Period**”), a license in respect of the Site for the purposes of carrying out the Project Activities in accordance with the Concession Agreement (the “**License**”).

2.1.2 Subject to clause 3.1, the License granted in terms of clause 2.1.1 shall terminate without the need for any action to be taken by the Parties on expiry of the License Period.

2.1.3 KW&SC shall provide the Company such assistance as may be reasonably requested by the Company to enjoy the License, provided always that the Company is in compliance with all Legal Requirements and the provision of any assistance by KW&SC (including delay or omission to provide such assistance) shall not relieve or absolve the Company of its obligations under this Agreement or the Concession Agreement.

- 2.1.4 The Company shall ensure that, during the License Period, KW&SC, any relevant Competent Authority, the Independent Appointees and each of their representatives, officers, employees, and agents shall have the right to access the Site to exercise their rights under the Law and perform their obligations under the Concession Agreement, provided, however, such access shall be subject to any reasonable requirements of the Company regarding safety and security of the KWC.
- 2.1.5 During the Mobilisation Period, the Parties acknowledge and agree that KW&SC shall be operating and maintaining the KWC, and the Company shall be carrying out the Mobilisation Activities. The Parties shall coordinate their respective activities in the Mobilisation Period so as not to interfere with each other, provided always, that during the Mobilisation Period, KW&SC's operations and maintenance activities shall take priority over the Mobilisation Activities of the Company.
- 2.1.6 This Agreement shall be duly executed by the Parties and all costs, fees, expenses, duties, charges, and taxes relating to the same shall be borne by the Company. Notwithstanding anything contained herein or the Concession Agreement, the Parties hereby acknowledge and confirm that no right, title, interest, benefit or otherwise is granted to the Company under this Agreement which may attract the registration requirement under the Laws. However, in the event it is envisaged that this Agreement is a registrable instrument with the relevant Competent Authority under the Laws, all costs, fees, expenses, duties, charges, and taxes relating to the registration of this Agreement shall be borne by the Company.

2.2 Title and Use of Site

- 2.2.1 KW&SC represents and warrants that it has the power and authority to grant the License to the Company for the Project Activities during the License Period, provided the title to the Site shall always vest with KW&SC.
- 2.2.2 The Company undertakes, covenants and agrees that it shall only use the Site solely for the purposes of undertaking the relevant Project Activities in accordance with the requirements of the Concession Agreement.

2.3 No Sale or Creation of Encumbrance

The Company shall not part with, dispose of, sell, lease, sub-lease, license or sub-license or create any Encumbrance of any nature whatsoever on the whole or any part of the Site and shall not place or create nor permit any Contractor or other person claiming through or under the Company to place or create any Encumbrance over all or any part of the Site, or on any rights of the Company therein or under this Agreement.

2.4 Protection of Site from Encroachments

- 2.4.1 For the duration of the Mobilisation Period, KW&SC shall be responsible for and shall protect the Site from all occupations, thefts, encroachments, and Encumbrances, and shall ensure the security of the Site.
- 2.4.2 For the duration of the License Period (excluding the Mobilisation Period), the Company shall:

- (a) be fully responsible for and shall protect the Site from, in each case, any and all occupations, thefts, encroachments and Encumbrances;
- (b) develop a security protocol for security of the Site and arrange for (at its own cost and expense) appropriately trained and qualified security personnel to undertake the security of the Site;
- (c) immediately upon becoming aware, notify KW&SC and the Independent Engineer, of any occupations, thefts, encroachments and Encumbrances on the Site, and KW&SC shall, upon receipt of such notification, provide reasonable assistance to the Company in procuring police assistance for removal of trespassers and/or encroachments on the Site, provided however, the provision of any assistance by KW&SC (including delay or omission to provide such assistance) shall not relieve or absolve the Company of its obligations under this Agreement or the Concession Agreement; and
- (d) submit an annual report intimating to KW&SC and the Independent Engineer either: (i) occurrence and status of occupations, thefts, encroachments, and Encumbrances on the Site in the relevant year (if any); or (ii) confirming that the Site is free from any occupations, thefts, encroachments and Encumbrances in the relevant year of the License Period.

2.4.3 The Company undertakes, covenants and agrees that it shall: (a) for the Mobilisation Period, remain liable for any Claims and/or damage to the Site or the KWC caused by it or the Contractors or any of their representatives, officers, employees and agents; and (b) for the C&O Period, remain liable for any Claims and/or damage to the Site or the KWC.

3. BREACH AND TERMINATION

Any breach or default by a Party of its obligations under this Agreement shall be dealt with in accordance with the terms of the Concession Agreement. This Agreement shall stand automatically terminated on the expiry of the License Period.

4. REPRESENTATIONS AND WARRANTIES

4.1 KW&SC's Representations and Warranties

KW&SC hereby represents and warrants to the Company that:

- (a) it has the power and authority to grant the License to the Company;
- (b) it has the power and authority to enter into and deliver this Agreement, and that this Agreement forms the valid, binding, and enforceable obligations of KW&SC; and
- (c) at the time of grant of License, the Site shall be free of Encumbrances.

4.2 Company's Representations & Warranties

The Company hereby represents and warrants to KW&SC that:

- (a) it has the power and authority to enter into and deliver this Agreement and that this

Agreement forms the valid, binding, and enforceable obligations of the Company; and

- (b) the execution and performance of this Agreement by the Company does not violate any Law or any other obligations to which the Company is subject.

5. NOTICES

5.1 Notices

The provisions of clause 30 of the Concession Agreement shall be incorporated by reference into this Agreement and apply, *mutatis mutandis*, hereto.

6. GOVERNING LAW AND DISPUTE RESOLUTION

6.1 Governing Law

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the Laws of Pakistan.

6.2 Dispute Resolution

The provisions of clause 27 of the Concession Agreement shall be incorporated by reference into this Agreement and apply, *mutatis mutandis*, hereto.

7. MISCELLANEOUS

7.1 Partial Invalidity and Severability

If for any reason whatsoever, any provision of this Agreement is, or becomes invalid, illegal or unenforceable, or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provision(s), as nearly as is practicable.

7.2 Amendment

No amendment or modification of this Agreement shall be valid and effective unless agreed to by the Parties, confirmed by the GoS, and evidenced in writing.

8. ORIGINALS

8.1 Number of Originals

This Agreement shall be executed in two (2) originals.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorised representatives as of the date first written above.

KARACHI WATER AND SEWERAGE CORPORATION

Signature

Name
(block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE COMPANY

Signature

Name
(block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

APPENDIX 12: ENVIRONMENT, HEALTH AND SAFETY REQUIREMENTS

PART-I - ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

The Environmental and Social Impact Assessment (ESIA) shall be prepared by the Company in accordance with the following minimum criteria:

- (a) The Environmental and Social Impact Assessment shall address all environmental and social risks and impacts of the Project, including ancillary and associated facilities, as presented in the terms of reference specified in part 3 of this appendix 12. The Environmental and Social Impact Assessment must comply with the Legal Requirements, including E&S Standards, and be prepared by a competent professional with experience in similar projects in the region and the application of E&S Standards.
- (b) The Company shall undertake specific surveys to confirm in the Environmental and Social Impact Assessment the location of the species *commiphora wightii* (*Gugal/Mukul* tree) and its status as a critical habitat and identify relevant avoidance / mitigation measures.
- (c) If the Environmental and Social Impact Assessment confirms the presence of and potential impacts to the *commiphora wightii* (*Gugal/Mukul* tree), the Company shall develop a Biodiversity Action Plan, in alignment with IFC Performance Standard 6, to avoid impacts to the *commiphora wightii* (*Gugal/Mukul* tree) and other conservation significant species if residual impacts are determined (such as, *manis crassicaudat*²⁵⁷*ndianian pangolin*).
- (d) The Environmental and Social Impact Assessment shall identify any areas where additional land use along the right of way is required temporarily during the C&O Activities and any subsequent mitigation measures, such as compensation, for planned or unplanned temporary land use during the C&O Activities shall be aligned with the IFC Performance Standard 5.
- (e) Protected area managers and secretariats for the internationally recognized areas shall be consulted in preparation of the Environmental and Social Impact Assessment to ensure consistency with the management plans of such areas and to enhance the conservation aims and effective management of the area.

PART II – ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

The Environmental and Social Management System shall be established by the Company and provide for the following:

- (a) An overarching policy that states the E&S principles, including reference to applicable aspects of E&S Standards, to effectively manage risks and impacts during the Concession Period.
- (b) Organizational capacity and competency to implement the ESMS, defining key E&S roles and responsibilities, assigning staff with appropriate skills and expertise, and training staff in the management of E&S risks and impacts.
- (c) A risk assessment procedure to identify potential negative E&S risks and impacts, and the appropriate strategies to address these issues.
- (d) A management program defining mitigation and performance improvement measures and actions that address the E&S risks and impacts, including monitoring activities, and the

timelines and responsibility for each task. The management program shall consist of a documented combination of operational procedures, practices, plans and relevant supporting documents that further develop and detail the plans and measures defined in the ESIA (not all plans/procedures would be needed as a Condition Precedent if not necessary at the start of the Mobilization Activities or C&O Activities (as the case may be); definition of plans must be at least thirty (30) Days before needed). The program shall comply with the Environmental and Social Requirements, and cover at minimum:

- (i) Waste Management: standard operating procedures to manage solid and hazardous waste, during the concession period through handling, sorting, recycling and/or disposal of different materials, including: (a) materials suitable for combustion; (b) hazardous and toxic substances; (c) other materials unsuitable for combustion; and (d) recyclable materials, whether undertaken by the Company, its contractors or sub-contractors. Where companies are to be contracted for the management, treatment and disposal of solid and hazardous wastes, the Company shall only contract such companies that have the required legal and valid permits.
- (ii) Biodiversity Action Plan (BAP): with the aim for no-net losses for any impacts identified to natural habitat values and net-gain outcomes for any critical habitat values. The BAP shall be developed in consultation with the Sindh Wildlife Department, Government of Sindh and Sindh Forest Department, Government of Sindh. The BAP shall also outline additional programs to enhance the conservation aims and effective management of the protected areas the KWC shall operate within and to meet requirements set out in paragraph 20 of IFC Performance Standard 6.
- (iii) Canal Decommissioning Plan, including detailed information on quantities, sources, and transportation of materials to be used to infill the disused canal, and further information on future use of the disused canal, including access by the public, and associated risks of decommissioning.
- (iv) Energy conservation and resource management to minimize impacts of the Project Activities on resources and promote efficient use of water and other resources.
- (v) Wastewater Management to manage effluents from the treatment plant according to Good International Industry Practices and based on the type and characteristics of wastewater, including maximization of recycling and treatment and disposal to meet the Legal Requirements.
- (vi) Soil Management Plan: including measures to manage excavated soils such as separation and storage, minimising vegetation clearance, working strip rehabilitation and soil re-use.
- (vii) Pollution Prevention and Spill Response and Hazardous Materials Management, including plans and procedures for the handling and storage of hazardous chemicals (including those used for disinfection) and for the mitigation of excessive dust, air emissions and of noise pollution, including reduction measures, monitoring, and corrective actions to achieve compliance with the E&S Standards.
- (viii) Water Management: develop a plan to monitor water quality delivered to communities, released to the city of Karachi from the water treatment plant of the KWC and used for

PV panel cleaning. Water quality to meet the required national and international standards, with management measures to be developed in the event of noncompliance.

- (ix) Occupational Health and Safety (OHS): the Company, Contractors and subcontractors shall ensure safe working conditions for their employees, including staff training, job safety instructions and measures to ensure workplace safety and mitigate OHS risks. Such requirements, at a minimum, shall include:
 - (A) Job- and task-specific hazard analysis and controls for all activities.
 - (B) Safety training for all personnel in their language, covering hazards and safety protocols of their jobs.
 - (C) Special training for specific hazards: handling of hazardous chemical, exposure to pathogens and vectors, in excavations, with electricity, in water, in enclosed space, alongside the open water canal, fire and explosion etc.
 - (D) Provision of personal protection equipment (PPE), requirements for use of PPE, and enforcement of PPE use.
 - (E) OHS monitoring implemented by accredited professionals. Arrangements in place to manage OHS incidents, including first aid arrangements, emergency response plans, including provision for emergency medical treatments, and system for reporting and acting on 'near misses'.
 - (F) Recording incident statistics, including total work hours, lost time incidents, major injuries, fatalities, etc.
- (x) Safety management including health and safety for the community around all Project facilities at the Site, with specific measures to monitor access to the open section of the KWC and protect against accidental slips and falls, and unauthorized entry. Safety management shall also include emergency preparedness and response, and life and fire safety. Emergency preparedness and response plan shall specify responsibilities of the parties and the relevant authorities, procedures to minimize the harm of any potential accident and ensure that appropriate response equipment and materials are in place. The plan shall also include provisions for continual updates, including drills to test the effectiveness.
- (xi) Contractor / sub-contractor management: to manage EHS planning and performance of Contractors/sub-contractors, including at a minimum:
 - (A) Inclusion of relevant E&S Management Program requirements in contracts/subcontracts (OHS requirements shall be adopted by all Contractors/subcontractors as applicable).
 - (B) Clear assignment of EHS responsibilities for the Company, Contractors and sub-contractor.
 - (C) Contractor / sub-contractors reporting adequate information to allow the Company to evaluate the need for corrective actions and provide relevant data and information to the required authorities.

- (D) Verification of training and/or proper credentials for Contractor / sub-contractor managers and staff responsible for EHS management.
- (xii) External communication protocol, Stakeholder Engagement Plan and the Grievance Redress Mechanism²⁷: to receive and address the Stakeholders' grievances. The Grievance Redress Mechanism shall be easily accessible, understandable, and sufficiently advertised to the Stakeholders, and ensure the confidentiality of a person raising a complaint.
- (xiii) Code of conduct to avoid gender-based violence among the workforce, including Contractors and sub-contractors, and towards the Affected Communities, and definition of differentiated training to workers' supervisors and managers on its implementation.
- (xiv) Traffic and Pedestrian Safety Plan: setting out construction and operation management measures, including safe movement of traffic during construction, operation and decommissioning, and allowing safe access to communities and crossing of the pipeline/canal.
- (xv) Security Personnel Management Plan: a common plan for personnel hired or contracted by the Company or KW&SC, including Contractors/sub-contractors. The plan shall be based on the Company's assessment of the risks posed by its security arrangements for workers, the public and Affected Communities, and shall include a code of conduct for security personnel in line with applicable E&S Standards. The code of conduct shall: aim to ensure that security personnel are screened for implication in past abuses and adequately trained in the use of force and appropriate conduct toward communities, the public, and workers; include a mechanism to raise grievances related to the conduct of security personnel, an assurance that any incidents will be properly investigated, and that the Company does not sanction use of force in relation to the Project, except when used for preventive and defensive purposes and in proportion to the nature and extent of the threat.

PART III – ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT TERMS OF REFERENCE

1. Introduction

The KW&SC aims to engage the private sector on a Public Private Partnership (PPP) basis for the rehabilitation of the KWC that supplies part of the Karachi water supply system.

The KWC is a twenty-two kilometres (22 km) canal that conveys water from the Hub Dam to the Treatment Plant located in Manghopir-Karachi. The KWC was originally designed to treat 100 MGD (5.26 m³/s) of water coming from the Hub Dam. Presently, the KWC's capacity is limited to around 75 MGD (3.95 m³/s). The successful implementation of the Project will enhance its capacity by around 25

²⁷ Specific requirements for stakeholder engagement can be found in Performance Standards 1, see also IFC's publication: Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets. Specific requirements for grievance mechanisms can be found in Performance Standards 2, 4, 5, and 7. For additional guidance on grievance mechanisms, see IFC's publications: Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets (IFC, 2007) and Addressing Grievances from Project-Affected Communities (IFC, 2009).

MGD (1.32 m³/s), to reach the total expected capacity of 100 MGD (5.26 m³/s). The Project entails the following:

- rehabilitation of eleven kilometres (11 km) of the existing KWC;
- construction of a nine point eight kilometres (9.8 km) new pipeline in the last stretch;
- upgrade of Hub pumping station (to achieve 100 MGD; 5.26 m³/s);
- connection with the KIII Conduit at the Hub pumping station during drought periods.
- upgrade of the two point two kilometres (2.2 km) rising mains that connect the pumping station with the Treatment Plant;
- upgrade of the Treatment Plant, moving from 80 (4.21 m³/s) to 100 MGD (5.26 m³/s);
- SCADA and metering system, including telecommunications;
- a new Solar Plant to optimize energy requirements with a two point five kilometres (2.5) km distribution line; and
- E&S mitigation measures.

The water supply scheme for the city of Karachi from the Hub Dam was planned and executed in the late 70s and commissioned in 1981. The scheme relies on the availability of water received from the upstream catchment after rains. There have been instances when due to drought conditions in the Hub Dam catchment area, the water levels in the reservoir were so low that water could not be supplied to the city. The WAPDA Canal (also known as main Hub canal) offtakes from the Hub Dam and travels approximately eight point three kilometres (8.3) km in a south-westerly direction. This eight kilometres (8 km) section of the canal and the Hub Dam itself is owned, operated and maintained by the Water and Power Development Authority of Pakistan (WAPDA), a federal agency in Pakistan.

The Hub Dam consists of an embankment dam and a large water storage reservoir, constructed on the Hub river for the purpose of supplying municipal, industrial and irrigation water to Sindh and Balochistan provinces. The WAPDA Canal from the Hub Dam bifurcates into two (2) branches at about eight kilometres (8 km) downstream from the dam at a Head Regulator into: (i) the Lasbela canal which flows west towards Balochistan and the (ii) KWC which continues for twenty-two kilometres (22 km) in a south-westerly direction towards the KW&SC pumping station and Treatment Plant, as shown in Figure 1. The twenty-two kilometres (22 km) section of the canal is owned, operated, and maintained by KW&SC.

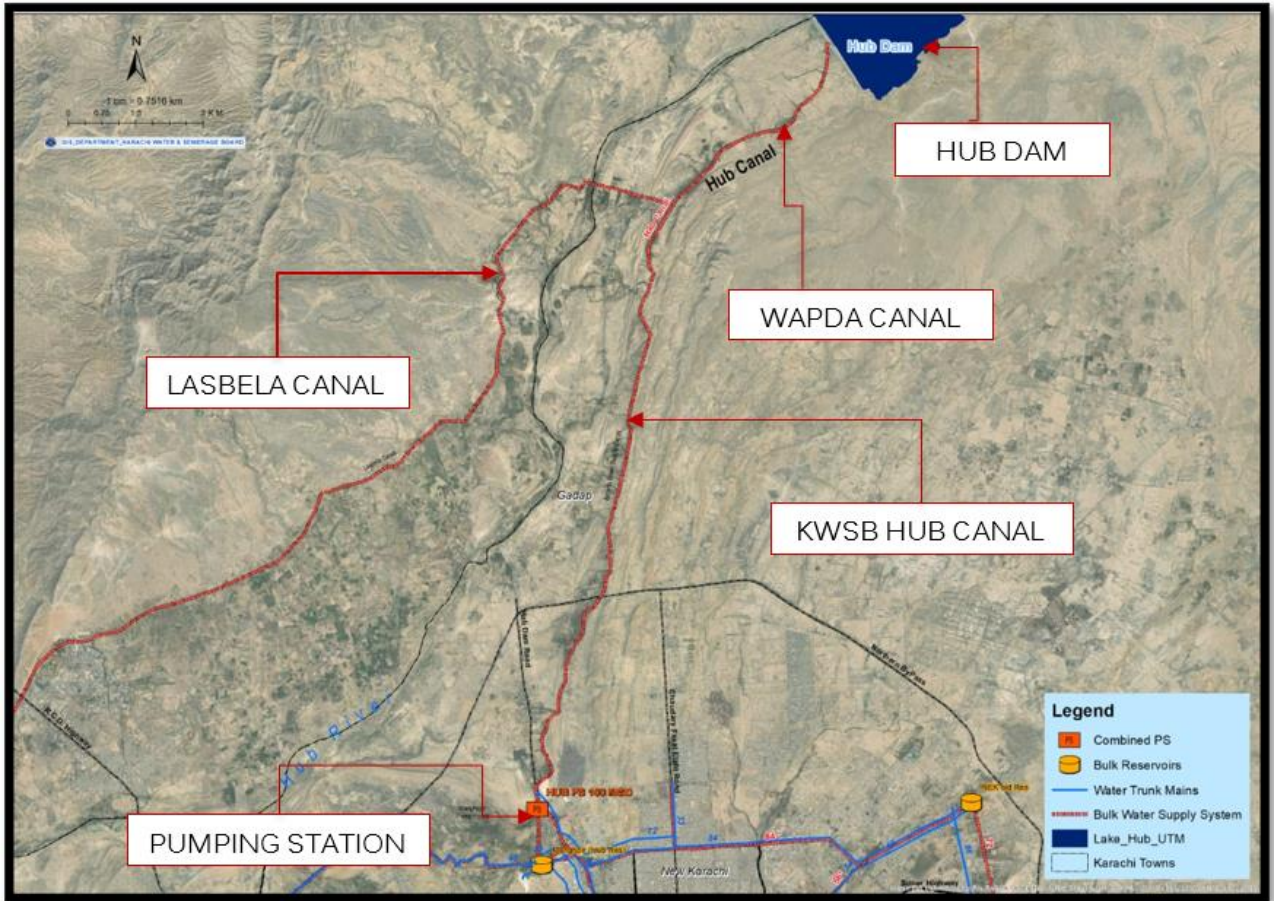


Figure 1. Project location north of the City of Karachi.

The Project includes the rehabilitation of the twenty-two kilometres (22 km) long KWC from the Head Regulator (bifurcation point) up to and including the rehabilitation of the pumping station, rising mains and the Treatment Plant. In addition, the Project includes the development of a Solar Plant to be located on KW&SC land adjacent to the Treatment Plant. The KWC requires rehabilitation due to damage, cracking and significant seepage losses. The eleven (11) aqueducts within the KW&SC-owned portion of the canal (Figure 2) show visible cracks and leaks which contribute flow to seasonal watercourses flowing west towards the Hub river.

The current condition of the KWC causes leakage and seepage of water from the conveyance infrastructure (aqueducts and canal) into the surrounding environment. Studies carried out during the scoping stage indicate that seepage may be contributing to soil moisture, and to the development of vegetated areas, particularly on the west side of the canal in the direction of the Hub river valley.

The rehabilitation of the KWC would require the complete disruption of flow in the KW&SC canal and to the Treatment Plant, representing a significant portion of Karachi’s water supply or the provision of costly diversion works. To avoid disrupting Karachi’s water supply, alternatives involving pipelines which can be built within the canal right-of-way (RoW) while the canal continues to convey water to the Treatment Plant have been studied. The preferred alternative is a hybrid configuration although a full alternatives assessment will be required as part of the Project ESIA.

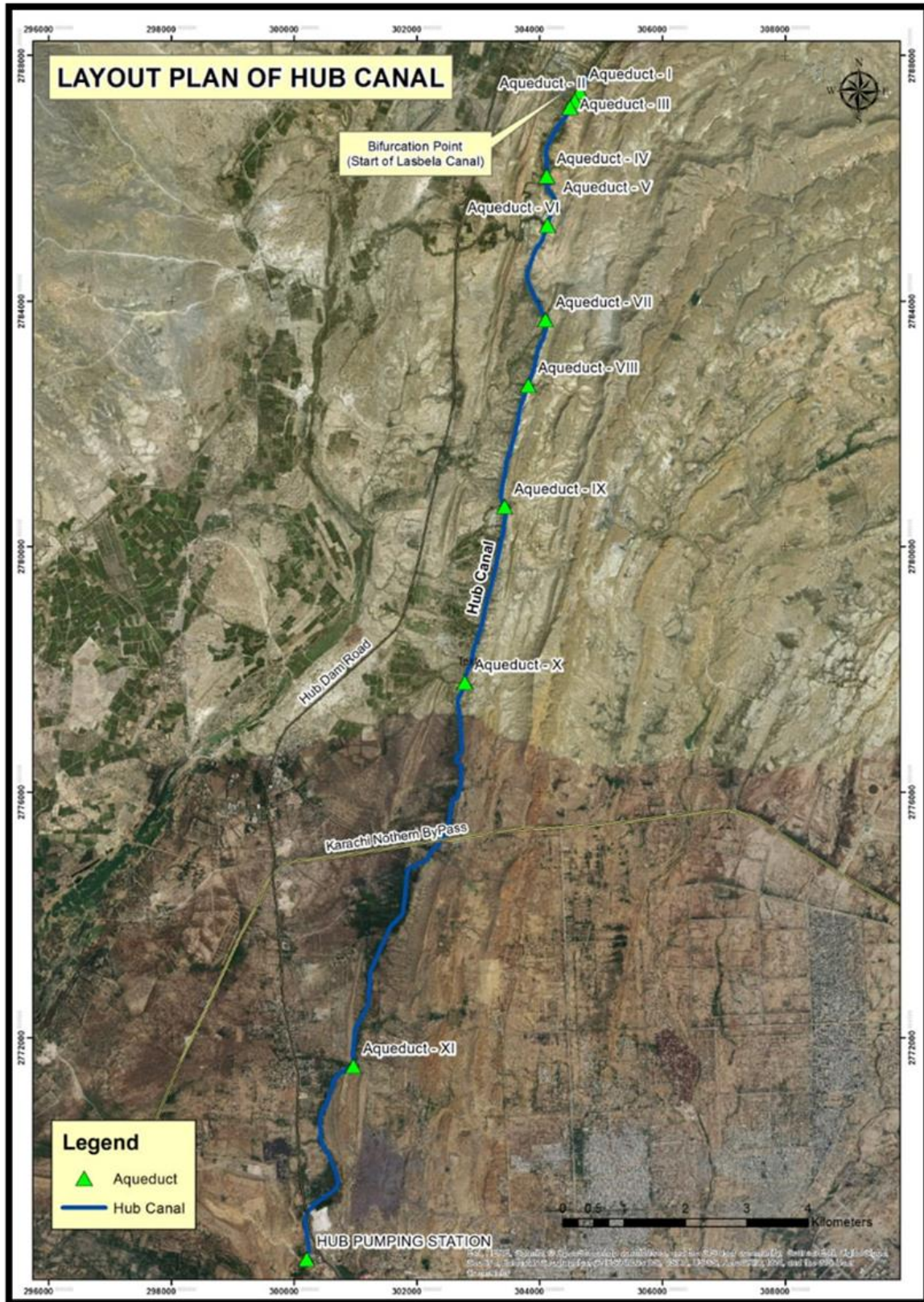


Figure 2. KW&SC Hub Canal layout with location of aqueducts.

A detailed outline of the Project components will be provided to the successful ESIA consultant.

2. Overview

KW&SC is seeking to appoint an environmental and social consultant (the “**Consultant**”) to provide and undertake the Environmental and Social Impact Assessment (ESIA) for the Project to meet IFC Performance Standards, Good International Industry Practices (GIIP), Asian Development Bank’s Safeguard Policy Statement (2009), and other relevant standards.²⁸

The aim is to gather all relevant data concerning the environmental and social baselines, evaluate the impacts of the Project, to assess the impacts as per the relevant national and international requirements and guidelines, and develop mitigation, and management plans to enable these impacts to be avoided or minimized to an acceptable level.

These ToRs describe the minimum requirements for the development of the ESIA under the Project. The applicable provincial legislation in Sindh, applicable national legislation, Asian Development Bank’s Safeguard Policy Statement (2009), and the IFC Performance Standards should be used to establish minimally acceptable conditions for satisfying the requirements of the ESIA for the Project.

The Company will be required to complete an ESIA and detailed ESMP that is fully compliant with IFC’s sustainability framework and Performance Standards, World Bank Group General EHS Guidelines, World Bank Group EHS (sector specific) Guidelines for Water and Sanitation, ADB’s environmental and social safeguard standards i.e. SPS 2009, local environmental and other relevant legislation notified by provincial and federal governments in order to obtain environmental approvals from the Sindh Environmental Protection Agency, Government of Sindh and other relevant agencies, as described herein and the E&S Scoping Report.

The basic format for the ESIA document that should be followed is:

- Table of Contents;
- Acronyms and Abbreviations;
- Executive Summary;
- Project Description and Justification;
- Regulatory Framework;
- Environmental and Social Setting (baseline);
- Assessment of Impact, including cumulative impacts;
- Stakeholder Engagement and Public Consultation;
- Mitigation and Monitoring Measures;
- Environmental and Social Management Plan;

²⁸ When referring to E&S, this includes also assessment and management of labour and working conditions including workers’ rights and occupational health and safety (OHS) risks and impacts

- Appendices.

The tasks and responsibilities described in the ToRs are indicative only and cannot be considered as a complete and comprehensive description of the expected consultancy services. It is rather the Consultant's responsibility to critically review the outlined ToRs and propose a complete scope of work, detailed and thorough enough in the Consultant's own professional judgment to achieve KW&SC's objectives and meet national and international standards, requirements and good practices.

In general, the ESIA must identify and address:

- Applicable environmental standards, norms, and international requirements set forth in national, local and international law, along with the IFC Performance Standards and ADB standards.
- Identification of Project Stakeholders and undertake broad Stakeholder engagement, including dissemination of relevant Project information and gathering of feedback. Develop a Stakeholder Engagement Plan (SEP), which will systematically assess and map Stakeholders, develop engagement methods for each, record all interactions and plan ongoing engagement throughout the Project lifecycle. A Grievance Redress Mechanism will also be developed as part of the SEP to track, respond and monitor all complaints and grievances.
- Detailed description of all phases of the Project from feasibility studies to Site preparation, construction, operations to closure. This should also include an assessment of alternatives including the technically feasible alternatives as well as the proposed Project.
- Develop a baseline of all E&S aspects within the relevant project Area of Influence (the "pAoI"), which will include primary data collection, along with the use of relevant secondary data sources.
- Describe the methodology used to assess impacts, and identify all direct, indirect and cumulative impacts and their significance level. Detail all mitigation measures to be implemented to address unavoidable impacts and include details of how mitigation can reduce impact levels, with a final residual impact rating provided.
- A detailed description of all relevant plans related to the proposed project Area of Influence, for example, engineering and Site preparation plans, operations and decommissioning or closure, environmental management, and mitigation in whatever form these may take.
- Uncertainty and how that uncertainty will be addressed through monitoring and contingency plans as may be needed to reduce risk of adverse impacts in the future.
- Specific commitments, including who is responsible, what will be done, when and how it will be monitored, reported, and audited to confirm that commitments are met.

Throughout the life of the Project, other consultants and professional advisors will be providing services to the KW&SC and the Project, and the Consultant shall be expected to refer the work product of these other parties where relevant. The Consultant while submitting the proposal agrees to cooperate and coordinate its activities with those other parties (e.g., technical, legal, financial consultants and contractors involved in the Project) so as to provide support in case of any queries in future and not to interfere with the overall smooth progress of the Project.

3. Table of Contents of the ESIA

A general table of contents for the ESIA shall be provided in the report. The table of contents shall be organized in such a manner as to facilitate the use of the ESIA by reviewers and project implementers. At a minimum, the table of contents shall include the following:

- Acronyms and Abbreviations;
- Executive Summary;
- General Information;
 - Objectives and Justification;
 - Project Proponents;
- Project Description and Alternatives Description;
- Legal and Regulatory Framework;
 - National Legislation;
 - Provincial and Local Legislation;
 - International Requirements and Conventions;
 - Institutional Arrangements;
- Environmental and Social Setting/Baseline;
 - Physical Environment;
 - Geology;
 - Soils;
 - Water Resources and Quality;
 - Air Quality;
 - Climate and Meteorology;
 - Noise and Vibration;
 - Landscape and Visual Amenity;
 - Biological Environment;
 - Protected Areas;
 - Vegetation/Flora;
 - Terrestrial Wildlife/Fauna and Habitat;

- Endangered or Threatened Species and Habitat;
- Social-Economic-Cultural Environment;
 - Demographics;
 - Livelihoods and Income;
 - Land Use and Ownership;
 - Health and Education;
 - Infrastructure and Utilities;
 - Archaeology and Cultural Heritage Ecosystem Services;
- Assessment of Impacts;
- Mitigation and Monitoring Measures;
- Environmental and Social Management Plan;
- Stakeholder Engagement;
- Roles and Responsibilities;
- References;
- Appendices;
 - Stakeholder Engagement and Public Consultation;
 - Technical Support Studies;
 - Maps and Plans;
 - Other Special Studies if needed.

4. Scope of Work

The ESIA Consultant shall undertake the following work:

- Propose a specialized team of experts required to undertake the ESIA study;
- Review all available existing information on environmental and social baseline conditions and potential impacts related to the Project, and ancillary and associated facilities, including the E&S Scoping Report and technical studies related to the Project that will be made available to the Consultant;
- Review, analyse and provide the policy, legal, and administrative framework for this Project as part of the ESIA report;

- Undertake an E&S desk-based, and early review of available primary and secondary data, to focus on key issues / impacts;
- Clearly define the Project’s area of influence, including ancillary and supporting facilities that are part of the Project, and the area of influence related to ‘associated facilities;’
- Design E&S relevant field based social and environmental baseline studies;
- Conduct Site visits, with the team of specialized experts, and baseline studies, covering the whole spectrum of analysis and modelling relevant to the construction and operation of the Project. Such studies should also include formal and informal discussions/meetings with local communities, government entities and other key stakeholders, in each project affected area / influence area (municipality level and district level). Consultations will enable both verification of the information reviewed from existing sources about the Project’s social and environmental context, an initial screening of likely environmental and social impacts and sensitivities, and for all relevant stakeholders to be informed about the Project. Any contact or interviews for preparation of baselines or social assessment should be planned and carried out in a culturally appropriate manner, in a language acceptable and used by the communities. Consultations shall be held in the national and / or relevant local language (or with translation). During the COVID pandemic, close consideration should be given to prevention of infection to stakeholders and the Project teams.
- Based on the above, prepare an ESIA report consistent with the applicable national and international standards (see following sub-sections);
- Design, carry out, and document the public / Stakeholder consultations and engagement throughout the ESIA process. This will lead to preparation of: (i) the Project’s grievance redress mechanisms and channels; and (ii) a Stakeholder Engagement Plan (SEP), annexed to the ESIA main report. Men, women and vulnerable groups/persons²⁹ should be included in the Stakeholder identification and analysis. This will ensure the impacts and mitigation measures are properly consulted with affected communities and any received feedback incorporated into the design, mitigation and management measures.
- The ESIA should include Environmental and Social Management Plans (ESMPs) in compliance with the applicable requirements, which may include but not limited to:
 - Project E&S standards based on applicable local, Asian Development Bank’s, and the World Bank’s requirements;
 - Environmental and Social Monitoring Program and Key Performance Indicators (KPI);
 - Waste Management Plan;
 - Biodiversity Action Plan;

²⁹ This disadvantaged or vulnerable status may stem from an individual’s or group’s race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. KW&SC should also consider factors such as gender, age, ethnicity, culture, literacy, sickness, physical or mental disability, poverty or economic disadvantage, and dependence on unique natural resources.

- Canal Decommissioning Plan;
- Energy Conservation and Resource Management Plan;
- Wastewater Management Plan;
- Soil Management Plan;
- Pollution Prevention and Spill Response and Hazardous Materials Management Plan;
- Water Management Plan;
- Occupation Health and Safety Plan and procedures;
- Safety Management Plan;
- Contractor / Sub-Contractor Management Plan;
- External Communication Protocol, Stakeholder Engagement and Grievance Mechanism;
- Code of Conduct to Avoid Gender Based Violence;
- Traffic and Pedestrian Safety Plan;
- Security Personnel Management Plan; and
- Emergency Preparedness and Response Plan (EPRP).

Issue all disclosure documents in (include local languages) and English for web disclosure and hard copy distribution to the public (add any detailed of distribution requirements).

The Consultant shall comply at any time with the relevant national and international data protection law and regulations.

5. Acronyms and Abbreviations

All acronyms and abbreviations used in the ESIA must be clearly and succinctly defined and described in this section.

6. Executive Summary

A general summary of the ESIA shall be provided in this section. The summary shall be written using a vocabulary that can be easily understood by the public. It shall include at a minimum the following information about the project from the ESIA:

- Objectives and Justification;
- Location;
- Project Proponents;
- Project Description;

- Project Alternatives;
- Environmental and Social Setting/Baseline;
- Evaluation of Impacts;
- Mitigation and Monitoring Measures;
- Environmental and Social Management Plan;
- Issues raised by stakeholders and any outstanding issues.

7. General Information

7.1 Introduction

A brief overview of the Project, including who is developing the Project, where it is located and the current stage of development. Further information to include who is developing the ESIA and the purpose of the document.

7.2 Project Objectives and Justification

7.2.1 Objectives:

A statement of the general and specific objectives (purpose) of the proposed Project.

7.2.2 Project Justification:

Provide a justification for the proposed Project (need) highlighting the benefits of the Project, including to surrounding communities and the economic development of the region and country.

8. Legal and Regulatory Framework

This section of the ESIA shall define the legal framework under which the ESIA is being completed and international safeguards or standards used, including the IFC Performance Standards (2012), World Bank Group's general and industry specific EHS Guidelines to be used a benchmark, and ADB's standards. This section should include:

- Information that demonstrates rights and access such as land ownership and rights-of-way, etc., with written authorization and mapping across all identified population settlements.
- Applicable environmental standards, norms and requirements set forth at the international, national, regional and / or local levels.
- Required regulatory approvals and / or permits for all stages and their status.
- Applicable land use requirements.
- Institutional arrangements including relevant government agencies and key players in the ESIA approval process, along with those that will be responsible for monitoring oversight.

It is recommended to use Good International Industrial Practices as well as the following good practice guidance:

- Stakeholder Engagement: A Good Practice Handbook for Companies doing Business in Emerging Markets (IFC, 2007);
- IFC's Good Practice Note on Managing Contractor's Environmental and Social Performance (2017);
- Workers' accommodation: processes and standards: A guidance note by IFC and the EBRD" (IFC and EBRD, 2009);
- IFC's Good Practice Handbook: Use of Security Forces: Assessing and Managing Risks and Impacts (2017); and
- UN Voluntary Principles on Security and Human Rights.

9. Project Description

This section shall include the following: a full description and location of the proposed Project and associated infrastructure and reasonable alternatives, including ancillary facilities and operations such as the camp / housing for construction (if applicable) and operation phases, borrow and disposal areas, sanitary services, waste disposal and transportation infrastructure. It shall include at a minimum:

9.1 Project Location

- The general location of the Project and associated activities in terms of:
 - Political-administrative location (region, district, town and other relevant political administrative units) with accompanying location map;
 - Means of Site access;
 - Latitude and longitude of Project area;
 - Maps of Project area at a scale of no less than 1:50,000;
 - All drawings should present scale and key coordinates.

9.2 Project Description

9.2.1 General

9.2.1.1 Type and nature of the Project:

- Type (in this case rehabilitation and upgrade of water supply canal/conveyance system, rehabilitation and upgrade of Treatment Plant, new Solar Plant, etc.).
- Capacity (MGD and m³/s) for the water conveyance system and Treatment Plant components, MW for the Solar Plant, KV for the interconnection line of the Solar Plant, etc.).

- Diagrams and drawings, general plan for the facilities, showing the location and layout of all Project components and their relationship to each other.
- Project operations: Description of how the Project would operate (seasonally, monthly, daily, hourly, as appropriate).
- Design details for each component of the Project, dimensions, materials of construction and configuration.
- Other works: describe additional works not covered above.
- Design Drawings for Project facilities: Plan (overhead view), Elevations (front view), Profiles (side view), Sections.

9.2.2 Site Access

Identify all new and existing roads to be used (including closed roads that will be reopened, and temporary roads if applicable), traffic volume, operating speeds and trip times, detailed information on any roads to be constructed or upgraded (including on-Site roads).

9.2.3 Construction phase and schedule

- Indicative schedule for each phase of construction for all Project and ancillary facilities including, but not limited to: mobilisation, road construction and improvements, land clearing, drilling, blasting (if required), borrow and spoil disposal, erosion and sediment control, excavation and subgrade preparation, foundation preparation, concrete work, construction or installation of each Project facility and stabilization of disturbed areas.
- Waste management for each Project component (demolition and spoil material etc.).
- Labour during construction: Number and type of employees (local and non-local) by field of expertise (Days per week, hours per Day, shifts per Day).
- Raw materials to be used for construction: indicate the amounts per Day, month, storage and disposal, include an inventory of chemical, toxic or hazardous substances and their storage, safety aspects regarding transportation and handling of hazardous substances and materials (including sourcing of aggregates from nearby quarries, water for construction etc.).
- Construction camp (if applicable): description of the camp including but not limited to: a map showing all facilities at a legible scale appropriate to the size of the Project and in compliance with “Workers’ accommodation: processes and standards: A guidance note by IFC and the EBRD” (IFC and EBRD, 2009).

9.2.4 Operation phase

9.2.4.1 Operation information:

- Activities and equipment and machinery to be used during operations, including preventive and corrective maintenance);
- Labour during operations (number and type of employees (local and non-local) by field of expertise (Days per week, hours per Day, shifts per Day);
- Overall energy requirements and sources;
- Inventory of chemical, toxic or hazardous substances used during operations and storage safety aspects regarding transportation and handling and any other relevant information;
- Waste management, i.e., screened debris carried by the canal, Treatment Plant sludge, solid, liquid, and hazardous waste streams, as relevant;
- Solar Plant cleaning and maintenance activities, and
- Public safety and security requirements.

9.2.5 Closure and Decommissioning Phase

- Describe activities that will be required when the Project nears the end of its service life, including contact with regulatory agency(ies) to obtain the environmental guidelines to carry out the closure or decommissioning. Closure and decommissioning (or rehabilitation) shall include at least a general 'Restoration and Closure Plan,' recognizing that terms of closure may be very different when this phase approaches. The description of restoration measures should include the size of the area to be restored as well as potential restoration measures.
- Plans for the decommission of system components, including disposal of potentially hazardous wastes incorporated into components.

9.2.6 Project Alternatives

- All Project alternatives that are reasonable and feasible and meet the purpose and need for the proposed Project shall be identified and summarized in this section (and evaluated in the ESIA, as appropriate).
- In addition to the proposed Project, such alternatives include alternative water supply sources, alternative conveyance systems, alternative routing or configuration of elements of the Project, alternative size and output capacity, and alternative plans for construction, operation and decommissioning of the facilities, including best practices that may avoid and / or reduce the adverse impacts to the physical, biological or social-economic-cultural environments.
- The ESIA should also describe potential alternative uses of any future unused sections of the canal.

- The ESIA should also describe alternative ways to clean PV panels to minimize water usage for this purpose.

10. Environmental and Social Setting/Baseline Conditions

Based on information available from secondary data sources such as existing literature and government data, along with primary data collection conducted specifically for the feasibility studies of the ESIA. Indicate the direct and indirect and cumulative impact areas of influence for physical, biological, and social-economic-cultural impacts and basis for defining area. This section shall include at a minimum, the following information:

Physical Environment

10.1 Geology and Soils

- Description of the geology, surficial geology and soils and characteristics at all Project component locations and in the area of influence, including a geological map of the Project area and area of influence of the Project.
- Topography and slope conditions and geomorphology.
- Seismicity and stability characteristics.
- Describe geologic hazards within the Project area.
- The ESIA shall describe baseline soil resources, project geotechnical and geophysics reports and make use of maps, tables and accompanying narrative text to describe the soils within the project Area of Influence, with particular attention to canal RoW and future pipeline alignment corridor and areas that will potentially be impacted by stoppage of canal water seepage during operations and compaction during construction (e.g. types of soils, capacity and uses, fertility and potential uses of the land for agriculture, stability and permeability, erosion and sedimentation potential, quantity and quality available for revegetating and restoring the disturbed area at time of closure etc.).

10.2 Water Resources

10.2.1 Surface water

- Include names and locations on maps of all permanent and intermittent streams, rivers, wetlands, lakes, and reservoirs (as applicable) within the area of influence of the Project.
- Describe flows in intermittent and permanent streams, ponds, and irrigation channels, located in and around the Site and seasonal fluctuations, as applicable including flood conditions.
- Delineation of watersheds and water drainage patterns within the Project area and in the area of influence of the Project, using for example, cadastral/aerial/remote sensing satellite imageries (mapping) and runoff characteristics of watersheds.

10.2.2 Groundwater

Provide a map of ground water wells in the area and identify and describe aquifers and underground waters, the hydrogeologic characteristics, groundwater potential yield (if groundwater might be required for the Project), water table levels (dry and rainy season) (for the purposes of this particular Project, secondary data will be sufficient) and groundwater quality. If no groundwater quality data is available for nearby wells that might be impacted by C&O Activities, baseline groundwater quality data will be required.

10.2.3 Surface water and groundwater standards

Describe the surface water and groundwater standards applicable to the Project (including national standards and international standards (e.g., World Bank/IFC General Environmental Health and Safety Guidelines).

10.3 Air Quality

Air quality monitoring baseline should be undertaken for the Site, and any sensitive off-Site locations which may be impacted by the Project. The minimum suite of air quality parameters that will be monitored are those that are expected to be affected by the Project's development.

The ESIA Report is expected to provide a classification of Site environment (e.g., degraded or non-degraded airshed), establish present background air pollutants, applicable ambient air quality limits for the area.

10.4 Climate and Meteorology

Available baseline information for weather and climate related data shall be collected and shall include at a minimum the following:

- Source of data (meteorological station(s) from which climatological data have been obtained, information should include data from the Pakistan Meteorological Department and WAPDA);
- Temperature variations;
- Relative humidity;
- Solar radiation and evaporation rates;
- Rainfall (total precipitation, rainfall intensity and duration by month);
- Wind rose (Wind direction and speed, twenty-four (24) hourly data)
- Climate change impact scenarios to be analysed in three (3) time frames (short-term, medium-term and long-term) while keeping in view the design life of the Project components.

10.5 Noise and Vibration

Noise, and if applicable vibration, monitoring baseline should be undertaken at the Site, and

any sensitive off-Site locations which may be impacted by the Project. Provide a classification of the Site environment, establish existing background noise levels, and identify applicable noise limits and location of boundary to a level sufficient for the development of mitigation measures envisaged and to assess the future expected noise, and if applicable vibration, levels during operations, especially from the Treatment Plant. The ESIA shall include location of monitoring stations, daytime, and night-time noise levels (measured in decibels) and an inventory of existing noise sources.

10.6 Solid, Liquid and Hazardous Waste

Determine the expected types and amounts of waste streams from Project related activities. Map local disposal options and associated quality requirements, including the permitting status of local landfills and their compliance with international standards and guidelines. Assess local recycling capacity for wastes generated by the Project (including the potential for old canal demolition waste), and any needs, longer term, for building local capacity (including wastes from the Treatment Plant, canal cleaning, etc.).

10.7 Landscape and Visual Amenity

Based on the Site visit, identify general landscape and topography conditions within the area of influence. In addition, based on Site assessment and consultations with relevant entities, identify any key visual receptors which could be impacted (touristic sites, villages, key archaeological/cultural sites, etc.) by the Project.

Biological Environment

The ESIA shall provide detailed information on the location and condition of species, ecosystems and habitats in the Project area and the Area of Influence, considering the following:

Identify relevant conservation stakeholders and consult with them in the identification of priority biodiversity values (refer to the E&S Scoping and include others as appropriate). Include a section in the ESIA that describes which conservation stakeholders were contacted, how they were contacted and how their views were considered in the identification of priority values.

Identify a set of priority biodiversity values (species and habitats) based on the criteria of Irreplaceability and Vulnerability (see IFC Performance Standards Guidance Note GN6 para. GN13). The following factors should be considered:

- Map all KBAs, IBAs, other recognized areas of high biodiversity value (e.g., Ramsar sites, World Heritage Sites, protected areas etc.) within the Area of Influence of the Project.
- For each priority biodiversity value, identify a discrete management unit (DMU), if one could be identified (e.g., Area of Occupancy – AOO). Otherwise, indicate the Extent of Occupancy (EOO).
- Ensure that birds, mammals, reptiles / amphibians, fish, and plants are surveyed and sampled using best practices and considering any seasonal survey requirements.

10.8 Vegetation/Flora

- Vegetation mapping of terrestrial and wetland habitats (as applicable) for the Project areas, and any other area affected by the Project.
- Identify and map any endangered and threatened species according to the IUCN Red List (International and National) and species of local conservation concern (refer to the E&S Scoping Report)
- Species present (abundance, density, status, plant communities, presence of invasive species, etc.).
- Conduct a survey and identify and map areas that are at high risk for invasive species encroachment. These areas will be subject to specialized mitigation measures if required.

10.9 Wildlife/Fauna

- Fauna, including Avifauna (including status, i.e., resident, endemic, migratory, endangered, and threatened species according to the IUCN Red List (International and National) and local species of conservation concern, life history, and seasonal use, mating and/or breeding areas, Key Biodiversity Areas (i.e., Hub Dam Ramsar site), and IBAs according to BirdLife International.
- Conduct surveys of aquatic fauna in wetlands, streams, and ponds, as relevant (waterbodies may become seasonal as a result of the Project when seepage stops).
- The extent of the above will not be limited to the Project footprint, and will include its pAoI, based on the ecological requirements of the species potentially to occur. This pAoI will be clearly defined prior to the fieldwork and agreed together with IFC, ADB, and relevant stakeholders (Sindh Wildlife Department and others as relevant).
- It will provide a description on the times of surveys, providing a justification for the methods (sampling) undertaken using relevant literature, and the species groups targeted. Any limitations to the survey are to be described. The ESIA must include the raw data in Annexes.

10.10 Endangered or Threatened Species and Habitats

- The previous sections should identify all species in the Project area. This section should include the endangered and threatened range-restricted and migratory species occurring in / or the vicinity of the Project (pAoI) and determine the extent of any Critical Habitat (refer to the E&S Scoping report for Critical Habitat discussion).
- The ESIA will confirm the presence natural and modified habitats as per IFC PS6 and its Guidance Note (GN). As a minimum, descriptions of the different habitat types identified (including photographs) are to be included as well as justification of the classification of the habitat types as being either natural or modified. A map should also be produced for the Project area and pAoI defining the areas of natural and modified habitats. A table is also to be included that defines the areas of habitats and

total areas (in hectares) of natural and modified habitats within the Project area and pAoI.

- Evaluate the priority biodiversity values (species and habitats) for Critical Habitat per IFC’s PS6 criteria (see GN6 paragraphs 69-97).
- For Critical Habitat Species, prepare a Biodiversity Action Plan in collaboration with Sindh Forest and Wildlife Department, Government of Sindh that complies with IFC Performance Standard 6.

Habitats

- Through mapping, identify the extent of the study area that is either Modified, Natural or Critical Habitat per IFC PS6 definitions. Calculate the amount of Modified or Natural Habitat to be removed (in hectares) and identify this figure in the ESIA. Through mapping, identify habitat types and calculate the amount (in hectares) of each habitat type to be removed by direct and indirect impacts.

Socio-Economic-Cultural Environment

10.11 Demographics

Building on the exiting information gathered in the scoping report, identify human settlements, including the following information for each settlement: population size, gender, and age distribution, cultural characteristics, religion, ethnicity and language. The Consultant shall conduct detailed representative household surveys in all relevant population settlements in order to obtain quantitative indicators in all mentioned demographic aspects.

The preliminary list of settlements identified in the scoping report is presented in the following table:

Table 1.

#	Village Name	Land rights	Estimated population
1	Haji Noor Mohd Goth	Permanent	300
2	Haji Ibrahim Goth (Deh Jam Chakra)	Landless	7000
3	Haji Gul Mohd Goth	Permanent	30000
4	M. Murad Brohi Village (Haji Abdul Rehman)	Permanent	500
5	Maharaj Goth	Landless	150
6	Patai Brohi Goth	Permanent	290
7	Allah Dino	Permanent	96

10.12 Livelihoods and Income

Description of all income generating activities performed by PAP household members, including detailed account of the following aspects:

- Activities performed by PAP household members by basic demographic characteristics in all identified settlements, including both formal and informal sources.
- Qualitative description of the most common income generating activities in the identified settlements, including the analysis of recent changes in the structure of livelihood resources in the areas, as well as prospective analysis and likely projected evolution based on stakeholder consultation.
- Estimated average income per household and provision of relative poverty measurement indicators (e.g., percentage over average national, regional and local income levels).
- Description of commuting and travelling habits by PAP associated to livelihood and income generating activities.

10.13 Land Use and Ownership

Actual and potential land use showing location, size, and proximity within and surrounding the Project area, including land use maps, and to extent possible, integrated into one map. Population centres, including information and locations of schools, cemeteries, religious buildings, other public buildings, housing (including housing density), commercial areas, agricultural lands, forested lands, protected areas and environmentally sensitive areas, tourism and recreation areas, recreation facilities, eco-cultural-tourist locations, culturally sensitive areas, food plains and water bodies, and other land uses as appropriate. Consultations with relevant local entities should be undertaken as applicable to determine any additional land uses not recorded onsite (e.g., land uses for other utilities maintenance) as well as to verify above information.

10.14 Health and Education

Identify all public health infrastructure elements available and accessible by PAP and provide survey-based indicators on current health status, including the identification of communicable diseases, as well as disabilities present in the area. The Project developer shall collect specific information on current and past incidence levels of COVID-19 in the Project area, including mortality rates. Identify all available education facilities accessible in the area and those attended by PAP, by level of education (primary, secondary, etc.). Provide survey-based indicators on the level of education of PAP, as well as schooling rates for all household members. This shall also include detailed account, broken down by basic demographic characteristics of literacy rates,

10.15 Infrastructure and Utilities

For each human settlement identified in the previous section, describe the infrastructure in or serving the settlement, including the following information: transportation infrastructure, roads, airports, railways and ports, pipelines, public, drinking water supplies and treatment, wastewater treatment, locations of transmission and distribution lines (if applicable), locations of microwave towers and/or antennae (if applicable), energy infrastructure, fuel storage facilities etc.

10.16 Archaeological and Cultural Heritage

Identify all cultural, archaeological, ceremonial, and historic resources within the area of influence, and including the following information: site survey and review of secondary data by an archaeology and cultural heritage expert to ascertain the presence of any archaeological and historical remains within the Project site, as well as tangible and intangible cultural heritage items. Any sites of importance should be recorded and delineated appropriately and their implications for the Project assessed. In addition, consultation should be undertaken with relevant authorities as applicable to determine if there any additional requirements which the Project is required to consider.

10.17 Ecosystem Services

Ecosystem services are the benefits that people, including businesses, derive from ecosystems. Based on the framework used for the Millennium Ecosystem Assessment (2006), ecosystem services are organized into four types:

- Provisioning services, which are the products people obtain from ecosystems (for example these may include food, freshwater, timber, fibres, medicinal plants). The KWC provides a source of fresh water to the communities living in the Project Affected Area that are not connected to the Karachi or other water distribution networks. These communities are highly dependent on the KWC water. The KWC water is used for drinking (both human and for livestock), domestic use (washing and bathing, etc.). There are significant differences across settlements in the specific ways in which the KWC water is accessed and used.
- Regulating services, which are the benefits people obtain from the regulation of ecosystem processes (for example, regulating services can be surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards). Regulating services provided by the KWC and seepage include a source of water for communities and crops during periods of prolonged drought. Water losses through seepage in the KWC and aqueduct structures constantly contribute streamflow to the seasonal streams flowing under the aqueducts and moisture and water to the surrounding areas.
- Cultural services, which are the non-material benefits people obtain from ecosystems (for example, these could be natural areas that are sacred sites and areas of importance for recreation and aesthetic enjoyment). In particular, the use of green recreational areas around the KWC shall be investigated in detail (camping and picnics and for recreational and leisure activities).
- Supporting services, which are the natural processes that maintain the other services (such as soil formation, nutrient cycling, and primary production). Particularly, the Company shall investigate the potential ecosystem services stemming from seepage from the KWC, in terms of soil moisture levels, vegetation supporting grazing and fodder for livestock and possible agricultural benefits (cropland) in the surrounding areas.

Carry out an ecosystem's services review for the Project area and area of influence and assess which ecosystem services will be impacted by the Project, as per the methodology presented in

the World Resources Institute's Weaving Ecosystem Services into Impact Assessment, A Step-by-Step Method (2013).

10.18 Development of E&S Constraints and Red Flag Mapping

Based on the outcomes of the scoping and baseline studies above, constraint analysis mapping should be undertaken, and which will need to be considered by the KW&SC and the Company during the development of the Detailed Engineer Design phase of the Project (including the Alternatives Analysis). This constraint analysis could include for example, biodiversity or socio-economic related aspects within the Site to be avoided, sensitive receptors which need to be avoided, or require buffer or set-back zones, etc.

11. Assessment of Impacts

The ESIA shall provide information on potential impacts (direct, indirect, induced and cumulative) and the magnitude and frequency of potential impacts on the physical, biological, socio-economic, and cultural environments resulting from construction, operation and closure of the proposed Project and alternatives.

The assessment shall use standardized predictive methods, such as models for example, to determine the specific range of impacts on environmental and socio-economic resources. A methodology section will describe the methods used to determine the impacts and their significance. The ESIA shall identify which impacts are significant and the criteria used to make this judgment. Critical data input from Project description and environmental setting analysis projecting the conditions in the environmental setting in the absence of the proposed Project shall be used as the baseline upon which potential impacts are predicted.

The ESIA shall also identify sources of data used in the analysis and the uncertainties associated with the outputs of each method used.

The assessment of impacts will be carried out for all Project phases (pre-construction, construction, operations, closure, and decommissioning, as applicable).

Physical Environment Impacts

Potential impacts to the physical environment shall be described, including but not limited to the following:

11.1 Geology and Soils

Potential impacts to geologic resources and potential effects on the Project facilities shall be described including but not limited to the following:

- Geologic hazards and potential effects on facility;
- Changes in topography and drainage patterns;
- Soils: Potential impacts to soil resources shall be described including but not limited to the following: soil quality, structure and moisture (from eliminating seepage, from trenching excavations and placement of pipeline, from compaction due to heavy machinery and construction activities), contamination (accidental spills of fuel, oil or

other hazardous substances), disposal of component parts of photovoltaic cells, Impacts on use Erosion, slope alteration, vegetation removal and drainage patterns, sediment accumulation and transport, sediment and hazardous waste removal and disposal;

- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in context.

11.2 Water Quality and Resources

Potential impacts to surface water and groundwater resources shall be described, including but not limited to the following:

- Location of all stream crossings by rights-of-way and access roads;
- Bank erosion (surface water discharges, stream crossings and dredging);
- Quality: Effects of Project construction and operation on water quality parameters in surface water and groundwater, including the results of any water quality modelling (if appropriate);
- Description of effects due to runoff, erosion, and sedimentation from roads, disturbed areas, and stream crossings, including sources, receiving waters, and effects on physical, chemical, and biological parameters;
- Description of impact from wastewater discharges (if applicable);
- Quantification of water to be used for PV panel cleaning at the Solar Plant and description of impact;
- Spills and accidents (chemical, hazardous waste and fuel spills, containment failures);
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope, and duration in the context of the Project.

11.3 Air Quality

Potential impacts to air shall be described including but not limited to the following:

- Impacts on ambient air quality;
- Sensitive receptors (e.g., communities, schools, water bodies, ecosystems etc.);
- Greenhouse gas generation (GHG);
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope, and duration in the context of the Project.

11.4 Climate and Meteorology

This section should include the potential effects of severe weather events on the Project (floods, prolonged periods of drought etc.) as well as the projected impacts of climate change on the Project.

This section should also describe the potential impacts of the Project on climate change, including the benefits or positive impacts due to GHG emissions reductions from the Solar Plant that is associated with the Project (i.e., how the Project contributes to climate change mitigation).

11.5 Noise and Vibration

Potential impacts from noise shall be described, including but not limited to the following:

- Noise modelling (if required), potential noise levels at different representative sites in the Project area and in communities near the Project area;
- Potential vibration due to blasting (if applicable) and movement of heavy equipment, and related damage to materials and structures;
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

11.6 Solid, Liquid and Hazardous Waste

Provide a description of impacts from solid, liquid and hazardous waste discharges, accidental spills and accidents or impacts on capacity of local land fill facilities.

11.7 Landscape and Visual Amenity

Potential impacts to Visual Amenity or Aesthetic Resources, including light pollution, shall be described as including but not limited to the following:

- Impacts on visual resources and landscapes (viewsheds, historically and/or culturally significant landscapes etc.).
- Increases in light contamination.
- Overall assessment of significance of direct, indirect and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

Biological Environment Impacts

Potential impacts to biological resources shall be described, including but not limited to the following:

11.8 Vegetation/Flora and Associated Habitats

- Describe and quantify alterations in vegetative cover due to deforestation, permanent or temporary, other vegetative type conversions, direct vegetative removal, indirect

vegetation impacts (e.g., by dust and air contaminants), increased road access leading to destruction of existing vegetative cover (land use changes), spread of noxious or invasive species.

- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope, and duration in the context of the Project.

11.9 Wildlife/Fauna and Associated Habitats

Describe and quantify alterations in terrestrial wildlife populations due to the following (aquatic fauna, not considered applicable to the Project):

11.9.1 Wildlife/Terrestrial Fauna

- Loss of habitat and breeding areas due to changes in vegetation cover/wetlands loss (as applicable).
- Disturbance of breeding areas due to Project construction, operation, and maintenance, recreational use, and human settlement associated with the Project (e.g., noise, vibration, illumination, vehicular movement).
- Loss or contamination of drinking water for wildlife species.
- Poisoning (e.g., air emissions, direct contact with toxic waste/substances).
- Animals attracted to garbage and food waste at construction camps or onsite facilities.
- Increased hunting (by workers for example).
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project, based upon analysis of magnitude, frequency, scope, and duration in the context of the Project.

11.9.2 Aquatic Fauna

- Loss of aquatic habitat and breeding areas when seepage stops (as applicable).

11.10 Endangered or Threatened Species and/or Habitats

- Describe and quantify impacts to endangered or threatened species, or critically endangered (CR) or endangered (EN) habitats.
- Individual species (with special emphasis on endemic, rare, threatened, and endangered species).

11.11 Protected Areas

- Describe any impacts to Protected Areas and overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed project based

upon analysis of magnitude, frequency, scope and duration in the context of the Project (if applicable).

Social-Economic-Cultural Impacts

The ESIA shall assess potential positive and negative impacts to the socio-economic environment and cultural heritage including but not limited to the following:

11.12 Socio-Economic Impacts

- Building on the existing information gathered in the scoping report, detailed assessment of the limitation of access to canal water for basic consumption and domestic needs for around eight thousand (8,000) inhabitants from six (6) different communities.
- Impact of rehabilitation on soil moisture and agricultural yield in the vicinity of the KWC because of the elimination of seepage. This shall include in depth studies to determine the agricultural water demand to address the dependence of agricultural land on seepage water.
- Although no land acquisition or resettlement impacts are expected along the corridor of the Project, some identified narrower areas, in which the existing right of way seems to have been compromised will need to be taken into consideration before the commencement of the work. In case that assets are affected, the Company shall prepare an assessment of physical and economic displacement impacts in the framework of a simplified Resettlement and Livelihood Restoration Plan (RLRAP), in accordance with the IFC's Performance Standard 5, and ADB's Safeguard Policy Statement (2009).
- Mobility restrictions during the Concession Period for local population (see section 8.10.1)
- Impacts on public health. COVID-19 risks as communicable respiratory diseases will most likely be the most significant concern for potential interactions between the workforce and community members.
- Assessment of other expected impacts over the affected communities:
 - Affected individual incomes.
 - Direct employment at the Project.
 - Indirect employment generated by Project Activities.
 - Employment opportunities for local residents.
 - Other economic activities stimulated in the community because of the Project.
 - Reduction in quality of life for residents from visual and noise impacts.
 - Change in crime rates (substance abuse, prostitution, etc.).
 - Change in character and social cohesion of community because of displacement and other impacts.

- Potential hazard to the public from KWC components resulting from accidents or natural catastrophes and how these events will affect reliability.
- Overall community acceptance of the Project.
- Impacts over community recreational facilities and leisure activities.
- Assessment of impacts over the labour force of the Project and the staff engaged in operation of the KWC:
 - Substitution of part of the current KW&SC staff by Company's personnel.
 - Impacts on worker health and safety, with particular attention to accommodation conditions and characteristics of workers' camps.
 - Identification of hazardous jobs and number of workers exposed with duration of exposure.
 - Occupational diseases due to exposure to dust and other Project-related activities such as handling of explosives, solvents, petroleum products, (if applicable) etc.
 - Identification of physical risks and safety aspects.
 - Potential for fires.
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

11.13 Infrastructure and Utilities

11.13.1 Transportation infrastructure

This section of the ESIA addresses impacts on transportation and traffic patterns on existing roads. The impacts of new and existing roads and interventions over them on the surrounding environment and land use should be addressed in those respective sections. The ESIA shall assess potential impacts to transportation systems, including but not limited to the following:

- Potential mobility restrictions during the Concession period, particularly in some specific settlements where villagers are highly dependent on the auxiliary road along the KWC. Investigation of crossing paths used by villagers to access the opposite side of the KWC that could be also temporarily affected.
- Potential changes to traffic patterns, densities, and traffic safety issues in the area affected by the Project.
- A determination of vehicular traffic density in the Project area (before, during, and after the proposed activities).
- Potential for traffic accidents.

- Congestion.
- Noise.

11.13.2 Increased Pressure on Public Services

- Public health infrastructure:
 - Increased need for public health infrastructure;
 - Alterations to public health infrastructure;
- Communications infrastructure:
 - Increased need for communications infrastructure;
 - Alterations to communications infrastructure;
- Energy infrastructure:
 - Increased need for energy infrastructure;
 - Alterations to energy infrastructure;
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

11.14 Archaeology and Cultural Heritage

Impacts over cultural heritage elements are unlikely in the framework of the Project. Nonetheless, the Company shall assess and provide further details on the following aspects in the ESIA:

- Cultural heritage, archaeological, paleontological, religious, historic resources;
- Destruction during construction;
- Damage and alteration;
- Removal from historic location;
- Introduction of visual or audible elements that diminish integrity;
- Neglect that causes deterioration;
- Loss of medicinal plants;
- Loss of access to traditional use areas;
- Impacts to previously inaccessible resources from development/improvement of roads;

- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

11.15 Ecosystem Services

- Impacts to the ecosystem services identified in baseline section;
- Overall assessment of significance of direct, indirect, and cumulative impacts for all phases of the proposed Project based upon analysis of magnitude, frequency, scope and duration in the context of the Project.

11.16 Cumulative Impacts

Cumulative impacts are those that result from the incremental impact of the proposed activity on a common resource when added to the impacts of other past, present, or reasonably foreseeable future activities.

The cumulative impacts will be assessed by identifying other applicable projects, such as construction and upgrade of electricity generation, and transmission, distribution facilities or other infrastructure projects in the local area (i.e., within twenty kilometres (20 km) of the proposed Project) that have been approved or are currently underway.

Use IFC's Good Practice Handbook: Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets as Guidance (2013).

12. Mitigation and Monitoring Measures

Identify mitigation measures as per the Mitigation Hierarchy. Specifically, these should include the following:

- Avoidance measures;
- Minimization measures;
- Restoration measures;
- Compensation/offset measures.

This section of the ESIA must include measures designed to mitigate potential adverse impacts to physical, biological, and social-economic-cultural resources from construction, operation and closure of the proposed Project and alternatives. These shall include measures to avoid and prevent, and if needed, to reduce or minimize adverse impacts and, where residual impacts remain, compensate / offset for risks and impacts to workers, Affected Communities, and the environment, according to the mitigation hierarchy shown in the following figure. The Project proponent must include measures considered to be "best practices" in the design of all alternatives.

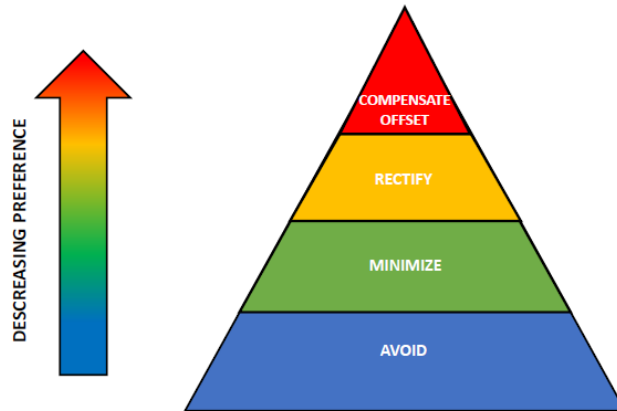


Figure 3. Mitigation hierarchy

Either herein and / or in the Environmental and Social Management Plan (ESMP) section, proposed mitigation shall be described in auditable terms and at a level of detail sufficient to demonstrate its effectiveness in addressing the concern or performance criterion, including its anticipated level of effectiveness and/or measurable performance, and design specifications.

The monitoring plan must include monitoring throughout the life of the Project for each potential mitigation to confirm the effectiveness of the measure and support contingency plans to provide assurance that the Project, at the Site preparation, construction, operation, expansion, and closure stages will meet applicable environmental and legal requirements and fall within the limits of impacts deemed acceptable upon approval of the ESIA. Some important items to address in the mitigation plan and associated monitoring plans include, but are not limited to the following:

13. Environmental and Social Management Plan

The ESIA shall include an Environmental and Social Management Plan to prevent, mitigate and monitor each impact identified in the ESIA. Plans will describe actions to be taken in sufficient detail to provide a basis for subsequent auditing of compliance with commitments made in the ESIA process, including who is responsible, how and when it will be implemented, what will be done and what results will be achieved, why it is being done, and how to know whether it is effective in addressing the underlying concerns. The Environmental and Social Management Plan shall have the following elements:

13.1 Overview of Environmental and Social Management Plan Organization and Policy

Describe the Project management and how environmental management and organization relates to overall Project responsibility. Describe the personnel and performance accountability system for design, operation, maintenance and closure for implementation of mitigation and monitoring measures.

Describe the environmental policy that will govern the Project throughout its implementation, including at least the objectives, scope, commitment to continuous improvement, control and environmental monitoring and good relationship with neighbouring populations and countries, as well as the commitment to internal controls such as compliance and environmental monitoring and routine audits.

Identify the persons responsible for the implementation of mitigation measures in each phase.

13.2 Mitigation and Monitoring Plans

The Consultant will develop detailed Environmental, Social, Health and Safety Management Plans (“ESMP” or “ESHS MP”) that identify for each impact the mitigation, monitoring and management measures to be taken during the various phases of the Project (construction, operations, decommissioning) to avoid, reduce, mitigate, or compensate for adverse environmental, social, and health and safety impacts.

For each identified impact the Consultant will establish:

- A set of mitigation measures that will include feasible measures to prevent significant adverse impacts or reduce them to acceptable levels. Such measures will involve technical requirements, guidelines or procedures and practices to be implemented during design, construction, operation and decommissioning phase of the Project;
- A set of monitoring requirements that ensure that the identified mitigation measures are considered, implemented properly and are sufficient measures for protecting the environment and environment resources, local communities, and workers.

In addition, as part of the ESMP, the Consultant shall also identify the proposed ESMS structure, as applicable, that will be followed for the project. The ESMS requirements will be included in detail for all the parties involved, including, the Sponsor(s), the EPC Contractor, and the O&M Contractor.

This ESMS shall be aligned with the principles of ISO 14001 and OSHAS 18001/ISO 450001 and include the necessary Elements, Programs and Management Plans and Procedures to manage the identified Project risks. As part of the ESMS, management plans will be developed in line with the applicable requirements for the key aspects identified in the ESIA such as, but not limited to pollution prevention (noise, dust, fuels, hazardous materials), biodiversity management, solid and liquid waste, flora and fauna, water management, occupational health and safety, transportation management, security management, emergency response, labour and supply chain management.

The Consultant will develop an outline management structure which will ensure the implementation of all the required mitigation and/or monitoring activities is achievable. This will include recommended training activities, and any additional management tools, etc.

13.2.1 Stakeholder Engagement Plan

The Consultant will develop a Stakeholder Engagement Plan (“SEP”) as a standalone document in line with the IFC’s requirements. The SEP should recognize that Stakeholder engagement is an ongoing process that involves Stakeholder analysis & planning, disclosure and dissemination of information, consultation & participation, grievance mechanism and on-going reporting to affected communities. In line with the requirements of IFC, the SEP must be developed and scaled to the Project risks and impacts and be tailored to the characteristics and interests of the Affected Communities and key Stakeholders.

The Consultant should build the SEP based on the environmental and social impact assessment outcomes considering local settings. The SEP should be developed to include the following:

- Introduce the SEP and include information on the purpose and scope;
- Include information on legislative and international requirements;
- Identify all Project related stakeholders influenced by the Project to include central governmental entities, local governmental entities, NGOs, local communities and CBOs; academic and research institutions; private sector companies; media organizations; and most important any vulnerable groups if applicable;
- Evaluate Project related Stakeholders to understand their priorities and relevance to the Project;
- Define the Project's approach to stakeholder engagement (post ESIA study, during construction and operations). Priority should be given to identification of engagement mechanisms that are: (i) culturally appropriate, (ii) scaled to the Project risks and impacts, (iii) tailored to the characteristics and interests of the Stakeholder group's language preferences, and decision-making process;
- Identify the objective of undertaking such consultation activities for each Stakeholder group;
- Identify the phase of involvement of Stakeholders. This will include: (i) summary of Stakeholder consultations and engagement undertaken as part of the ESIA (scoping process, baseline, impact assessment, mitigation, etc.) and (ii) future engagement including both disclosure of the ESIA and post-ESIA phase to be implemented through the project duration to include four distinct phases – planning, construction, operation, and decommissioning;
- Include information on monitoring requirements including frequency of all engagement activities and reporting;
- A detailed grievance / project complaints mechanism that is responsive and facilitates establishing and facilitating the resolution of Stakeholders' concerns and grievances.

Within the SEP, the Consultant shall describe the process by which PAPs and interested people can express their grievances for consideration and redress, in accordance with national law and the applicable international standards, and with IFC's Performance Standard 1. The process shall be free of any cost for users, and it will be implemented through an understandable and transparent consultative approach that is culturally appropriate and readily accessible. The GRM should ensure it can receive both external and internal grievances. The GRM should be designed to address complaints of gender-based violence between employees / contractors and members of the community. The Consultant shall describe a least the following elements of the GRM.

- Establishment of Grievance Committee, appointment of members and functioning rules;
- Eligibility criteria for grievances;

- Reception and registration of grievances;
- Referral process;
- Development, communication, and implementation of proposed responses.

A separate GRM shall be defined and implemented for the engagement of workers regarding possible health and safety occupational risks.

14. Appendices

These shall be numbered and referenced throughout the text and include, but not be limited to:

14.1 Technical Supporting Documents

- Including maps, plans, charts and figures in the sequence mentioned in the ESIA document;
- Zoning maps with resources and results of impacts;
- Special Studies if relevant but not readily accessible;
- Detailed materials on predictive tools/models and assumptions used for the assessment but too detailed for the body of the ESIA;
- Detailed survey reports (e.g., birds and other vegetation/fauna surveys) and the associated raw data.

14.2 References

Include a section with all references, (books, articles, technical reports, and other information sources) cited in the various chapters of the ESIA study with full biographic references, and the following conventional procedures cited in the literature: author, year, title, source, number of pages, and city of publication or issuance or webpages accessed on [*date*].

15. Non-technical Summary

The Consultant shall prepare a Non-Technical Summary (“NTS”) report, which concisely discusses meaningful information on the project, its environmental and social footprint and impacts, significant findings and recommended actions in easily understandable (non-technical) language. The section will include a summary of the ESIA undertaken (project description, baselines, impact analysis and mitigation measures for the environmental, social and health and safety negative and positive impacts) and a summary of the stakeholder engagement process.

16. Schedule

The anticipated schedule for the ESIA is as follows:

TASK	DELIVERABLE	PROPOSED DATE [Add Dates]
1	Site Survey Priority List; kick-off meeting	
2	ESIA Methodology	
3	Scoping Report, follow-up meeting	
1	Policy, Legal, and Administrative Framework	
2	Project Description	
3	Analysis of Alternatives	
4	Environment and Social Baseline Conditions	
5	E&S Constraints Report	
6	Draft of ESIA Report, follow-up meeting	
8	Environmental, Social, Health and Safety Management Plans	
8	Stakeholder Engagement Plan	
9	Non-Technical Summary	
10	Final ESIA, final meeting	

17. Staffing and key personnel

The ESIA shall be prepared by an independent Consultant that has no conflict of interest with the Project. The Consultant is expected to appoint a team of specialists that will carry out the necessary investigations to gather, review and compile all relevant data and to consult with stakeholders. The Consultant shall provide and maintain all key experts throughout the assignment; any changes are subject to prior approvals by the KW&SC. The Consultant's team is expected to have experts who are familiar with the local area and have the appropriate language skills and should include local experts wherever possible.

It is expected that the Consultant will undertake field work for all the relevant specialist studies. In addition, collection of baseline data and surveys will be undertaken to enable a robust assessment appropriate to the nature and scale of the Project. The spatial and temporal extent of the baseline surveys will be determined through professional judgment and industry best practice. Data will be relevant to inform decisions about Project location, design, construction, operation, and mitigation measures. This section will indicate the accuracy, reliability, and data sources. Baseline information will be supported with figures and maps where possible.

The Consultant's team is expected to include the following core staff:

- Project Director: a consultant with experience in undertaking ESIA's in accordance with IFC's and ADB's standard, with excellent communication skills and minimum fifteen (15) years of professional experience.
- Environmental Specialist: with experience of delivering ESIA's against international standards and best practice, and minimum ten (10) years of professional experience.
- Social Specialist: with minimum ten (10) years' experience in management of labour, community health and safety, land acquisition, livelihood restoration issues, design and implementation of stakeholder engagement and community development plans, conflict resolution and community relations issues with indigenous peoples, if applicable.

These will be supported by a team of selected specialists appropriate to the Project, and with appropriate language skills, who will cover as a minimum the following areas:

- Air quality measurements and modelling;
- Soils, geology, hydrogeology and topography/landscape;
- Hydrology, hydrogeology and water quality measurements;
- Biodiversity (flora & fauna);
- Community health, safety and security;
- Socio-economic analysis, resettlement/land acquisition, stakeholder engagement;
- Gender and GBV;
- Archaeological, historical and cultural heritage; and
- Resource management including solid and hazardous materials and waste management.

APPENDIX 13: FORM OF GOS PAYMENT ACCOUNT LETTER OF LIEN

GOS PAYMENT ACCOUNT LETTER OF LIEN

ISSUED BY

**GOVERNOR OF SINDH
(THROUGH THE SECRETARY, LOCAL GOVERNMENT & HOUSING TOWN
PLANNING DEPARTMENT, GOVERNMENT OF SINDH)³⁰**

IN FAVOR OF

**[BANK]
(AS AGENT)**

relating to

KARACHI HUB WATER CANAL PROJECT

DATED: [●]

³⁰ Please confirm which department of the GoS will execute the Letter of Lien.

To:

[●], a [bank] organized and existing under the Laws of Pakistan having its place of business located at [●], (the “Agent”).

Dear Sirs,

This **GoS PAYMENT ACCOUNT LETTER OF LIEN** (hereinafter referred to as the “**GoS Letter of Lien**”) has been executed at Karachi, Pakistan on this [●] day of [●]:

BY

- (1) **THE GOVERNOR OF SINDH** (THROUGH SECRETARY, LOCAL GOVERNMENT & HOUSING TOWN PLANNING DEPARTMENT, GOVERNMENT OF SINDH) having its offices located at Local Government & Housing Town Planning Department, Ground Floor, Tughlag House, Sindh Secretariat, Karachi, Pakistan, for and on behalf of the Government of Sindh (hereinafter referred to as “**GoS**” which expression shall mean and include where the context so requires or admits its successors-in-interest and permitted assigns);

IN FAVOUR OF

- (2) [*INSERT NAME OF BANK*], a [bank] organized and existing under the Laws of Pakistan, whose registered address is at [*INSERT ADDRESS*], as agent for and on behalf of the Financing Parties (the “**Agent**”),]

(each a “**Party**” and together the “**Parties**”).

WHEREAS:

- (A) The GoS and the Company have entered into the Concession Agreement dated [●] for the purposes of implementation of the Project.
- (B) The Company has entered into the Financing Documents with the respective Financing Parties for the provision to the Company of finance facility in the amount up to [●] for the financing of the Project.
- (C) Pursuant to the Concession Agreement, to secure payment of the Financing Due component of the applicable unrecovered Termination Payments (other than Value D and Value E) less any Deductible Termination Amounts (the “**Lien Amount**”), the GoS has agreed to create a lien over the GoS Payment Account in favour of the Financing Parties (“**Lien**”).
- (D) The GoS has issued this GoS Letter of Lien for the creation of Lien in favour of the Agent (for and on behalf of the Financing Parties).

NOW, THEREFORE, GoS hereby agrees, declares and undertakes as follows:

1. In this GoS Letter of Lien (including the recitals):

- (a) unless otherwise defined herein or unless the context otherwise requires, all capitalized terms shall have the meanings given to them under the Concession Agreement; and
 - (b) the rules of interpretation set out in the Concession Agreement shall be applied in the interpretation of the terms and provisions of this GoS Letter of Lien.
- 2. The GoS confirms that it has opened and is maintaining the account titled ‘GoS Payment Account’ bearing number [●] with the GoS Payment Account Bank, located at [●].
- 3. The GoS confirms that, for the purposes of the Concession Agreement the account described in clause 2 above shall constitute the GoS Payment Account as defined and used in the Concession Agreement.
- 4. The GoS agrees that the Agent (for and on behalf of the Financing Parties) shall have a Lien over the GoS Payment Account to secure the Lien Amount, in accordance with the Concession Agreement.
- 5. The Lien shall be enforceable by the Agent (for and on behalf of the Financing Parties) upon issuance of the Lien Enforcement Certificate (by submitting the Lien Enforcement Certificate to the GoS Payment Account Bank) stating that the Lien Amount, as specified in the Unrecovered Termination Payment Amount Certificate has not been paid to the Company in accordance with clause 12.1.5.2 of the Concession Agreement.
- 6. Upon the establishment of the GoS Payment Account, the GoS has issued the GoS Payment Account Standing Instructions containing instructions to the GoS Payment Account Bank to debit the GoS Payment Account with, *inter alia*, upon receipt of the Lien Enforcement Certificate, the Lien Amount, as specified in the Lien Enforcement Certificate, not otherwise recovered by the Company pursuant to clause 12.1.5.2 of the Concession Agreement.
- 7. Further, the GoS undertakes to procure that the GoS Payment Account Bank shall, subject to the applicable Legal Requirements, acknowledge in writing the creation and marking of a lien in terms of this GoS Letter of Lien, upon a request made by the Agent.
- 8. The GoS further undertakes that it shall not create, incur, permit, assume or suffer to exist any encumbrance whatsoever upon or with respect to the GoS Payment Account (including the amounts therein) other than the Lien created pursuant to this GoS Letter of Lien.
- 9. The rights, interest, powers, authorities and the security hereby vested in favor of the Agent (for the benefit of the Financing Parties) are irrevocable, to be exercised by the Agent in terms hereof and in accordance with the Concession Agreement and shall at all times be binding on the GoS solely for the benefit of the Agent (for and on behalf of the Financing Parties) until the Financing Termination Date.
- 10. The provisions of clause 30 (*Notices*), clause 23 (*Governing Law*) and clause 27 (*Dispute Resolution*) of the Concession Agreement shall be incorporated by reference into this GoS Letter of Lien and apply, *mutatis mutandis*, hereto.
- 11. This GoS Letter of Lien shall be effective from the date of its execution and shall terminate on the Financing Termination Date.

12. On the Financing Termination Date, the Lien hereby created shall automatically stand terminated and the Agent agrees to execute any further actions and additional documents necessary to give effect to such termination.

IN WITNESS WHEREOF, GoS has caused this GoS Letter of Lien to be duly executed by its duly authorized officer as of the date first above written.

For and on behalf of [**GOVERNOR OF
SINDH THROUGH SECRETARY, LOCAL
GOVERNMENT & HOUSING TOWN
PLANNING DEPARTMENT**]

Signature

Name:

.....

Designation:

CNIC No.

in the presence of:

Witnesses

Signatures

1- Name:

.....

Address:

CNIC/Passport No:

.....

2- Name:

Address:

CNIC/Passport No:

CONFIRMED, ACKNOWLEDGED AND ACCEPTED BY:

For and on behalf of

[●]

(As the Agent)

Name: _____

Designation: _____

CNIC/Passport No.: _____

In presence of the following Witnesses:

1. Signature: _____

Name: _____

CNIC/Passport No.: _____

2. Signature: _____

Name: _____

CNIC/Passport No.: _____

SIGNATURE PAGES

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorised representatives as of the date first written above.

GOVERNOR OF SINDH, THROUGH THE SECRETARY, LOCAL GOVERNMENT & HOUSING TOWN PLANNING DEPARTMENT, GOVERNMENT OF SINDH

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

KARACHI WATER AND SEWERAGE CORPORATION

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE COMPANY

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

**VOLUME IV
EQUITY FUNDING AND UTILIZATION AGREEMENT**

between

**(1) THE GOVERNOR OF SINDH
(THROUGH THE LOCAL GOVERNMENT & HOUSING TOWN PLANNING
DEPARTMENT, GOVERNMENT OF SINDH)**

(2) [SPONSORS]¹

- and -

(3) [THE COMPANY]

**relating to the
KARACHI HUB WATER CANAL PROJECT**

Dated [●]

Drafting Notes:

- 1. Items highlighted in green in the draft EFU Agreement (including the appendices) will be inserted prior to signing and (where stated) extracted from the relevant document referenced in the footnotes.***
- 2. This Agreement shall be updated accordingly if the Sponsor is a single entity.***
- 3. Concept of “Project Accounts” and related provisions in the EFU Agreement will be appropriately updated if (subject to State Bank of Pakistan special permission) the Company is not permitted to establish foreign currency accounts or where the Company elects not to establish foreign currency accounts.***

¹ **[Details as per Bidding Form T4 or T5 (as applicable) of the Proposal]**

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This **EQUITY FUNDING AND UTILIZATION AGREEMENT** is made on [●], 2024 at Karachi, Pakistan.

BETWEEN:

- (1) **THE GOVERNOR OF SINDH** (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) having its office located at Local Government Department, Ground Floor, Tughlaq House, Sindh Secretariat, Karachi, Pakistan for and on behalf of the Government of Sindh (the “**GoS**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors and assigns);
- (2) **[SPONSORS]**, (hereinafter referred to as the “**Initial Sponsors**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns)²; and
- (3) **[COMPANY]**³, a company incorporated under the Laws of Pakistan whose registered office is located at [●] (the “**Company**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors in interest, administrators and permitted assigns).

RECITALS:

- A The GoS, the Karachi Water and Sewerage Corporation (KW&SC) and the Company entered into the Concession Agreement for the Project.
- B This Agreement is to be executed together with the Concession Agreement setting out, *inter alia*, the terms and condition of funding of costs associated with the Project.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

² Details as per Bidding Form T4 or T5 (as applicable) of the Proposal.

³ Insert name of company to be incorporated by the Sponsors.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless specified otherwise herein, in this Agreement (including the recitals), all capitalized terms shall have the meanings assigned to them under the Concession Agreement (defined below). In addition, the following terms shall have the following meanings, unless the context otherwise requires:

“Account Bank” means a banking company or financial institution incorporated under the Laws of Pakistan appointed with the written consent of the Parties;

“Agreement” means this Equity Funding and Utilization Agreement, as amended and supplemented from time to time;

“Approved Budget” means the Approved EPC Budget and the Approved Non-EPC Budget, as approved in accordance with clause 2.5.2.1;

“Approved EPC Budget” means the budget, prepared on the basis of the Base Case Financial Model, duly approved in accordance with clause 2.5.2.1, that sets out the payments to be made by the Company to the EPC Contractor for each Approved EPC Milestone, as may be amended from time to time in accordance with clause 2.5.4;

“Approved EPC Milestone” means the relevant EPC Milestone completed by the EPC Contractor in accordance with the EPC Contract in each case to the satisfaction of the Independent Engineer;

“Approved EPC Payment Amount” means the amounts to be paid to the EPC Contractor in respect of the Approved EPC Milestone after adjusting for disbursement of debt by the Financing Parties (if applicable) in terms of the Financing Documents, as verified and certified by the Independent Appointees;

“Approved First Funding Amount” means the Approved Sponsor First Funding Amount and the Approved GoS First Funding Amount;

“Approved Funding Amount” means the Approved Sponsor Funding Amount or the Approved GoS Funding Amount (as applicable), where each amount is determined by the Independent Auditor prior to issuance of each Funding Notice on the basis of: (a) the Funding Ratio; and (b) (where applicable) after adjusting for debt disbursement by the Financing Parties in terms of the Financing Documents for funding the relevant Expenditure provided that in no event shall any contribution by the GoS of the Approved GoS Funding Amount exceed (in aggregate) the GoS Equity Amount or result in the GoS holding more than [●]⁴ of the issued and paid-up share capital of the Company;

⁴ [●] Insert maximum percentage determined on basis of Proposal, not to exceed 49%.

“Approved GoS First Funding Amount” means such amount as certified by the Independent Appointees in accordance with the Approved Budget and set out in the First Funding Notice;

“Approved GoS Funding Amount” means: (a) the Approved GoS First Funding Amount; and (b) each Approved GoS Subsequent Funding Amount, provided the sum of (a) and (b) shall in no event exceed the GoS Equity Amount or result in the GoS holding more than [●]⁵ of the issued and paid-up share capital of the Company;

“Approved GoS Subsequent Funding Amount” means such amount as certified by the Independent Appointees in accordance with the Approved Budget and set out in each Subsequent Funding Notice;

“Approved Sponsor First Funding Amount” means such amount as certified by the Independent Appointees in accordance with the Approved Budget and set out in the First Funding Notice;

“Approved Sponsor Funding Amount” means the Approved Sponsor First Funding Amount and each Approved Sponsor Subsequent Funding Amount;

“Approved Sponsor Subsequent Funding Amount” means such amount as certified by the Independent Appointees in accordance with the Approved Budget and set out in each Subsequent Funding Notice;

“Approved Non-EPC Budget” means the budget, prepared on the basis of the Base Case Financial Model, duly approved in accordance with clause 2.5.2.1, that sets out payments to be made by the Company for Non-EPC Expenditures, as may be amended from time to time in accordance with clause 2.5.4;

“Arbitration” has the meaning given to it in clause 16.4.1.1;

“Arbitrators” has the meaning given to it in clause 16.4.1.1;

“Award” has the meaning given to it in clause 16.4.4;

“Class A Equity Subscription Account (PKR)” means a deposit account denominated in Pakistani Rupees titled “Class A Equity Subscription Account (PKR)” that is to be opened and maintained by the Company at the Designated Branch of the Account Bank and notified in writing to the GoS and the Independent Auditor;

“Class A Equity Subscription Account (USD)” means a deposit account denominated in United States Dollars titled “Class A Equity Subscription Account (USD)” that is to be opened and maintained by the Company at the Designated Branch of the Account Bank in accordance with Legal Requirements and notified in writing to the GoS and the Independent Auditor;

“Class A Shares” means shares of the Company designated as ‘class A shares’ issued to the Sponsors from time to time in compliance with the Legal Requirements, provided, however,

⁵ [●] Insert maximum percentage determined on basis of Proposal, not to exceed 49%.

where the Approved Sponsor Funding Amount is Funded in USD, the Class A Shares will be registered on a repatriable basis by the State Bank of Pakistan or the authorized dealer, as applicable;

“**Class B Dividends**” means, to the extent the Electricity Reimbursement Payment (as defined in appendix 8 of the Concession Agreement) is not reduced by element ‘V’ (if applicable), the amount by which the Electricity Reimbursement Payment would have been reduced shall be considered as Class B Dividends;

“**Class B Equity Subscription Account**” means a deposit account denominated in Pakistani Rupees titled “Class B Equity Subscription Account” that is opened and maintained by the Company at the Designated Branch of the Account Bank and notified in writing to the GoS and the GoS Account Bank;

“**Class B Shares**” means shares of the Company designated as ‘class B shares’ issued to the GoS or its nominee(s) from time to time;

“**Commitment Percentage**” means, in respect of:

- (a) [insert sponsor name], [●]%; and
- (b) [insert sponsor name], [●]%;⁶

“**Concession Agreement**” means the concession agreement between the GoS, the Karachi Water and Sewerage Board and the Company dated [●] relating to the Project;

“**Cost Overrun**” mean, at any time, the amount (if any) of the Project Costs (excluding any Increased Costs) that will be payable to achieve the Project Commercial Operations Date that exceeds or is projected to exceed the Project Cost in the Initial Approved Budget, as determined from time to time by the Independent Appointees;

“**Cost Overruns Demand Notice**” has the meaning given to it in clause 2.2.3;

“**Deed of Accession**” means a deed of accession substantially in the form set out in appendix 5;

“**Designated Branch**” means the designated branch of: (a) the Account Bank that is designated by the Company in respect of the Project Accounts; and (b) the GoS Account Bank that is designated by the GoS in respect of the GoS Equity Account;

“**Dispute**” means a dispute, controversy, difference or claim between the Parties arising out of or in relation to this Agreement or the Parties’ performance or non-performance of this Agreement;

“**EFU Effective Date**” means the date of this Agreement;

⁶ Details as per Bidding Form T4 or T5 (as applicable) of the Proposal.

“EPC Advance Payment” means the one-time sum payable to the EPC Contractor by the Company as advance in accordance with the EPC Contract and the Approved EPC Budget;

“EPC Milestone” means each payment milestone (including specified conditions or milestones under the EPC Contract for release of the EPC Advance Payment) as set out in the Approved EPC Budget and the EPC Contract;

“EPC Payments” means the EPC Advance Payments and any amounts payable to the EPC Contractor by the Company in accordance with the Approved EPC Budget in respect of each Approved EPC Milestone; provided, that any amounts which are to be retained from the EPC Contractor and are to be paid after expiry of the relevant retention period in accordance with the Approved EPC Budget, shall also be construed as an EPC Payment;

“Expenditures” means the EPC Payments and the Non-EPC Expenditures;

“First Funding Notice” means the written notice to be issued by the Company to each Funding Party (with a copy issued and delivered to the other Funding Party, the GoS Account Bank, the Account Bank and the Independent Appointees) pursuant to clause 3.1, in the form and substance attached hereto:

- (a) in case of such notice being issued to the Sponsors, at part 1 of appendix 1;
- (b) in case of such notice being issued to the GoS, at part 2 of appendix 1;

“Fund”, “Funding” and its grammatical variations, means:

- (a) in case of the GoS, subscription by the GoS to the Class B Shares by crediting (in Pakistani Rupees) the Class B Equity Subscription Account, from time to time, with the Approved GoS Funding Amount; and
- (b) in case of the Sponsors:
 - (i) subscription by the Sponsors to the Class A Shares by crediting (in Pakistani Rupees) the Class A Equity Subscription Account (PKR), from time to time, with the Approved Sponsor Funding Amount to be funded in Pakistani Rupees;
 - (ii) subscription by the Sponsors to the Class A Shares by crediting (in United States Dollars) the Class A Equity Subscription Account (USD), from time to time, with the Approved Sponsor Funding Amount to be funded in United States Dollars;
 - (iii) provision of Sponsor Loan by the Sponsors by crediting (in Pakistani Rupees) the Class A Equity Subscription Account (PKR), from time to time, with the Approved Sponsor Funding Amount to be funded in Pakistani Rupees; or
 - (iv) provision of Sponsor Loan by the Sponsors by crediting (in United States Dollars) the Class A Equity Subscription Account (USD), from time to time,

with the Approved Sponsor Funding Amount to be funded in United States Dollars;

“Funding Account” means:

- (a) in case of the GoS, the Class B Equity Subscription Account; and
- (b) in case of the Sponsors, the:
 - (i) Class A Equity Subscription Account (PKR); and
 - (ii) Class A Equity Subscription Account (USD);

“Funding Notice” means the First Funding Notice and each Subsequent Funding Notice (as applicable);

“Funding Parties” means the GoS and the Sponsors, and **“Funding Party”** means any of them;

“Funding Period” means the period commencing from the Commencement Date and ending on the Day immediately preceding the Project Commercial Operations Date;

“Funding Ratio” means the ratio of: (a) the Approved Sponsor Funding Amount, to (b) Approved GoS Funding Amount to be Funded by the respective Funding Parties pursuant to a Funding Notice, which ratio:

- (a) shall be determined by the Company, with approval of the Independent Auditor, prior to issuance of a Funding Notice to ensure that at no time the GoS holds more than ● of the paid-up share capital of the Company; and
- (b) shall not fall below ●; ⁸

“GoS Account Bank” means a scheduled bank in Pakistan with a minimum credit rating of at least ‘AA-’ as rated by VIS or an equivalent rating by PACRA;

“GoS Account Instructions Revocation Date” has the meaning given to it in clause 6.2.2;

“GoS Equity Account” means the Pakistani Rupee denominated account of the GoS to be opened and maintained at the Designated Branch of the GoS Account Bank, details of which shall be notified in writing by the GoS (and confirmed by the GoS Account Bank) to the Company, the Sponsors and the Independent Appointees;

“GoS Equity Account Standing Instructions” means the standing instructions issued by the GoS to the GoS Account Bank in accordance with this Agreement and substantially in the form and content attached hereto at appendix 3;

⁷ Insert maximum percentage determined on basis of Proposal, not to exceed 49%

⁸ Ratio to be updated based on ratio of GoS Equity Amount against Sponsor Funding Amount, each as stated in the Proposal.

“GoS Equity Amount” means the amount not exceeding [●]⁹, to be Funded by the GoS in accordance with this Agreement and which in no circumstances results in the GoS holding more than [●]¹⁰ of the paid-up share capital of the Company;

“Initial Approved Budget” means the first Approved EPC Budget and the first Approved Non-EPC Budget prepared on the basis of the Base Case Financial Model and approved in accordance with clause 2.5.2.1, including any revision thereto permitted only for acceleration of progress of the C&O Activities pursuant to clause 2.5.4;

“Initial Project Cost” means the Project Cost as set out in the Base Case Financial Model;

“Initial Sponsor(s)” has the meaning given to it in the preamble of this Agreement;

“Lead Developer” means [●];¹¹

“New Sponsor” means any transferee to whom any Class A Shares have been transferred in accordance with clause 7.7;

“Non-EPC Expenditures” means all expenditures to meet the Projects Costs excluding the EPC Payments;

“Operating Account” has the meaning given to it in clause 2.5.5;

“Operating Costs” means all operating costs and expense incurred or to be incurred by the Company other than as set out in the Initial Approved Budget;

“Parties” means the GoS, the Sponsors and the Company, and **“Party”** means any of them;

“Performance Security Cost” has the meaning given to it in clause 2.4.1;

“Project Account Profits” has the meaning given to it in clause 5.4.1;

“Project Accounts” means the Class A Equity Subscription Account (PKR), Class A Equity Subscription Account (USD) and the Class B Equity Subscription Account;

“Project Costs” means (without double-counting), any costs or expenses relating to the Project as set out in the Financial Model stated in Pakistani Rupees, which costs and expenses may include one or more of the following:

- (a) capital costs;
- (b) costs and expenses in respect of the design, engineering, procurement, manufacture, construction, rehabilitation, commissioning, testing and completion of the KWC;

⁹ Insert GoS Equity Amount as specified in Bidding Form F1.

¹⁰ Insert maximum percentage determined on basis of Proposal, not to exceed 49%

¹¹ Details as per Bidding Form T4 or T5 (as applicable) of the Proposal

- (c) financing costs;
- (d) costs of Taxes imposed on or payable by the Company;
- (e) fixed operating costs during the C&O Period; and
- (f) all other costs and expenses incurred in connection with the Project during the C&O Period in accordance with the Financial Model;

including any increase in costs and expenses stated in (a) to (f) above due to devaluation of the Pakistani Rupees or increase in the base rate applicable to borrowing from a Finance Party, but excluding any Operating Costs;

“Proposed Budget” has the meaning given to it in clause 2.5.1;

“Proposed EPC Budget” has the meaning given to it in clause 2.5.1.2;

“Proposed Non-EPC Budget” has the meaning given to it in clause 2.5.1.1;

“Proposed Utilization Statement” has the meaning given to it in clause 4.2.1;

“Quarter” means each three (3) Month period during the Funding Period;

“Rejected Amounts” has the meaning given to it in clause 4.2.3.2;

“Required First Funding Date” has the meaning given to it in clause 3.1.5;

“Required Funding Date” means any of the Required First Funding Date or the Required Subsequent Funding Date, as applicable;

“Required Subsequent Funding Date” has the meaning given to it in clause 3.2.4;

“Sponsor Funding Amount” means [●]¹²;

“Sponsor Loans” means Sponsor Equity advanced by any Sponsor in the form of loans to the Company, in each case:

- (a) in accordance with this Agreement;
- (b) compliant with the Subordination Terms and Legal Requirements; and
- (c) where the Sponsor Loan is Funded in United States Dollars, the United States Dollar amounts contributed as Sponsor Loan shall be as set out in the registration of Sponsor Loan issued by the authorized dealer or the State Bank of Pakistan;

¹² This amount will be the total equity commitment of the Sponsors (excluding Cost Overruns) set out in the Proposal. **Maximum Foreign Equity and Maximum Local Equity stated in Bidding Form F2-G**

“Sponsor Pre-Funded Equity Amount” has the meaning given to it in clause 3.3.1;

“Sponsors” means one or more Initial Sponsor(s) or any New Sponsor;

“Subordination Terms” means such subordination terms and conditions for Sponsor Loans as may be specified by the GoS and the Independent Auditor;

“Subsequent Funding Notice” means the written notice (excluding the First Funding Notice) to be issued by the Company to each Funding Party (with a copy issued and delivered to the other Funding Party, the GoS Account Bank, the Account Bank, the Independent Appointees) pursuant to clause 3.2, in the form and substance attached hereto:

- (a) in case of such notice being issued to the Sponsors, at part 1 of appendix 1;
- (b) in case of such notice being issued to the GoS, at part 2 of appendix 1;

“Transfer Criteria” means:

- (a) the transferee:
 - (i) is not an Adverse Person;
 - (ii) is not a defaulter of any bank or financial institution; and
 - (iii) in the sole opinion of the GoS, complies with the relevant qualification and evaluation criteria for such outgoing Sponsor as set out at the bidding stage of the Project; and
- (b) the transfer of shareholding is in compliance with the applicable Legal Requirements;

“Transferring Sponsor” has the meaning given to it in clause 7.4.1.2;

“Utilization”, “Utilize” and its grammatical variations, means utilization of the Approved Funding Amount by the Company in accordance with the Approved Budget, including:

- (a) in respect of Non-EPC Expenditures, in accordance with the Approved Non-EPC Budget; and
- (b) in respect of EPC Payments, in accordance with the Approved EPC Budget;

“Unutilised Amounts” has the meaning given to it in clause 4.2.1.2; and

“Utilization Statement Certificate” has the meaning given to it in clause 4.2.3.

1.2 Interpretation

1.2.1 The rules of construction and interpretation set forth in clause 1.2 of the Concession

Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. FUNDING OBLIGATIONS

2.1 Funding Amount

2.1.1 The GoS undertakes and agrees, subject to the terms of this Agreement, to Fund the Approved GoS Funding Amount up to an amount not exceeding the GoS Equity Amount.

2.1.2 Each Sponsor undertakes and agrees, subject to the terms of this Agreement, to Fund the Sponsor Funding Amount in proportion to its Commitment Percentage by way of:

2.1.2.1 subscription to the Class A Shares; and / or

2.1.2.2 a Sponsor Loan to the Company,

provided, however, any Funding by the Sponsor under this clause 2.1.2 shall be subject to minimum shareholding requirements under clause 7.4.4 and not result in the GoS holding more than [●]¹³ of the issued and paid-up share capital of the Company.

2.1.3 If any Sponsor fails to Fund its respective Commitment Percentage of the Sponsor Funding Amount in terms of this Agreement, the Independent Appointees shall notify the Lead Developer of such failure. Upon receipt of such notice, the Lead Developer shall be liable to Fund the same within three (3) Business Days of the Required Funding Date.

2.1.4 If the Lead Developer fails to fund any amount in terms of clause 2.1.3 or the Lead Developer (at any time) holds less than ten percent (10%) of the issued and outstanding share capital of the Company, each such event shall constitute a Company Event of Default.

2.1.5 The Sponsors' obligation to fund the Sponsor Funding Amount is in addition to their other obligations under this Agreement.

2.2 Commitment to Fund Cost Overrun

2.2.1 Each Sponsor undertakes and agrees, subject to the terms of this Agreement, to fund any Cost Overrun that may from time to time arise in accordance with this clause 2.2, in proportion to its Commitment Percentage.

2.2.2 Any Cost Overruns shall be funded by the Sponsors, or the Lead Developer under clause 2.2.4 (as the case may be), by way of:

2.2.2.1 subscription to the Class A Shares;

¹³ Insert maximum percentage determined on basis of Proposal, not to exceed 49%

2.2.2.2 a Sponsor Loan to the Company; and/or

2.2.2.3 availing financing under the Financing Documents,

provided, however, any Funding by the Sponsor under this clause 2.2.2 shall be subject to minimum shareholding requirements under clause 7.4.4 and not result in the GoS holding more than [●]¹⁴ of the issued and paid-up share capital of the Company.

2.2.3 The Company shall immediately notify the Independent Auditor and the GoS after it becomes aware that a Cost Overrun exists or is projected to occur within the next ninety (90) Days of such determination. Following any such notification, or if at any time the Independent Auditor notifies the Company that a Cost Overrun exists or is likely to occur within the next ninety (90) Days, the Independent Auditor may, at any time or from time to time, by giving a notice in writing to the Sponsors, in the form and substance attached hereto as appendix 4, demand the Sponsors to provide funds to the Company equal to the Cost Overrun amount specified in the demand (the **“Cost Overruns Demand Notice”**) in proportion to their respective Commitment Percentage.

Each Cost Overruns Demand Notice shall specify the Cost Overrun amount incurred or likely to be incurred within the next ninety (90) Days. The Independent Auditor has the right to revise a Cost Overruns Demand Notice at any time after issuance where the Independent Auditor is of the view that the Cost Overrun amount as set out in the relevant Cost Overruns Demand Notice would be insufficient. Within seven (7) Days from the date of the Cost Overruns Demand Notice (unless otherwise agreed by the Company and the Independent Auditor), the Sponsors shall be obliged to pay the funds specified in the Cost Overruns Demand Notice to the Company by crediting (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD).

2.2.4 If any Sponsor fails to fund its respective Commitment Percentage of the Cost Overrun, in terms of this Agreement, the Lead Developer shall be liable to fund the same within ten (10) Days of the Cost Overruns Demand Notice.

2.2.5 If the Lead Developer fails to fund any amount in terms of clause 2.2.4, or the Lead Developer (at any time) holds less than ten percent (10%) of the issued and outstanding share capital of the Company, each such event shall constitute a Company Event of Default.

2.2.6 The GoS shall not be required to fund any Cost Overruns.

2.2.7 The Sponsors' obligation to fund the Cost Overruns is in addition to its other obligations under this Agreement.

2.3 Equity Subscription for Mobilisation Activities

¹⁴ Insert maximum percentage determined on basis of Proposal, not to exceed 49%

- 2.3.1 Each Sponsor undertakes and agrees to provide all funding required to undertake the Mobilisation Activities. Any such funding by the Sponsors shall, subject to verification and confirmation by the Independent Appointees in terms of clause 3.1.2, be treated as Sponsor Pre-Funded Equity Amount and adjusted from the Approved Sponsor First Funding Amount in accordance with clause 3.1.2. The Sponsors' obligation to fund the Mobilisation Activities is in addition to its other obligations under this Agreement.
- 2.3.2 In the event the Concession Agreement is terminated prior to the Scheduled Commencement Date, the GoS shall make payment for the actual cost (as certified by the Independent Appointees) incurred in respect of any Mobilisation Activities, which under no circumstances shall exceed United States Dollars Two Million Five Hundred Thousand only (USD 2,500,000/-).
- 2.3.3 The GoS shall make payment under clause 2.3.2 to the Company, on or prior to the Termination Payment Date, in PKR based on TT&OD selling rate for USD expressed in PKR, as published by the National Bank of Pakistan, prevailing on the Day immediately preceding the Termination Date.

2.4 Commitment to Fund Performance Security Cost

- 2.4.1 Each Sponsor undertakes and agrees to fund all costs, expenses, fees and other charges of any nature, in each case, associated with the issuance, maintenance and encashment of the Performance Securities in proportion to its Commitment Percentage ("**Performance Security Cost**").
- 2.4.2 If any Sponsor fails to fund its respective Commitment Percentage of the Performance Security Cost, in terms of this Agreement, the Lead Developer shall be liable to fund the same within ten (10) Days of the date such amount is payable.
- 2.4.3 If the Lead Developer fails to fund any amount in terms of clause 2.4.2, such event shall constitute a Company Event of Default.
- 2.4.4 The GoS shall not be required to fund any Performance Security Cost.
- 2.4.5 The Sponsors' obligation to fund the Performance Security Cost is in addition to its other obligations under this Agreement.

2.5 Review and Approval of Proposed Budget

- 2.5.1 Within ten (10) Days of the Mobilisation Date, the Company shall prepare, and submit to the Independent Auditor (with a copy (being certified by the Company to be true and correct) simultaneously provided to each of the Parties and the Independent Engineer) for its approval, a budget based on the Base Case Financial Model:
- 2.5.1.1 setting out the projected amount of the Non-EPC Expenditures to be incurred by the Company in each quarter during the Funding Period (the "**Proposed Non-EPC Budget**"); and

- 2.5.1.2 setting out the EPC Advance Payment and EPC Payments payable to the EPC Contractor upon completion of an Approved EPC Milestone during the Funding Period (the “**Proposed EPC Budget**”),
- (collectively clauses 2.5.1.1 and 2.5.1.2 referred to as the “**Proposed Budget**”).
- 2.5.2 Within thirty (30) Days of receipt, the Independent Auditor and the GoS shall review the Proposed Budget, and the Independent Auditor (following consultation with the GoS and the Independent Engineer), shall either:
- 2.5.2.1 approve the Proposed Budget comprising of the:
- (a) Proposed Non-EPC Budget; and
 - (b) Proposed EPC Budget; or
- 2.5.2.2 reject the Proposed Budget and convey their comments / observations (if any) to the Company, provided, that, the Independent Auditor may only refuse to approve the Proposed Budget (or any part thereof) if the same:
- (a) causes an increase in the Initial Project Cost; and
 - (b) increases the total amounts allocated in the Base Case Financial Model for any Expenditures.
- 2.5.3 The Company shall (at its own cost and expense) re-submit the revised Proposed Budget no later than five (5) Days from receipt of the rejection, comments or observations under clause 2.5.2.2, and the approval process under this clause 2.5 shall be repeated until all comments and observations are addressed and the Proposed Budget has been approved.
- 2.5.4 The Company shall propose a revision to the Approved Budget to account for any changes to the Financial Model, any Cost Overruns or any change that may be required to accelerate the progress of the C&O Activities in which case the approval process under this clause 2.5 shall be repeated, provided that, notwithstanding any changes to the Financial Model or the Approved Budget, the GoS’ obligation to fund the Approved GoS Funding Amount shall not exceed the GoS Equity Amount.
- 2.5.5 All Operating Costs incurred by the Company prior to the Project Commercial Operations Date shall be funded by the Company through the Service Payments, the Sponsors or the Financing Parties in terms of the Financing Documents by directly crediting a separate account (other than a Project Account) established by the Company for this purpose (the “**Operating Account**”). The obligation of the Sponsors to fund the Operating Costs shall be in addition to their other obligations under this Agreement.
- 2.5.6 The GoS shall not be required to fund any Operating Costs.

3. FUNDING MECHANISM

3.1 First Funding Notice

- 3.1.1 The Company shall be entitled to issue the First Funding Notice to each of the Funding Parties upon satisfaction of each of the following conditions:
- 3.1.1.1 the Company has established the Project Accounts with the Account Bank, as confirmed and acknowledged by the Account Bank;
 - 3.1.1.2 issuance of the Commencement Certificate and achievement of Commencement Date under the Concession Agreement;
 - 3.1.1.3 the GoS has established the GoS Equity Account with the GoS Account Bank and has delivered the GoS Equity Account Standing Instructions to the same, as confirmed and acknowledged by the GoS Account Bank;
 - 3.1.1.4 the GoS has credited funds in the GoS Equity Account in cash in Pakistani Rupees in an amount equal to the GoS Equity Amount, as confirmed by the GoS Account Bank; and
 - 3.1.1.5 the Company has procured the approval of the Proposed Budget in accordance with clause 2.5.
- 3.1.2 The First Funding Notice shall be accompanied by a certificate of the Independent Appointees certifying the following (as set out in the First Funding Notice):
- 3.1.2.1 the Approved Sponsor First Funding Amount;
 - 3.1.2.2 the Approved GoS First Funding Amount; and
 - 3.1.2.3 the Sponsor Pre-Funded Equity Amount.
- 3.1.3 Additionally, issuance of the First Funding Notice to the GoS shall be subject to receipt by the GoS of the:
- 3.1.3.1 Independent Auditor's certificate, certifying that:
 - (a) the Approved Sponsor First Funding Amount stands Funded and that such Funds have been credited to (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD);
 - (b) that there is no subsisting Company Event of Default as confirmed in writing by the Company; and
 - (c) any Cost Overruns have been funded in terms of clause 2.2.
 - 3.1.3.2 in respect of funding of EPC Payments only, a certificate, each, from the Independent Engineer and the Independent Auditor, verifying and certifying:

- (a) the Approved EPC Milestone; and
 - (b) the Approved EPC Payment Amount.
- 3.1.4 Upon Funding the Approved Sponsor First Funding Amount (less Sponsor Pre-Funded Equity Amount) by the Sponsors, a certificate will be obtained by the Company from the Independent Auditor certifying that the Approved Sponsor First Funding Amount (less Sponsor Pre-Funded Equity Amount) stands Funded and that such Funds have been credited to (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD).
- 3.1.5 The First Funding Notice shall set out the date (the “**Required First Funding Date**”) by which each Funding Party shall Fund the Approved First Funding Amount, which date shall be:
 - 3.1.5.1 in case of a First Funding Notice issued to the Sponsors, five (5) Business Days following the date of receipt by the Sponsor of the First Funding Notice; and
 - 3.1.5.2 in case of a First Funding Notice issued to the GoS, five (5) Business Days following the date of receipt by the GoS Account Bank of the First Funding Notice.
- 3.1.6 Subject to clause 2.1 and in accordance with this Agreement, each Funding Party, undertakes and agrees to Fund the Approved First Funding Amount (pursuant to the First Funding Notice) on or prior to the Required First Funding Date.

3.2 Subsequent Funding Notice

- 3.2.1 The Company shall be entitled to issue a Subsequent Funding Notice to each of the Funding Parties upon satisfaction of the following condition:
 - 3.2.1.1 all the conditions for issuance of the First Funding Notice under clause 3.1.1 have been satisfied and are subsisting.
- 3.2.2 Each Subsequent Funding Notice shall be:
 - 3.2.2.1 approved and certified by the Independent Appointees; and
 - 3.2.2.2 accompanied by the certificates of the Independent Appointees certifying the following (as set out in the Funding Notice):
 - (a) the Approved GoS Subsequent Funding Amount;
 - (b) the Approved Sponsor Subsequent Funding Amount; and
 - (c) the Sponsor Pre-Funded Equity Amount (if applicable).

3.2.3 Additionally, each Subsequent Funding Notice to the GoS shall be accompanied with the:

3.2.3.1 Independent Auditor's certificate, certifying that:

- (a) the Approved Sponsor Funding Amount (less Sponsor Pre-Funded Equity Amount) stands Funded and that such Funds have been credited to (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD);
- (b) that there is no subsisting Company Event of Default as confirmed in writing by the Company; and
- (c) any Cost Overruns have been funded in terms of clause 2.2.

3.2.3.2 in respect of funding of EPC Payments only, a certificate, each, from the Independent Engineer and the Independent Auditor, verifying and certifying:

- (a) the Approved EPC Milestone; and
- (b) the Approved EPC Payment Amount.

3.2.3.3 the Utilization Statement Certificate issued by the Independent Auditor.

3.2.4 Each Subsequent Funding Notice shall set out the date (the "**Required Subsequent Funding Date**") by which each Funding Party shall Fund its relevant Approved Subsequent Funding Amount, which date shall be:

3.2.4.1 in case of a Subsequent Funding Notice issued to the Sponsors, five (5) Business Days following the date of receipt by the Sponsors of the Subsequent Funding Notice; and

3.2.4.2 in case of a Subsequent Funding Notice issued to the GoS, five (5) Business Days following the date of receipt by the GoS Account Bank of the Subsequent Funding Notice.

3.2.5 Subject to clause 2.1 and in accordance with this Agreement, each Funding Party, severally, undertakes and agrees to Fund its relevant Approved Subsequent Funding Amount (pursuant to each Subsequent Funding Notice) on or prior to the Required Subsequent Funding Date.

3.3 Adjustment of the Sponsor Pre-Funded Equity Amount

3.3.1 Prior to Funding by the Sponsors, the Approved Sponsor First Funding Amount shall be adjusted to account for funds already pre-funded by the Sponsors as Sponsor Equity in

the Company prior to the Required First Funding Date in accordance with the Approved Budget including in respect of Mobilisation Activities (if any) (the “**Sponsor Pre-Funded Equity Amount**”), as determined and certified by the Independent Appointees.

- 3.3.2 To the extent the Sponsor Pre-Funded Equity Amount is not fully adjusted from the Approved Sponsor First Funding Amount, it shall be adjusted from the succeeding Approved Sponsor Subsequent Funding Amounts (in accordance with clause 3.2) till the Sponsor Pre-Funded Equity Amount has been fully adjusted.

4. UTILIZATION

4.1 Utilization

- 4.1.1 The Company undertakes and agrees that Utilization shall solely be for the purposes of meeting the relevant Expenditures in accordance with the Approved Budget.

4.2 Preparation, Review and Certification of Utilization Statement

- 4.2.1 Prior to issuance of each Subsequent Funding Notice under clause 3.2, the Company shall prepare a statement in respect of the preceding Approved Funding Amount:

4.2.1.1 confirming that all Approved Funding Amounts have been Utilized; and

4.2.1.2 disclose with reasonable justification any Approved Funding Amounts that have not been Utilized (“**Unutilised Amounts**”),

(the “**Proposed Utilization Statement**”).

- 4.2.2 The Company shall submit the Proposed Utilization Statement to the Independent Auditor (with a copy (being certified by the Company to be true and correct) simultaneously provided to each of the Parties) for its review and certification.

- 4.2.3 Within five (5) Days of receipt, the Independent Auditor shall review the Proposed Utilization Statement in respect of the preceding Approved Funding Amount and shall either:

4.2.3.1 approve the Proposed Utilization Statement and certify, *inter alia*, that:

(a) preceding Approved Funding Amount has been Utilized by the Company for Expenditures in accordance with the Approved Budget; and

(b) reasonable justification has been provided for any Unutilized Amounts,

(the “**Utilization Statement Certificate**”); or

4.2.3.2 reject the Proposed Utilization Statement, provided that, the Independent Auditor may only refuse to approve the Proposed Utilization Statement (or any part thereof) if:

- (a) the preceding Approved Funding Amount has not been Utilized by the Company for Expenditures in accordance with the Approved Budget; or
 - (b) reasonable justification has not been provided for any Unutilized Amounts (the “**Rejected Amounts**”).
- 4.2.4 The Company shall (at its own cost and expense) re-submit the revised Proposed Utilization Statement no later than five (5) Days from receipt of the rejection, and the approval process under this clause 4.2 shall be repeated until the Proposed Utilization Statement is in form and substance acceptable to the Independent Auditor and Utilization Statement Certificate has been issued.
- 4.2.5 The Company shall provide the Independent Auditor with all relevant information required by the Independent Auditor for its review and certification under this clause 4.2.
- 4.2.6 The Approved Funding Amount set out in any Subsequent Funding Notice shall not be reduced by the Unutilized Amounts and such Unutilized Amounts shall remain available in the designated Company account to meet relevant Expenditures. Any Rejected Amounts shall be reduced from the Approved GoS Funding Amount set out in any Subsequent Funding Notice and any resulting shortfall shall be considered as a Cost Overrun to be funded by the Sponsors in accordance with clause 2.2.

5. PROJECT ACCOUNTS AND ACCOUNT BANK

5.1 Project Accounts Establishment and Opening

- 5.1.1 It is a condition precedent to the issuance of each Funding Notice that the Company open and maintain each of the Project Accounts at the Designated Branch within five (5) Days of the EFU Effective Date.

5.2 Class A Equity Subscription Account

- 5.2.1 All contributions of: (a) the Sponsor Funding Amount in respect of Class A Shares and Sponsor Loans (to be Utilized in accordance with the Approved Budget); and (b) Cost Overruns (as specified in the Cost Overruns Demand Notice) shall, in the first instance, be deposited in (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD).

5.3 Class B Equity Subscription Account

- 5.3.1 All subscriptions by the GoS to the Class B Shares shall be deposited in the Class B Equity Subscription Account from the GoS Equity Account in accordance with the GoS Equity Account Standing Instructions, to be Utilized in accordance with the Approved Budget.

5.4 Profit

- 5.4.1 The Project Accounts shall each bear profit / mark-up in the currency in which the

account is denominated at such rate as may from time to time be agreed between the Company and the Account Bank, such profit / mark-up to be credited to such account at such time or times as may be agreed from time to time between the Company and the Account Bank (the “**Project Account Profits**”). All Project Account Profits shall be utilized for the purposes of the Project.

5.5 No Overdraft

5.5.1 The Company shall not be entitled to request that any withdrawal be made from the Project Accounts if such withdrawal would cause such Project Account to become overdrawn. To the extent that any withdrawal would, if made in full, cause any Project Account to become overdrawn, such withdrawal shall be made up to such an amount which would not result in that Project Account becoming overdrawn.

5.6 No Other Accounts

5.6.1 The Company hereby agrees and undertakes that other than the Project Accounts, the Company shall not open or maintain any bank, deposit, savings or other account or sub-account except:

5.6.1.1 the Operating Account;

5.6.1.2 as otherwise permitted by the GoS; and

5.6.1.3 as may be permitted by the Financing Documents.

5.7 Bank Charges

5.7.1 The Company shall pay to the Account Bank such transaction charges and fees (if any) as the Company may from time to time agree with the Account Bank.

5.8 No other Credits or Withdrawal

5.8.1 No payments to, or withdrawals from, any Project Account shall be made except as expressly permitted by this Agreement.

5.9 Account Bank

5.9.1 The Funding Parties agree to appoint the Account Bank to act as the account bank for the purposes of this Agreement.

5.9.2 The Account Bank is not a trustee or fiduciary of the Parties in connection with this Agreement. Neither is the Account Bank an agent or trustee for the Company or any of the other Parties. The nature of the Account Bank’s role shall be mechanical and administrative and to strictly act in accordance with, in respect of the Project Accounts, the Project Accounts Standing Instructions.

5.9.3 The Account Bank shall be entitled to (without any further obligation on the Account Bank to make any verifications, certifications or inspections) rely on the Company's confirmations and statements contained in the Funding Notice for purposes of satisfying itself that the relevant conditions precedent have been fulfilled. Further, the Account Bank's responsibility and liability in respect of maintenance and operation of the Project Accounts in accordance with this Agreement shall be limited to the Account Bank acting strictly in accordance with the Project Accounts' Standing Instructions.

5.9.4 Any Party may, without liability to disclose or account, engage in any kind of financial, trust or commercial business with the Account Bank and its associates and affiliates.

6. GOS EQUITY ACCOUNT AND GOS EQUITY ACCOUNT STANDING INSTRUCTIONS

6.1 The GoS Equity Account

6.1.1 The GoS hereby agrees and undertakes to the other Parties to:

6.1.1.1 establish and maintain the GoS Equity Account with the GoS Account Bank and credit the same with funds in an amount up to the GoS Equity Amount; and

6.1.1.2 issue the GoS Equity Account Standing Instructions to the GoS Account Bank,

in each case of clauses 6.1.1.1 and 6.1.1.2 above, in accordance with the Concession Agreement and this Agreement.

6.1.2 Until the GoS Account Instructions Revocation Date, all amounts credited to the GoS Equity Account shall be utilized for the purposes of Funding by the GoS of the Approved GoS Funding Amount from time to time following issuance of a Funding Notice and for any withdrawals permitted under clause 6.2.6.

6.2 GoS Equity Account Standing Instructions

6.2.1 The GoS Equity Account shall be operated and maintained through the GoS Equity Account Standing Instructions.

6.2.2 The GoS Equity Account Standing Instructions shall remain effective, in each case, until the date which is the earlier of (the "**GoS Account Instructions Revocation Date**"):

6.2.2.1 the date on which GoS has satisfied its obligation to the Fund the Approved GoS Funding Amounts in accordance with this Agreement, as certified by the Independent Auditor;

6.2.2.2 the date on which the GoS Equity Account Standing Instructions are revoked pursuant to a notice issued by the GoS to the GoS Account Bank instructing revocation of the GoS Equity Account Standing Instructions (or

any part thereof) provided that such notice shall be only effective if the same is also duly signed by the authorized representatives of the Parties; or

- 6.2.2.3 the Termination Payment Date.
- 6.2.3 The GoS Equity Account Standing Instructions may be amended at any time pursuant to a notice issued by the GoS to the GoS Account Bank instructing amendment of the GoS Equity Account Standing Instructions (or any part thereof) and the same shall be confirmed and acknowledged by the GoS Account Bank, provided that such notice shall be only effective if the same is also duly signed by the authorized representatives of the Parties.
- 6.2.4 The GoS shall procure that the GoS Account Bank acts on the GoS Equity Account Standing Instructions from time to time in accordance with the terms thereof.
- 6.2.5 The GoS shall procure that, through the GoS Equity Account Standing Instructions, the GoS Account Bank (in respect of each Funding Notice issued by the Company to the GoS) debits from time to time the Approved GoS Funding Amount (from the GoS Equity Account) and credits the same to the Class B Equity Subscription Account, in each case, in accordance with clause 3.1 and clause 3.2.
- 6.2.6 Until the GoS Account Instructions Revocation Date, no withdrawal from the GoS Equity Account may be made by the GoS, except for:
 - 6.2.6.1 funding the Approved GoS First Funding Amount pursuant to a First Funding Notice issued to the GoS in accordance with clause 3.1;
 - 6.2.6.2 funding the Approved GoS Subsequent Funding Amount pursuant to a Subsequent Funding Notice issued to the GoS from time to time in accordance with clause 3.2;
 - 6.2.6.3 withdrawal of any profit/mark-up accrued on the GoS Equity Account; and
 - 6.2.6.4 funding any Termination Payments payable to Company under the Concession Agreement.
- 6.2.7 Subject to clauses 6.2.2 and 6.3, the GoS hereby undertakes that the GoS Equity Account shall be maintained with the GoS Account Bank until such time that the GoS has fully Funded the GoS Equity Amount in accordance with the terms of this Agreement.

6.3 GoS Account Bank

- 6.3.1 The GoS hereby agrees to appoint the GoS account bank to act as the GoS Account Bank for the purposes of this Agreement.
- 6.3.2 The GoS Account Bank is not a trustee or fiduciary of the Parties in connection with this Agreement. Neither is the GoS Account Bank an agent or trustee for the Company or any of the other Parties. The nature of the GoS Account Bank's role shall be mechanical

and administrative and to strictly act in accordance with, in respect of the GoS Equity Account and the GoS Equity Account Standing Instructions.

- 6.3.3 The GoS Account Bank shall be entitled to (without any further obligation on the GoS Account Bank to make any verifications, certifications or inspections) rely on the Company's confirmations and statements contained in the Funding Notice for purposes of satisfying itself that the relevant conditions precedent have been fulfilled. Further, the GoS Account Bank's responsibility and liability in respect of maintenance and operation of the GoS Equity Account in accordance with this Agreement shall be limited to the GoS Account Bank acting strictly in accordance with the GoS Equity Account Standing Instructions.
- 6.3.4 Any Party may, without liability to disclose or account, engage in any kind of financial, trust or commercial business with the GoS Account Bank and its associates and affiliates.

7. CLASS A AND CLASS B SHARES AND RELATED MATTERS

7.1 Class A Shares & Class B Shares

- 7.1.1 Upon Funding of the Approved GoS Funding Amount by the GoS from time to time in accordance with this Agreement, the Class B Shares shall be issued by the Company in accordance with the Laws in the name of GoS or its nominee(s) and the GoS shall be entitled to Class B Dividends in respect of such Class B Shares.
- 7.1.2 Upon Funding by the Sponsors of their respective proportion of the Sponsor Funding Amounts, from time to time, in accordance with this Agreement, the Company shall issue Class A Shares in accordance with the Laws.
- 7.1.3 The Company shall not (and each of the Sponsors agrees to procure that the Company shall not) create any classes of shares in the Company other than Class A Shares and Class B Shares without approval of the GoS.
- 7.1.4 The Company shall not (and each of the Sponsors agrees to procure that the Company shall not) offer for subscription Class B Shares to any person other than the GoS or its nominee(s), save as otherwise provided in this Agreement.
- 7.1.5 The Company shall not (and each of the Sponsors agrees to procure that the Company shall not) offer for subscription Class A Shares to any person other than the Sponsors, save as otherwise provided in this Agreement.

7.2 GoS Board Observers

- 7.2.1 Upon Funding of the Approved GoS First Funding Amounts by the GoS, and subject to compliance with any Legal Requirements, the GoS shall be entitled to nominate two (2) board observers on the board of directors of the Company.

7.3 Transfer of Shareholding by GoS

7.3.1 The GoS acknowledges and confirms that it shall not transfer its Class B Shares during the Concession Period except transfer to any affiliated department or body owned or controlled by the Government of Sindh, subject to the applicable Legal Requirements.

7.4 Transfer Restrictions

7.4.1 Subject to clauses 7.5 and 7.4.2:

7.4.1.1 up to (and including) the second (2nd) anniversary of the Project Commercial Operations Date, no Sponsor shall transfer its shareholding in the Company unless such transfer is required by operation of Laws and, subject to the Legal Requirements, the Transfer Criteria is complied with;

7.4.1.2 following the second (2nd) anniversary of the Project Commercial Operations Date and subject to compliance with the Transfer Criteria, any Sponsor may transfer its shareholding in the Company (the “**Transferring Sponsor**”) without the consent of the GoS, but with prior notice to the GoS, provided that such transfer does not result in the Sponsors (in aggregate) holding less than fifty-one percent (51%) of shareholding in the Company; and

7.4.1.3 following the second (2nd) anniversary of the Project Commercial Operations Date, if any proposed transfer of shareholding by a Transferring Sponsor results in the Sponsors holding (in aggregate) less than fifty-one percent (51%) shareholding in the Company, then the Transferring Sponsors shall be required to:

(a) comply with the Transfer Criteria; and

(b) seek prior approval of GoS.

7.4.2 Where the Transferring Sponsor is the Lead Developer, in addition to complying with the Transfer Criteria, the following conditions shall also apply:

7.4.2.1 prior to any transfer by the Lead Developer, the Lead Developer confirms to the GoS in writing, that the proposed transferee shall at minimum acquire ten percent (10%) of the Class A Shares; and

7.4.2.2 in the sole opinion of the GoS, the proposed transferee referred to in clause 7.4.2.1, at minimum meets the qualification criteria on the basis of which a Lead Developer can be qualified for the Project at the bidding stage.

7.4.3 For the purpose of clauses 7.4, 7.5 and 7.7, the term “transfer” shall mean any issuance, sale, transfer, conveyance, disposal or any event, transaction, arrangement, Encumbrance or agreement of any nature that results in or may result in: (a) the issuance of any Class A Share to any Person; (b) the transfer of direct and/or indirect, legal and/or beneficial ownership of any shares, or securities convertible into shares, that causes or may cause the sale, transfer, conveyance or disposal of the Sponsor’s legal and/or beneficial

ownership, direct or indirect, in the total (or any part thereof) paid up and outstanding Class A Shares of the Company; or (c) the Sponsor's losing the power to direct the management, policies and decisions, in each case, of the Company.

7.4.4 Prior to the Final Expiry Date, the Lead Developer shall hold at least ten percent (10%) of the issued and outstanding share capital of the Company in the form of Class A Shares. Failure to comply with this clause 7.4.4 shall constitute a Company Event of Default.

7.5 Other Transfer Restrictions

7.5.1 In addition to the restrictions set out in clause 7.4, any proposed transfer of Class A Shares, shall be subject to the following restrictions:

7.5.1.1 the proposed transfer of Class A Shares, as applicable, must comply with the Legal Requirements;

7.5.1.2 the proposed transfer of Class A Shares must be in accordance with the terms of this Agreement;

7.5.1.3 the GoS (through Independent Appointees) has confirmed that it has completed its "know your customer" review to its satisfaction (acting reasonably and without unreasonable delay) and that the proposed transferee is acceptable to it (in its sole discretion) on reputational or similar grounds, taking into account without limitation, such transferee's environmental and social track record, links to terrorism, political affiliations and conflicts of interest;

7.5.1.4 no default is continuing or will or would result from the transferee becoming a party to this Agreement; and

7.5.1.5 the Company and the Sponsor have delivered certificates to the Independent Appointees certifying, as applicable, that each of the relevant foregoing conditions has been satisfied.

7.5.2 Each Sponsor shall cause the Company to, and the Company shall, refuse to recognize any purported transfer of Class A Shares in violation of this clause 7.5, or record or register any such transfer of Class A Shares. Any transfer made in breach of this clause 7.5 shall be null and void.

7.5.3 Subject to clause 7.7, notwithstanding any transfer of Class A Shares pursuant to this clause 7.5 or otherwise, each remaining Sponsor shall remain fully liable for all its obligations under this Agreement.

7.6 Undertakings

7.6.1 No later than ninety (90) days after the execution of this Agreement, the restrictions imposed under clauses 7.4 and 7.5 shall be recorded in the Constitutional Documents (so

as to effectively constitute restrictions thereunder) of the Company and noted on all share certificates (if any) in respect of Class A Shares issued by the Company to the Sponsors.

7.7 Procedure for Transfer

7.7.1 On the date of any transfer of any Class A Shares, the Transferring Sponsor shall procure that the New Sponsor shall become a party to this Agreement, and be bound as if it were a Sponsor, by entering into a Deed of Accession which must be duly executed and delivered by the New Sponsor together with copies, certified by (in the case of a New Sponsor that is not an individual) a duly authorized officer of such New Sponsor or (in the case of a New Sponsor that is an individual) such New Sponsor, of:

7.7.1.1 (in the case of a New Sponsor that is not an individual) the New Sponsor's constitutional documents or (in the case of a New Sponsor that is an individual) his/her passport and other personal identification as required by the Company;

7.7.1.2 (in the case of a New Sponsor that is not an individual) a board resolution or other appropriate authorization authorizing the New Sponsor's execution of the Deed of Accession;

7.7.1.3 a legal opinion (in form and substance and from a counsel satisfactory to the Company) in respect of the laws of the jurisdiction of (in the case of a New Sponsor that is not an individual) incorporation or (in the case of a New Sponsor that is an individual) domicile of the New Sponsor as to (a) to (d) below (as applicable) confirming (as to the New Sponsor) that:

- (a) the New Sponsor has the capacity to enter into the Deed of Accession (and any other documentation required to be signed by the New Sponsor in connection with such transfer);
- (b) the New Sponsor's signatory (or signatories), if any, have been duly authorized;
- (c) (in the case of a New Sponsor that is not an individual) such documentation required to be entered into by the New Sponsor has been duly executed in accordance with the New Sponsor's constitutional documents;
- (d) such documentation required to be entered into by the New Sponsor has been duly executed in accordance with all applicable laws in its jurisdiction of (in the case of a New Sponsor that is not an individual) incorporation or (in the case of a New Sponsor that is an individual) domicile; and
- (e) the obligations of the New Sponsor created pursuant to the documentation entered into by it are legally valid and binding on,

and enforceable against, the New Sponsor (subject to any customary legal reservations or qualifications);

- 7.7.1.4 (in the case of a New Sponsor that is not an individual) the latest accounts of the New Sponsor, audited (if audited accounts have been prepared) or unaudited (if audited accounts have not been prepared) prepared in accordance with generally accepted accounting principles in the jurisdiction of its incorporation; and
 - 7.7.1.5 (in the case of a New Sponsor that is an individual) a net worth statement for such New Sponsor for the most recent tax year in the jurisdiction of his/her domicile prepared in accordance with generally accepted accounting principles in the jurisdiction of his/her domicile audited by the Auditor (or such other firm of independent accountants of recognized international standing approved by the Company).
- 7.7.2 Subject to the satisfaction of the conditions in clause 7.4 and clause 7.7, the Company, the Sponsors and the New Sponsor shall enter into a Deed of Accession and deliver the documents referred to in clause 7.7.1.1.
- 7.7.3 Upon any transfer permitted by this clause 7.7, the Transferring Sponsor shall be released from its obligations under this Agreement to the extent such obligations are assumed by a New Sponsor.

7.8 Public Listing of the Company

- 7.8.1 The Company may make necessary plans and arrangements to publicly list itself on the stock market so that the shares of the Company are available to general public as an investment option, with the prior written approval of the GoS and the Independent Auditor.

7.9 Manner of Payments

- 7.9.1 On each date on which any sum is to be Funded by a Funding Party under this Agreement, such Funding Party shall pay that sum before 5:30 p.m. Pakistan Standard Time on that date by payment in Pakistani Rupees or United States Dollars (as may be applicable) in immediately available funds by crediting the relevant Funding Account.

7.10 Taxes

- 7.10.1 All sums payable by each Funding Party under this Agreement shall be paid:
 - 7.10.1.1 free of any restriction or condition;
 - 7.10.1.2 free and clear of and (except to the extent required by Law) without any deduction or withholding on account of any Tax; and

- 7.10.1.3 without deduction or withholding (except to the extent required by Law) on account of any other amount, whether by way of set-off or otherwise.
- 7.10.2 If any Funding Party (or any other person) is required by Law to make any deduction or withholding on account of any Tax or other amount as is referred to in clause 7.10 from any sum paid or payable by any Funding Party under this Agreement:
 - 7.10.2.1 such Funding Party shall notify the Company of any such requirement or any change in any such requirement as soon as it becomes aware of it;
 - 7.10.2.2 such Funding Party shall pay any such Tax or other amount before the date on which penalties attach thereto;
 - 7.10.2.3 the sum payable by the Funding Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, the Company receives on the due date and retains (free from any liability in respect of any such deduction, withholding or payment) a net sum equal to what it would have received and so retained had no such deduction withholding or payment been required or made; and
 - 7.10.2.4 within three (3) Days after paying any sum from which it is required by law to make any deduction or withholding, and within three (3) Days after the due date of payment of any Tax or other amount which it is required by clause 7.10.2.2 above to pay, such Funding Party shall deliver to the Company evidence satisfactory to the Company of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority.

7.11 Non-Business Day

- 7.11.1 Any payment hereunder which would otherwise fall due on a day which is not a Business Day shall instead fall due on the immediately preceding Business Day.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations & Warranties by the GoS

- 8.1.1 The GoS hereby represents and warrants to the Sponsors and the Company that:
 - 8.1.1.1 it has the power and the authority to execute, deliver and perform this Agreement and has complied in all material respects with all legal requirements in connection thereto;

- 8.1.1.2 it is legally authorized and all necessary actions have been taken to authorize it to execute and deliver this Agreement and perform the transactions contemplated to be performed by the GoS herein; and
- 8.1.1.3 all authorizations, approvals, consents, licences and permissions from any Competent Authority (including any regulatory authority) which are necessary to have been obtained at the time these warranties are given or repeated, as the case may be, to authorize it to execute and deliver, and perform in accordance with the respective terms its obligations under this Agreement are in existence (with all applicable conditions thereunder having been complied with) and have not expired on the date on which this warranty is given or repeated, as the case may be, have been duly obtained at such time and are in full force and effect.

8.2 Representations & Warranties by the Sponsors and the Company

- 8.2.1 Each Sponsor(s) and the Company hereby severally represent and warrant to the GoS that:
 - 8.2.1.1 in case of the Company, it is a company duly incorporated and validly existing under the laws of Pakistan;
 - 8.2.1.2 in case of the Sponsors, it is a company, firm or any corporate body, duly incorporated or registered in the country of origin and validly existing under the laws of its country of origin;
 - 8.2.1.3 in case of the Company, its constitutive documents (such as certificate of incorporation, memorandum and articles of association or equivalent thereof) authorize, and all necessary corporate or other action has been taken to authorize, it to own its assets, carry on its businesses, and execute and deliver this Agreement and perform the transactions contemplated to be performed by it therein in accordance with its terms;
 - 8.2.1.4 in case of the Sponsors, its constitutive documents (such as certificate of incorporation, memorandum and articles of association or equivalent thereof) authorize, and all necessary corporate or other action has been taken to authorize, it to own its assets, carry on its businesses, and execute and deliver this Agreement and perform the transactions contemplated to be performed by it therein in accordance with its terms;
 - 8.2.1.5 it has the power and the authority to carry on its business and to own its properties and assets and to execute, deliver and perform this Agreement and has complied in all material respects with all legal requirements relative to its business;
 - 8.2.1.6 it has the capacity to sue or be sued in its own name;

- 8.2.1.7 all authorizations, approvals, consents, licences and permissions from any Competent Authority (including any regulatory authority) which are necessary to have been obtained at the time these warranties are given or repeated, as the case may be, to authorize it to execute and deliver, and perform in accordance with their respective terms its obligations under this Agreement are in existence (with all applicable conditions thereunder having been complied with) and have not expired on the date on which this warranty is given or repeated, as the case may be, have been duly obtained at such time and are in full force and effect;
- 8.2.1.8 neither the execution and delivery of this Agreement nor the performance of its obligations hereunder, nor the consummation of any of the transactions contemplated therein did or will:
- (a) contravene or constitute a default under any provision contained in any agreement, instrument, law, ordinance, decree, judgment, order, rule, regulations, licence, permit or consent by which it or any of its assets is bound or affected; or
 - (b) cause any limitation on it or the powers of its directors, whether imposed by or contained in its constitutive documents or in any agreement, instrument, law ordinance, decree, judgment, order, rule, regulation, licence, permit, consent or otherwise, to be exceeded;
- 8.2.1.9 there has not occurred any contravention of, or default under, any agreement or instrument by which it or any of its assets is bound or affected;
- 8.2.1.10 no litigation, arbitration or administrative proceeding or claim before or of any court, tribunal, arbitrator or other relevant authority is presently in progress or pending or has been threatened in writing; and
- 8.2.1.11 it has taken no action and, to the best of its knowledge and belief after making reasonable enquiry, it is not aware of any action or legal process having been taken or commenced for (as applicable) its winding-up, dissolution, administration, liquidation, rehabilitation, insolvency, reorganisation or suspension of payments or for the appointment of a receiver, liquidator, trustee in bankruptcy or similar official in respect of it or of any or all of its assets or revenues, or the commencement of any analogous process under any Laws.

8.3 Survival and Repetition of Warranties

8.3.1 The warranties contained in clause 8.1 and clause 8.2 are given and made on and as of the EFU Effective Date and shall survive the execution of this Agreement and shall be repeated as of and on:

8.3.1.1 in case of the Sponsors:

- (a) on each day that each of the Funding Notice is issued by the Company;
- (b) the date on which (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD) is Funded by the Sponsor(s) and / or Lead Developer in accordance with this Agreement;
- (c) on each day that the Cost Overruns Demand Notice is issued by the Independent Auditor; and
- (d) the date on which the Cost Overrun is funded by the Sponsor(s) and/or Lead Developer in accordance with this Agreement.

8.3.1.2 in case of the GoS:

- (a) the date of establishment of the GoS Equity Account and upon funding of the same in accordance with this Agreement;
- (b) the date on which funds standing to the credit of the GoS Equity Account are debited in an amount equal to the Approved First Funding Amount pursuant to the First Funding Notice; and
- (c) each date on which funds standing to the credit of the GoS Equity Account are debited in amount equal to the Approved GoS Funding Amount pursuant to Funding Notices issued from time to time.

9. COVENANTS

9.1 Positive Covenants

9.1.1 Each Party hereby severally undertakes and covenants with and for the benefit of the other Parties that until complete satisfaction of its obligations under this Agreement it shall:

9.1.1.1 obtain and / or maintain in full force and effect all authorizations, approvals, consents, licences and exemptions necessary and applicable to itself in connection with this Agreement as and when such authorizations, approvals, consents, licences and exemptions as are required to be obtained in accordance with relevant Law;

9.1.1.2 perform all of its respective obligations under this Agreement;

9.1.1.3 in case of the Company, procure from the Independent Appointees any approval, consent, determination, certificate or other document or decision required or contemplated under this Agreement within the necessary timelines stated herein; and

9.1.1.4 in case of the Company and the Sponsors, take all actions necessary or desirable to preserve its existence and its corporate rights.

9.2 Miscellaneous

9.2.1 Each Party undertakes and covenants with the other Parties to duly perform its obligations under this Agreement and agrees that such obligations shall be specifically enforceable at the instance of the other Parties.

9.2.2 The Company and the Sponsors, each undertakes that the Company shall fulfill and comply with all corporate actions and requirements of the Laws prior to the Company's issuance of the First Funding Notice and the Subsequent Funding Notice to each Funding Party so as to enable each Funding Party to Fund its relevant Approved Funding Amount in accordance with the Company's constitutive documents and the Laws and within the timelines contemplated under this Agreement.

9.2.3 Each Party undertakes to take all actions necessary, including passing requisite shareholders' and board resolutions and making all filings, registrations, notifications and applications required by Laws, to ensure the payment of funds to the Company for purposes of Funding the relevant Approved Funding Amounts by the Funding Parties. Failure to obtain any required approvals or permissions shall not release the Company or any Funding Party from, or otherwise constitute a defence to, the performance by any of them of their respective obligations under this Agreement.

9.2.4 Each of the Sponsors, undertakes to take all actions necessary, including passing requisite shareholders' and board resolutions and making all filings, registrations, notifications and applications required by Laws, to ensure the payment of any Cost Overruns. Failure to obtain any required approvals or permissions shall not release the Sponsors from, or otherwise constitute a defence to, the performance by it of its obligations under this Agreement.

9.2.5 Each Party undertakes to take all actions necessary and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

10. OBLIGATIONS CONTINUING

10.1 Obligations Continuing

10.1.1 Unless expressly stated otherwise in this Agreement, the respective obligations of the Company and each Funding Party under this Agreement are and shall remain in full force and effect until its termination in accordance with clause 12.

11. TERMINATION

11.1 Termination

11.1.1 This Agreement shall stand terminated on the Final Expiry Date.

12. NOTICE

12.1 Communications

12.1.1 Any written communication or notice pursuant to the terms and conditions of this Agreement shall be in writing and either:

12.1.1.1 delivered personally;

12.1.1.2 sent by certified mail, return receipt requested;

12.1.1.3 sent by a recognized overnight mail or courier service with delivery receipt required; or

12.1.1.4 sent by facsimile transfer or email (emails shall be confirmed by a letter).

12.1.2 All notices to be sent to a Party shall be sent to the address and number set out for such Party in appendix 2 or where the recipient notifies the sender of another address or number, the last address or number so notified to it in writing, provided however that, a notification for change of address or number shall be effective fourteen (14) calendar days after the date of receipt of notification of change.

12.2 Effectiveness of Communications

12.2.1 A Notice or communication shall be deemed to have been made or delivered:

12.2.1.1 in the case of any communication made by letter, when delivered by hand, by recognised courier or by mail (registered return receipt requested) at the address set out in appendix 2;

12.2.1.2 in the case of any communication made by facsimile, when transmitted properly addressed to the facsimile number set out in appendix 2 and the sender has received a sent receipt; and

12.2.1.3 in the case of any communication made by email, when transmitted properly addressed to the email address set out in appendix 2, and the sender has received a sent receipt.

12.3 Language

12.3.1 All communications and documents shall be in English.

13. SUCCESSORS AND ASSIGNS

13.1 Successors, Assigns and Legal Heirs

13.1.1 This Agreement binds and benefits the respective successors and assigns (solely as permitted pursuant to clause 13.3) of the Parties.

13.2 Restriction on Assignment

13.2.1 Subject to clause 13.3, neither Party may assign, transfer, delegate or dispose of its rights or obligations under this Agreement without the prior written consent of the other Parties.

13.3 Permitted Assignment

13.3.1 The restriction set forth in clause 13.2 shall not apply to:

13.3.1.1 liens and Encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;

13.3.1.2 a charge on the Project Accounts arising or created in the ordinary course of business of the Project and / or as security only for indebtedness to the Financing Party under the Financing Documents;

13.3.1.3 assignment of rights, interest and obligations of the Company and / or the Sponsors, in each case, in favour of the Financing Party (or any representative or security trustee of the same), in accordance with the Financing Documents; and

13.3.1.4 pledge of Class A Shares, as security only for indebtedness to the Financing Party in terms of the Financing Documents (provided, however, any enforcement of such share pledge shall be subject to the share transfer restrictions under clause 7 and shall require prior approval of the GoS for share transfer thereunder which shall not be unreasonably withheld or delayed by the GoS).

14. INDEMNITY

14.1 Indemnity

14.1.1 Each of the Sponsors shall, within four (4) Business Days of demand, on a joint and several basis, indemnify and pay to GoS, or reimburse GoS for any amount paid or payable by it on account of any costs, losses, liabilities and expenses (including legal fees and other advisors' and consultants' fees (including registration fees)) incurred by the GoS in connection with or arising out of any default attributable to that Sponsor including as a result of the failure by the Sponsors (or any of them) to pay any amount payable by the Sponsors hereunder on its due date.

15. PARTIAL INVALIDITY, SEVERABILITY AND AMENDMENT

15.1 Partial Invalidity

15.1.1 The illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision of this Agreement.

15.2 Amendment

15.2.1 This Agreement may only be amended in writing by written agreement of the Parties.

16. GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

16.1.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the Laws.

16.2 Negotiation

16.2.1 The Parties agree to attempt to resolve any Dispute promptly, amicably, and in good faith. Each Party shall designate a representative who shall be entitled to enter into discussions to resolve by amicable agreement any Dispute in connection with this Agreement.

16.2.2 In the event any Party disagrees with any decision of an Independent Appointee, it will be deemed as a Dispute under this Agreement and shall be resolved in accordance with clause 16.

16.3 Public Private Partnership Policy Board

16.3.1 If any Dispute is not finally resolved between the Parties pursuant to clause 16.2 within thirty (30) Days from the date on which a Party receives notice from any of the other Parties that a Dispute exists, then the Parties shall endeavour to settle the dispute in an amicable manner by mediation administered by an independent and impartial person appointed by the Public Private Partnership Policy Board. If any Dispute is not resolved between the Parties pursuant to this clause 16.3 within sixty (60) Days from the date on which the matter has been referred to the Public Private Partnership Policy Board, then such Dispute shall be settled exclusively and finally in accordance with clause 16.4.

16.4 Arbitration

16.4.1 Each of the Parties unconditionally and irrevocably agrees in respect of a Dispute, which cannot be resolved by the Parties pursuant to clause 16.3:

- 16.4.1.1 to the submission of such Dispute to binding arbitration governed by the Arbitration Act, 1940 by appointment of a board of arbitrators, consisting of one (1) arbitrator appointed by each disputing Party, and one (1) arbitrator appointed jointly by the arbitrators so selected by the disputing Parties (the “**Arbitrators**”). Any arbitration proceedings commenced pursuant to this clause 16.4.1 shall be referred to as Arbitration (“**Arbitration**”);
 - 16.4.1.2 not to claim any right it may have under the Laws to hinder, obstruct, or nullify the submission of the Dispute to Arbitration; and
 - 16.4.1.3 to accept the Award rendered by the Arbitrators and any judgment entered thereon by a court of competent jurisdiction as final and binding and not to hinder, obstruct or nullify the enforcement or execution of any decision rendered by the Arbitrators or court of competent jurisdiction.
- 16.4.2 The place of arbitration shall be Karachi, Pakistan.
- 16.4.3 The language of Arbitration shall be English.
- 16.4.4 Any decision or award resulting from the Arbitration (“**Award**”) shall be final and binding upon the Parties.
- 16.4.5 The Parties hereby waive, to the extent permitted under the Laws, any rights to appeal or to review of such Award by any Competent Authority.
- 16.4.6 The fees and expenses of the Arbitrators and all other expenses relating to Arbitration shall be borne and paid by the respective disputing Parties, unless the Award states otherwise. The Arbitrators may provide in the Award, for reimbursement to a Party, of its costs and expenses in bringing or defending the Arbitration claim, including legal fees and expenses incurred by such Party.
- 16.4.7 This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the Award for any Arbitration, which Award, if appropriate, shall determine whether and when any termination shall become effective.

16.5 Exclusive Jurisdiction

- 16.5.1 No Party shall have the right to, nor shall they, commence or maintain any legal proceedings concerning a Dispute, until the Dispute has been resolved in accordance with clause 16.3 or clause 16.4 and then only to enforce or execute an Award.

16.6 Obligations Continuing

- 16.6.1 Unless otherwise agreed in writing, the existence of a Dispute shall not relieve any Party from the performance of its obligations under this Agreement not the subject of the Dispute.

16.7 Decision of Independent Appointees

16.7.1 In the event the GoS, the Sponsors or the Company disagree with any decision of the Independent Appointees, then it will be deemed as a Dispute under this Agreement and shall be resolved in accordance with this clause 16.

17. COUNTERPARTS

17.1 This Agreement shall be executed in three (3) counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

APPENDIX 1: PART I – FORM OF FUNDING NOTICE FOR SPONSOR

[ON THE LETTERHEAD OF THE COMPANY]

DATE:.....
FUNDING NOTICE NUMBER:.....

To,
[Sponsors]
.....
.....

CC:
.....

Re: Funding Notice Issued To Sponsor

Dear Sirs,

1. Please refer to the agreement titled “EQUITY FUNDING & UTILIZATION AGREEMENT” dated (the “**Agreement**”) entered into between the Governor of Sindh (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) (the “**GoS**”); [insert details] (the “**Sponsors**”) and [insert details] (the “**Company**”). Unless expressly stated otherwise, all capitalized terms used herein shall bear the meaning ascribed thereto in the Agreement.
2. Pursuant to the terms of the Agreement, the Company hereby issues this Funding Notice to the Sponsor in accordance with the Approved Budget. The aggregate amounts to be Funded by each Funding Party, as approved and certified by the Independent Appointees, are set out below in paragraph 3 below.
3. The amounts to be Funded by each Funding Party are set out below:

(a) **PART OF APPROVED FUNDING AMOUNT TO BE FUNDED BY THE SPONSOR**

- | | | |
|------|---|--------------|
| (i) | [Approved Sponsor First Funding Amount: | USD/PKR [●] |
| | [or] | |
| | Approved Sponsor Subsequent Funding Amount: | USD/PKR [●] |
| | A. EPC Payments | USD/PKR [●] |
| | B. Non-EPC Expenditure | USD/PKR [●] |
| (ii) | [Approved GoS First Funding Amount: | PKR [●] [or] |
| | Approved GoS Subsequent Funding Amount: | PKR [●] |

(b) **REQUIRED FUNDING DATE:** [●]

4. We, the Company, hereby confirm:
- (a) all conditions to issuance of a Funding Notice as set out in clause [3.1.1 / 3.2.1]¹⁵ of the Agreement stand satisfied;
 - (b) the issuance of this Funding Notice to the Sponsor shall not result in any breach by the Company of the relevant Laws or the constitutive documents;
 - (c) this Funding Notice has been issued to the Sponsor in compliance with the terms of the Agreement;
 - (d) that a certificate issued by each of the Independent Appointees has been obtained and appended hereto certifying that the [Approved Sponsor First Funding Amount] [*or*] [the Approved Sponsor Subsequent Funding Amount] (as set out in paragraph 3(a)(i) above) is in accordance with the Approved Budget;
 - (e) that a certificate issued by each of the Independent Appointees has been obtained and appended hereto certifying that the [Approved GoS First Funding Amount] [*or*] [the Approved GoS Subsequent Funding Amount] (as set out in paragraph 3(a)(ii) above) is in accordance with the Approved Budget; and
 - (f) any Cost Overruns have been funded in terms of the Cost Overrun Demand Notice.
5. We the Company, hereby further confirm, represent and warrant that a copy of this Funding Notice is simultaneously being issued to the GoS, the Account Bank and the Independent Appointees.
6. The provisions hereof shall *mutatis mutandis* form part of the Agreement, notwithstanding anything to the contrary.

Yours Sincerely,

Signed for and on behalf of

[•]

¹⁵ Delete as applicable depending on First Funding Notice / Subsequent Funding Notice prior to Commencement Date / Subsequent Funding Notice after Commencement Date.

(As the Company)

.....
Name:
Designation:

WITNESSES:

1.....
Name:
Address:
CNIC Number:

2.....
Name:
Address:
CNIC Number

APPENDIX 1: PART –II - FORM OF FUNDING NOTICE FOR GOS

[ON THE LETTERHEAD OF THE COMPANY]

DATE:.....
FUNDING NOTICE NUMBER:.....

To,
[GoS]
.....
.....

CC:
.....

Funding Notice Issued to the GoS

Dear Sirs

1. Please refer to the agreement titled “EQUITY FUNDING & UTILIZATION AGREEMENT” dated (the “**Agreement**”) entered into between the Governor of Sindh (through Secretary, Local Government & Housing Town Planning Department, Government of Sindh) (the “**GoS**”); [insert details] (the “**Sponsor**”) and [insert details] (the **Company**). Unless expressly stated otherwise, all capitalized terms used herein shall bear the meaning ascribed thereto in the Agreement.
2. Pursuant to the terms of the Agreement, the Company hereby issues this Funding Notice to the GoS in accordance with the Approved Budget. The aggregate amounts to be Funded by each Funding Party as approved and certified by the Independent Appointees, are set out below in paragraph 3 below.
3. The amounts to be Funded by each Funding Party are set out below:

(a) **PART OF APPROVED FUNDING AMOUNT TO BE FUNDED BY THE GOS**

- | | | |
|------|--|--------------|
| (i) | [Approved GoS First Funding Amount: | PKR [●] [or] |
| | Approved GoS Subsequent Funding Amount: | PKR [●]] |
| A. | EPC Payments | PKR [●] |
| B. | Non-EPC Expenditure | PKR [●] |
| (ii) | [Approved Sponsor First Funding Amount: | USD/PKR [●] |
| | [or] | |
| | Approved Sponsor Subsequent Funding Amount: | USD/PKR |
| | [●]] | |

(b) **REQUIRED FUNDING DATE:**

[•]

4. We, the Company, hereby confirm:

- (a) all conditions to issuance of a Funding Notice as set out in clause [3.1.1 / 3.2.1]¹⁶ of the Agreement stand satisfied;
- (b) the issuance of this Funding Notice to the GoS shall not result in any breach by the Company of the relevant Laws or the constitutive documents;
- (c) this Funding Notice has been issued to the GoS in compliance with the terms of the Agreement;
- (d) that a certificate issued by each of the Independent Appointees has been obtained and appended hereto certifying that the [Approved GoS First Funding Amount] [or] [the Approved GoS Subsequent Funding Amount] (as set out in paragraph 3(a)(i) above) is in accordance with the Approved Budget;
- (e) that a certificate of the Independent Auditor has been obtained and annexed hereto that certifies that the [Approved Sponsor First Funding Amount] [or] [Approved Sponsor Subsequent Funding Amount] (as set out in paragraph 3(a)(ii) above) stands Funded and that funds representing the same stand credited to (as may be applicable) the Class A Equity Subscription Account (PKR) and Class A Equity Subscription Account (USD);
- (f) any Cost Overruns have been funded in terms of the Cost Overrun Demand Notice; and
- (g) there is no subsisting Company Event of Default.

5. We the Company, hereby further confirm, represent and warrant that a copy of this Funding Notice is simultaneously being issued to the Sponsors, the Account Bank, the GoS Account Bank and the Independent Appointees.

6. The provisions hereof shall *mutatis mutandis* form part of the Agreement, notwithstanding anything to the contrary.

Yours Sincerely,

Signed for and on behalf of

[•]

¹⁶ Delete as applicable depending on First Funding Notice / Subsequent Funding Notice.

(As the Company)

.....
Name:
Designation:





WITNESSES:

1.....
Name:
Address:
CNIC Number:





2.
Name:
Address:
CNIC Number

APPENDIX 2: NOTICES



GoS:

Address:	
Attention:	
Fax:	
Email	

Sponsors:

Address:	
Attention:	
Fax:	
Email	

Company:

Address:	
Attention:	
Fax:	
Email	

APPENDIX 3: FORM OF GOS EQUITY ACCOUNT STANDING INSTRUCTIONS

[ON THE LETTERHEAD OF THE GOS]

DATE: [●]

REFERENCE: [●]

To,

[GoS Account Bank]

.....

.....

CC:

.....

RE: STANDING INSTRUCTIONS IN RESPECT OF GOS EQUITY ACCOUNT (as defined below)

Dear Sir/Madam,

1. GOS EQUITY ACCOUNT & ISSUANCE OF STANDING INSTRUCTIONS NOTICE

1.1 We, [●] (through [●]) (the “**Account Holder**”) refer you, [INSERT BANK NAME] (a banking company established under the laws of Pakistan having its registered office located at [●]) (the “**Account Bank**”) to the following bank account established and maintained in the name of the Account Holder at the Account Bank’s branch located at [●]:

(a) Account Number [●], Account Title [●] (the “**GoS Equity Account**”);

AND, We, the Account Holder, hereby issue this notice (the “**Standing Instructions Notice**”) containing the Standing Instructions (*as defined below*) for the maintenance and operation of the GoS Equity Account and for matters relating to the same.

2. DEFINITIONS

2.1 In this Standing Instructions Notice, the following capitalized words shall bear the meaning ascribed to the same as below:

(a) **Account Bank** shall bear the meaning ascribed thereto in Paragraph 1;

(b) **Account Holder** shall bear the meaning ascribed thereto in Paragraph 1;

(c) **Approved GoS Funding Amount** means (as may be applicable) the Approved GoS First Funding Amount and the Approved GoS Subsequent Funding Amount;

- (d) **Approved GoS First Funding Amount** means the amount set out in Pakistani Rupees as “*Approved GoS First Funding Amount*” in clause 3(a)(i) of the Funding Notice (GoS), as certified by the Funding Notice (GoS) Certificates;
- (e) **Approved GoS Subsequent Funding Amount** means the amount set out in Pakistani Rupees as “*Approved GoS Subsequent Funding Amount*” in clause 3(a)(i) of the Funding Notice (GoS), as certified by the Funding Notice (GoS) Certificates;
- (f) **Class B Equity Subscription Account** means the [●] account of the Company denominated in Pakistani Rupees and established and maintained at the Account Bank and bearing account number [●] and titled [●];
- (g) **Company** means [●], a company incorporated under the laws of Pakistan, having its registered office located at [●];
- (h) **Concession Agreement** means the concession agreement dated [●] between *[insert parties]* in respect of the Project;
- (i) **Financial Close Date** means the date on which the definitive agreements entered into between the Company and its Financing Parties in respect of financing of the Project become effective and the Company has immediate access to the financing provided thereunder, as notified by the Account Holder and the Company jointly to the Account Bank in writing;
- (j) **Financing Party(ies)** means the financial institutions, banks, funds, trusts or trustees of the holders of debentures or other securities, their successors, and assigns, that extend finance facilities and / or financial accommodation to the Company in respect of its Project, as jointly notified in writing by the Account Holder and the Company to the Account Bank on the Financial Close Date;
- (k) **Funding Notice (GoS) Certificates** means each of the following certificates:
 - (i) the written certificates issued by the Independent Appointees that certifies the matters set out in clause 4(d) of the Funding Notice (GoS); and
 - (ii) the written certificate issued by the Independent Auditor that certifies the matters set out in clause 4(e) of the Funding Notice (GoS);
- (l) **Funding Notice (GoS)** means the written notice, in the form attached hereto as **Annexure A**¹⁷, issued by the Company to the GoS from time to time (with a copy delivered to the Account Bank) that has appended thereto the Funding Notice (GoS) Certificates;

¹⁷ The Form under Schedule A of this EFU Agreement will be attached.

- (m) **GoS Equity Account** shall bear the meaning ascribed thereto in Paragraph 1;
- (n) **Independent Auditor** means *[insert details]*;
- (o) **Independent Engineer** means *[insert details]*;
- (p) **Project** means the designing, building, constructing, testing, commissioning, operating, maintaining, financing, and transferring by the Company of the Karachi Water Canal to be undertaken in public-private partnership mode by the Company in terms of the Concession Agreement;
- (q) **Revocation Notice** shall bear the meaning ascribed thereto in Paragraph 5.1;
- (r) **Sponsor** means *[insert details]*;
- (s) **Standing Instructions** means the legally binding, enforceable and irrevocable (subject to Paragraph 5.1 and Paragraph 5.2 below) standing instructions contained in this Standing Instructions Notice for the operation and maintenance of the GoS Equity Account;
- (t) **Standing Instructions Notice** shall bear the meaning ascribed thereto in Paragraph 1;
- (u) **Termination Payment** means the termination payment payable by GoS to the Company under the Concession Agreement from debiting funds from the GoS Equity Account; and
- (v) **Termination Payment Certificate** means the written certificate issued by the Independent Auditor certifying the Termination Payment.

3. INTERPRETATION

3.1 In this Standing Instructions Notice:

- (a) Words in this Standing Instructions Notice importing the singular shall include the plural or vice versa.
- (b) Save where the contrary is indicated, any reference in this Standing Instructions Notice to:
 - (i) a Paragraph or an Annexure shall be construed as a reference to a paragraph or an annexure of this Standing Instructions Notice;
 - (ii) any instrument, memorandum, agreement, contract or document shall be construed as a reference to that instrument, memorandum, agreement, contract or document (together with any recitals or sections thereto) all as amended, varied, restated, novated or supplemented from time to time;

- (iii) any person shall be construed so as to include their respective administrators, successors in interest and permitted assigns from time to time;
 - (iv) a statute, enactment or order shall be construed as a reference to such statute, enactment or order as the same may have been, or may from time to time be, amended or re-enacted and all subsidiary legislation and other instrument made under or deriving validity therefrom;
 - (v) the singular shall include the plural and vice versa, where appropriate;
 - (vi) the words '*including*' and '*includes*' and any grammatical variants of those words, will be read as if followed by the words '*without limitation*;'
 - (vii) a reference to a person shall be construed to include a juridical person;
 - (viii) a time of day shall be construed as a reference to Pakistan Standard Time; and
 - (ix) headings in this Standing Instructions Notice are for ease of reference only and shall be ignored in construing this Standing Instructions Notice.
- (c) The Annexures appended to this Standing Instructions Notice shall form an integral part of this Standing Instructions Notice.

4. THE INSTRUCTIONS IN RESPECT OF MATTERS RELATING TO THE FUNDING NOTICE (GoS)

- 4.1 The Account Holder issues the following instructions to the Account Bank and hereby instructs the Account Bank to act as follows:
- (a) **THAT**, upon receipt of the Funding Notice (GoS) by the Account Bank from time to time (together with the Funding Notice (GoS) Certificates), the Account Bank shall, within one (1) Business Day of receipt of the Funding Notice (GoS) from time to time (together with the Funding Notice (GoS) Certificates), debit the GoS Equity Account in an amount equal to the Approved GoS Funding Amount and credit the same to the Class B Equity Subscription Account; and
 - (b) **THAT**, upon receipt of the Termination Payment Certificate by the Account Bank, the Account Bank shall, within one (1) Business Day of receipt of the Termination Payment Certificate, debit the GoS Equity Account in an amount equal to the Termination Payment and credit the same to the Company account designated in the Termination Payment Certificate.

5. REVOCAION AND AMENDMENT OF STANDING INSTRUCTIONS

5.1 The Standing Instructions shall remain effective, in each case, until such date which is the earlier of:

- (a) the date on which a written certificate, duly issued by the Independent Auditor, is received by the Account Bank from the Independent Auditor certifying that the Account Holder has fully complied with and has satisfied its funding obligations in respect of its commitments for the Project;
- (b) the date on which the Standing Instructions are revoked pursuant a written revocation notice (the “**Revocation Notice**”) duly executed and confirmed by the authorized representatives of each of the Account Holder, the Sponsors and the Company and subsequently duly issued by the Account Holder to the Account Bank instructing revocation of the Standing Instructions;
- (c) the date on which the Independent Auditor issues a notice to the Account Bank confirming the Termination Payment Date has occurred under the Concession Agreement.

5.2 The Standing Instructions Notice may be amended pursuant a written notice duly executed and confirmed by the authorized representatives of the Account Holder, the Sponsors and the Company and subsequently duly issued by the Account Holder to the Account Bank instructing amendment to this Standing Instructions Notice.

6. SEVERABILITY

6.1 If for any reason whatsoever any provision of this Standing Instruction Notice is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Account Bank and the Account Holder will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable.

7. GOVERNING LAW & DISPUTE RESOLUTION

7.1 These Standing Instructions Notice shall be governed by and construed in accordance with the laws of Pakistan and the courts of law at Karachi, Pakistan with competent jurisdiction shall entertain all disputes arising hereunder.

APPENDIX 4: FORM OF COST OVERRUNS DEMAND NOTICE

To,
[THE SPONSORS]

CC: [INSERT THE NAME OF THE COMPANY]

COST OVERRUNS DEMAND NOTICE UNDER THE EQUITY FUNDING AND UTILIZATION AGREEMENT DATED [●]

Dear Sir,

1. We, [the Independent Auditor], refer to the Equity Funding and Utilization Agreement dated [●] (the “**Agreement**”). This is the Cost Overruns Demand Notice referred to in the Agreement. Capitalized terms used in this Cost Overruns Demand Notice which are not otherwise defined shall bear the meaning ascribed thereto in the Agreement.
2. Pursuant to the Agreement, we demand, in terms of clause 2.2 (*Commitment to fund Cost Overrun*) of the Agreement, that you immediately, and in any case within seven (07) days from the date of this Cost Overruns Demand Notice, pay to the Company the Cost Overruns in the manner and amount specified in paragraph 3 below.
3. We confirm that:
 - (a) the total Cost Overruns amount incurred or likely to be incurred within the next ninety (90) days is:

USD/PKR [*insert in figures*]/- (United States Dollars/Pakistani Rupees [*insert in words*] only).
 - (b) payment of the amount specified in paragraph (a) above must be made to the [Class A Equity Subscription Account (USD)/ Class A Equity Subscription Account (PKR)] .
 - (c) payment of the amount specified in paragraph (a) is to be made within seven (07) days from the date of this Cost Overruns Demand Notice.

Yours faithfully,

INDEPENDENT AUDITOR

APPENDIX 5: FORM OF DEED OF ACCESSION

This Deed dated [●] is supplemental to the Equity Funding and Utilization Agreement (the “**EFU Agreement**”) between the Sponsors, the Company, and the GoS.

1 Definitions

Words and expressions defined in the EFU Agreement have the same meaning when used in this Deed.

2 Accession of New Sponsor

[●] (the “**New Sponsor**”) agrees for the benefit of each person named in the Schedule to this Deed that with effect on and from the date hereof it will be bound as a Sponsor as if it had originally been a party to the EFU Agreement in that capacity.

3 Representations and Warranties

The New Sponsor makes the representations and warranties set out in clause 7.7 of the EFU Agreement to the Parties on the date of this Deed.

4 Address Details

The address, fax number (and department or officer, if any, for whose attention the communication is to be made) for notices of the New Sponsors for the purposes of clause 13 of the EFU Agreement is:

Address: [●]

Fax Number: [●]

Attention: [●]

5 Governing Law and Service of Process

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by laws of Pakistan.

[To be executed as a deed by the New Sponsor, the Sponsor and the Company].

SCHEDULE

[List of parties to the EFU Agreement, including those who have executed earlier Deeds of Accession.]

SIGNATURE PAGES

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorised representatives as of the date first written above.

GOVERNOR OF SINDH, THROUGH THE SECRETARY, LOCAL GOVERNMENT & HOUSING TOWN PLANNING DEPARTMENT, GOVERNMENT OF SINDH

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE SPONSOR

Signature

Name (block capitals)

Title

In the presence of:

Witness signature

Witness name
(block capitals)

Witness signature

Witness name
(block capitals)

THE COMPANY

Signature

.....

Name (block capitals)

.....

Title

.....

In the presence of:

Witness signature

.....

Witness name
(block capitals)

.....

Witness signature

.....

Witness name
(block capitals)

.....